

Setting up a Tri-Member State Paediatric Surgery Centre in the Netherlands, Germany and Belgium: The Cross-border Mobility of Paediatric Surgeons in the Meuse-Rhine Euregion



The Institute for Transnational and Euregional cross border cooperation and Mobility / ITEM is the pivot of research, counselling, knowledge exchange and training activities with regard to cross-border mobility and cooperation.

Setting up a Tri-Member State Paediatric Surgery Centre in the Netherlands, Germany and Belgium:

The Cross-border Mobility of Paediatric Surgeons in the Meuse-Rhine Euregion

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Table of Contents

Preface & Acknowledgments	
1. Introduction	1
2. Exploring the Basics: The Mobility of Paediatric Surgeons under the EU Legal Framework	3
2.1 EU Requirements for Paediatric Surgeons	4
2.2 An Obstruction to the Mobility of Paediatric Surgeons in the Meuse-Rhine Euregio: Filling in the Blanks	5
3. Exploring Training in Paediatric Surgery in the Euregio Meuse-Rhine	8
3.1 Qualifying as a Paediatric Surgeon in the Netherlands	9
3.2 Becoming a Paediatric Surgeon in Belgium	13
3.3 Education and Training as a Paediatric Surgeon in North Rhine-Westphalia	16
3.4 Comparing Paediatric Surgery Education and Training in the Euregio Meuse-Rhine	17
4. Investigating the Possible Independence & Recognition of the Paediatric Surgical Specialty	18
5. Implementing an Ideal: The Creation of a Euregional Centre for Paediatric Surgery	23
5.1 Providing (Paediatric) Surgical Training in the Netherlands	23
5.2 The Organisation of (Paediatric) Surgical Training in Belgium	26
5.3 Training Paediatric Surgeons in Germany	29
5.4 Evaluating the Possibilities for Cross-border Paediatric Surgical Training in the Euregio Meuse-Rhine	30
6. Conclusion	34

Preface & Acknowledgments

The Maastricht University Medical Centre (MUMC+) has commissioned the Institute for Transnational and Euregional cross border cooperation and Mobility / ITEM to research the cross-border mobility of paediatric surgeons in the context of the establishment of the Euregional Centre for Paediatric Surgery in the Euregio Meuse-Rhine. This report is the result of the present study focusing on the recognition of paediatric surgery as a medical specialty, the way in which paediatric surgeons may exercise their profession in the Euregio Meuse-Rhine and the possibilities to provide paediatric surgical training across the border.

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1. Introduction

Paediatric surgery as a field of medicine consists of two elements. First of all, the paediatric concerning the study and treatment of children in disease and health from birth to adolescence.¹ Next, of course, the field includes a surgical aspect concerning the branch of medicine treating disease, injury and deformity through operations.² The Board of Paediatric Surgery of the Union of European Medical Specialists (UEMS) describes paediatric surgery as encompassing the surgical care of the growing individual, thereby including the management and peri-operative care from birth until the final stages of development.³ Needless to say, paediatric surgery concerns a highly specialised field of medicine concerning extensive education and training. A recent study organised by the UEMS and the European Paediatric Surgical Association (EUPSA) concluded that, in Europe, children have an average of one paediatric surgical centre per 177,000 children (i.e. population of up to 14 years of age).⁴ The data from the study also showed that large differences could be perceived among Member States. For example, where Germany had one paediatric surgery centre for every 121,000 children, the Netherlands and Belgium had a much lower density in paediatric surgery centres (one centre per 475,000 and 326,000 children respectively).⁵

The Netherlands currently has a number of large paediatric surgery centres located across the country. To a certain extent, such a centre is missing in the south of the Netherlands. Nevertheless, when looking cross-border in the Meuse-Rhine Euregion, the existing paediatric surgical centres and departments of hospitals and clinics located in the cities of Maastricht, Aachen and Liège combined would be able to form a paediatric surgery centre possessing extensive expertise in various areas of the paediatric surgical field. Moreover, creating such a centre in the Meuse-Rhine Euregion would benefit the care of children, as it would allow them to be hospitalised closer to home in the border region as opposed to another part of the country, further away from their homes and families. In this context, the Maastricht University Medical Centre (MUMC+) is cooperating with partners at the Uniklinik Aachen and the Centre Hospitalier Chrétien (CHC) Liège to establish a Euregional Centre for Paediatric Surgery. The partners' cooperation is not new. The three hospitals have cooperated before in the context of several cross-border health care projects funded by Interreg.⁶ By creating a Euregional Centre for Paediatric Surgery, the partners fulfil two main goals connected to the provision of cross-border health care, as such a centre both facilitates the cross-border mobility of patients and health professionals, and develops access to high-quality health care at the border.⁷

¹ T.L. Stedman, *Stedman's medical dictionary* (Philadelphia: Lippincott Williams & Wilkins, a Wolters Kluwer Health Company 2006).

² Ibid.

³ Union of European Medical Specialists – Board of Paediatric Surgery, 'The Scope of Paediatric Surgery', <https://www.uemspaedsurg.org/section-board/the-scope-of-paediatric-surgery>.

⁴ G.B. Parigi et al., 'European Census on Pediatric Surgery', 28 *European Journal for Pediatric Surgery* (2018), p. 228.

⁵ Ibid., p. 230.

⁶ I. Glinos, N. Doering, H. Maarse, 'Local Roots, European dreams: evolution of the Maastricht-Aachen University Hospital collaboration (the Netherlands-Germany)', in I. Glinos and M. Wismar (eds.), *Hospitals and Borders: Seven case studies on cross-border collaboration and health system interactions* (World Health Organization, 2013), p. 112.

⁷ Delecousse et al., *European Cross-border Cooperation on Health: Theory and Practice* (Luxembourg: Publications Office of the European Union, 2017), p. 9.

Without a doubt, cross-border cooperation in the medical field requires extensive preparatory work. Numerous aspects connected to the provision of high-quality health care across borders may be identified. Examples include, the way in which a cross-border cooperation in health care is structured in terms of being a legal entity across three Member States, whether and how patients are able to reimburse the costs that are made in the context of insurances and social security, how to fulfil quality standards set at the national level, and how to process the personal data of patients. Furthermore, there is a need to ensure that the team of paediatric surgeons employed by the Euregional Centre for Paediatric Surgery is capable of exercising their profession diligently. This latter aspect is central to the present study. Recognition of qualifications in cross-border settings may be challenging. Indeed, during an earlier cooperation process between the MUMC+ and the Uniklinik Aachen, the long bureaucratic procedure related to the recognition of qualifications was considered as one of the most burdensome aspects of day-to-day cross-border cooperation.⁸

When examining the exercise of the profession of paediatric surgeon by the specialists employed by the envisaged Euregional Centre for Paediatric Surgery we may discern two elements. First of all, the medical specialist staff that will become a part of this centre must be able to exercise their profession in all three Member States concerned. Therefore, their qualifications must be recognised swiftly in the Netherlands, Belgium and Germany.⁹ Furthermore, the cooperating partners not only intend on forming a centre performing surgeries, but also wish to provide education and training by forming a Euregional Paediatric Surgery *Training* Centre. Several hurdles stand in the way of the cooperating partners achieving these goals, one of which relates to the non-recognition of paediatric surgery as an independent medical specialty in the Netherlands and Belgium. The abovementioned study commissioned by the UEMS and the EUPSA mentions this non-recognition as an important gap to improving the quality of medical services offered to children.¹⁰

The present study seeks to delve further into this issue by finding out why paediatric surgery is not recognised as an independent specialty in the Netherlands and Belgium and to explore bottlenecks and solutions related to this issue. Moreover, this study investigates the process of becoming a Euregional Paediatric Surgery Training Centre and possible bottlenecks and solutions related to such a process. These objectives and questions are explored in the Sections below. First of all, the basics of the mobility of paediatric surgeons and the applicable EU legal framework will be explored. The following Section considers the consequences of a non-recognition of the paediatric surgical specialty in the context of the mobility of these professionals as well as the obstacle that arises from the current situation. Section 3 is focused on the national level and explores the way in which paediatric surgery is currently provided in the Netherlands, Belgium and Germany. Section 3 furthermore seeks to find out why paediatric surgery is not recognised as an independent medical specialty in the Netherlands and Belgium and compares education and training in the three countries studied. Section 4 explores how paediatric surgery could become an independent specialty in the Netherlands and Belgium and examines potential initiatives thereto. In order to support the legislative analysis in Sections 2 through

⁸ I. Glinos, N. Doering, H. Maarse, in I. Glinos and M. Wismar (eds.), *Hospitals and Borders: Seven case studies on cross-border collaboration and health system interactions*, p. 116.

⁹ Considering the fact that one of the cooperating partners is the Uniklinik Aachen, the focus of the study for Germany will be placed on the *Land* North-Rhine Westphalia. In relation to Belgium, particular attention will be paid to the French Community as the Centre Hospitalier Chrétien (CHC) is located in Liège.

¹⁰ G.B. Parigi et al., *28 European Journal for Pediatric Surgery* (2018) , p. 228.

4, interviews were conducted with several stakeholders in the Netherlands, Belgium and Germany.¹¹ In Section 5, the focus is shifted to the process of becoming a Euregional Paediatric Surgery Training Centre. The conclusion reflects on the study and the way forward in overcoming existing hurdles.

2. Exploring the Basics: The Mobility of Paediatric Surgeons under the EU Legal Framework

The main legal framework for the recognition and training of paediatric surgeons is the EU's Professional Qualifications Directive (hereinafter: PQD).¹² The latter directive is the main instrument for the recognition of professional qualifications for regulated professions in the EU and is therefore essential in realising the mobility of professionals exercising such professions. Regulated professions are those for which legislative, regulatory or administrative provisions exist requiring a professional to possess specific professional qualifications.¹³ These qualifications must then be understood as attestations of competence, certificates, diploma's and professional experience.¹⁴ This means that, for example, a piece of legislation exists stating which diploma an individual must possess before he or she may be able to work in a certain field. This individual will then need approval (i.e. recognition) of his or her qualifications by a competent authority (usually a ministry or implementing body) to be able to exercise the profession.¹⁵

The competence to decide on whether or not to regulate a profession lies with the Union's Member States.¹⁶ Regulations are usually instated to protect service recipients. Unsurprisingly, the medical sector is the most heavily regulated sector with over 40% of all regulated professions in the EU being located within that sector.¹⁷ Despite this fact, health professionals are the most mobile under the PQD.¹⁸ According to the Commission's regulated professions database, doctors of medicine are by far the most mobile professionals with 133,342 recognition decisions under the PQD.¹⁹

¹¹ In particular, the Dutch Royal Dutch Medical Association (*Koninklijke Nederlands Maatschappij voor de Geneeskunde – KNMG*) and Dutch Association for Surgery (*Nederlandse Vereniging voor Heelkunde – NVvH*), the Belgian Association of Paediatric Surgeons – BELAPS, and the State Medical Association Nordrhein (*Ärzttekammer Nordrhein*).

¹² In this study, the term "Professional Qualifications Directive" is used to refer to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, [2005] OJ L 255/22 as amended by 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'), [2013] OJ L 354/132. The consolidated version of the Professional Qualifications Directive can be consulted via: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02005L0036-20160524>.

¹³ Article 3(1)(a) Professional Qualifications Directive.

¹⁴ Article 3(1)(b) Professional Qualifications Directive.

¹⁵ L. Kortese, H. Schneider, A. Hoogenboom, Bijlagen: Toelichtingsnota "Verwezenlijking van een grondbeginsel: De wederzijdse erkenning van beroepskwalificaties" – Richtlijn 2005/36/EG zoals gewijzigd door Richtlijn 2013/55/EU, ITEM September 2018, p. 1.

¹⁶ Case 222/86 *Heylens*, EU:C:1987:442, para. 10; Case C-340/89 *Vlassopoulou* EU:C:1991:193, para. 9.

¹⁷ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on Evaluating national regulations on access to professions, COM(2013) 676 final, p. 5-6.

¹⁸ Commission Staff Working Paper – Impact Assessment Accompanying Document to the Proposal for a Directive of the European Parliament and of the Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market information System, SWD(2011) 1558 final, p. 6.

¹⁹ European Commission, 'Regulated Professions Database – Ranking for establishment', http://ec.europa.eu/growth/tools-databases/regprof/index.cfm?action=stat_ranking&b_services=false.

Paediatric surgeons are medical specialists under the Professional Qualifications Directive. When it comes to the training of paediatric surgeons, minimum harmonised standards exist at the EU level which must be fulfilled. These so-called minimum training conditions lay down how long education and training must be and what knowledge, skills and competences must be taken up in any programme of education and training leading one to be qualified to work as a medical specialist. Coincidentally, this minimum harmonisation of education and training allows medical specialists to benefit from so-called automatic recognition, a form of expedited recognition. Whereas the minimum training conditions ensure that medical specialists throughout the EU obtain similar training, lists of diplomas taken up in the PQD ensure that authorities only need to check whether the professional's diploma is featured on the list. If this is the case, recognition must be granted. Automatic recognition is based on Member States' mutual trust in the qualifications issued by other Member States.²⁰ That mutual trust in turn originates from the fact that the Member States training systems are all shaped in accordance with 'a training system the standards of which were determined by mutual agreement'.²¹ Recognition on the basis of minimum training conditions is then considered automatic because competent authorities do not carry out substantive evaluations as far as the contents of the professional qualifications (i.e. diplomas, certificates, attestations of competence and work experience) are concerned.

Indeed, the profession of medical specialist is one of seven professions able to benefit from automatic recognition under the PQD. The so-called system for recognition on the basis of coordination of minimum training conditions is contained in Title III Chapter III as well as Annex V of the PQD. Despite the apparent simplicity of the recognition procedure (i.e. competent authorities check whether a professional has the diploma featured on the directive's list), this system for automatic recognition is to be considered the most elaborate and intricate part of the directive. This is especially due to the fact that the minimum training conditions had to be set for all Member States. The setting of these standards nevertheless allows for medical specialists to obtain automatic recognition. Ultimately, automatic recognition for doctors with basic medical training and for medical specialists takes place following a combination of harmonised education and training (to be found in Articles 24 through 30) and a list of diplomas awarded according to those standards of education and training (Annex V points 5.1.1 through 5.1.4 of the directive).²² Separate minimum training conditions are set for doctors with basic medical training and medical specialists. The following Section explores the minimum training conditions which education and training for paediatric surgeons has to fulfil under the PQD.

2.1 EU Requirements for Paediatric Surgeons

When it comes to the training of medical specialists (and therefore paediatric surgeons) under the PQD, it is important to stress that it consists of two distinct phases each of which is accompanied by its own minimum training conditions. An individual aspiring to become a medical specialist will first complete basic medical training before taking up a specialty.

²⁰ Case C-675/17 *Preindl*, EU:C2018:990, para. 31.

²¹ *Ibid.*

²² J. Pertek, 'Free Movement of Professionals and Recognition of Higher-Education Diplomas', *12 Yearbook of European Law* 1 (1992), p. 295.

First of all, students studying medicine will attend basic medical training comprising a minimum of five years of study at a university. Successful completion of basic medical training attests that the professional has acquired certain knowledge and skills.²³ Examples thereof are a sufficient understanding of the structure functions and behaviour of sick and healthy persons and suitable (supervised) clinical experience in hospitals. Automatic recognition may subsequently be obtained if a professional has followed basic medical training in line with the aforementioned minimum training conditions and has subsequently obtained a title that can be found in Annex V point 5.1.1. This means that, for example, a holder of a Belgian *Master in de geneeskunde* may obtain automatic recognition as a doctor with basic medical training throughout the EU.

Only after successful completion of basic medical training will one be able to follow and complete specialist medical training.²⁴ In line with the PQD, specialist medical training comprises theoretical and practical training taking place at a university, medical teaching hospital or a medical care establishment.²⁵ As far as the duration of specialist training is concerned, it must comprise a minimum number of years of education and training. The number of years of training varies depending on the specialty. Annex V point 5.1.3 indicates that paediatric surgeons must follow a minimum period of five years of specialist medical training, meaning the total duration of their education and training, basic and specialist, amounts to a minimum of 10 years of study. Medical specialists will follow training on a full-time basis and must take part in 'the full range of medical activities of the department where the training is given, including duty on call, in such a way that the trainee specialist devotes all his professional activity to his practical and theoretical training throughout the entire working week and throughout the year'.²⁶ Upon completion of this type of training, the medical specialist obtains one of the diplomas listed in Annex V of the PQD. Accordingly, they may obtain automatic recognition throughout the EU. Therefore, a holder of a German *Fachärztliche Anerkennung Kinderchirurgie* obtains automatic recognition as a paediatric surgeon throughout the EU.

2.2 An Obstruction to the Mobility of Paediatric Surgeons in the Meuse-Rhine Euregion: Filling in the Blanks

The previous paragraph shows that the PQD sets out minimum training conditions for doctors with basic medical training and medical specialists (among which paediatric surgeons). Whereas basic medical training is provided throughout the EU, the same cannot be said for the paediatric surgical specialty. Indeed, one may see that all 28 Union Member States provide for education and training qualifying students as doctors with basic medical training.²⁷ When focusing on the countries that are central to this study, we may see that each of them have such training. Belgian graduates in basic medical training obtain a *Diplôme de médecin/Master in de geneeskunde*. In Germany, holders of a *Zeugnis über die Ärztliche Prüfung* and *Zeugnis über die Ärztliche Staatsprüfung* qualify as doctors with basic medical training. Finally, those who possess a *Getuigschrift van met goed gevolg afgelegd artsexamen* are considered doctors with basic medical training in the Netherlands.

²³ Article 24(3) Professional Qualifications Directive.

²⁴ Article 25(1)(4) Professional Qualifications Directive.

²⁵ Article 25(2) Professional Qualifications Directive.

²⁶ Article 25(3) Professional Qualifications Directive.

²⁷ See Annex V Point 5.1.1 Professional Qualifications Directive.

Although basic medical training is recognised throughout the entire EU, the same does not go for medical specialties. Despite the fact that paediatric surgery is considered a medical specialty in the aforementioned directive, the directive also provides evidence supporting the finding that paediatric surgery is not considered a specialty in all EU Member States. For a medical specialty to be considered as such, it needs to consist of several elements. First of all, the education and training leading one to be qualified in a certain medical specialty needs to fulfil the minimum training conditions of the PQD. Next, the education and training followed must result in a certain diploma awarded by a competent authority found in Annex V point 5.1.2 and needs to comprise the title laid down in point 5.1.3.²⁸

Paediatric surgery in turn is a specialty that is recognised as such in most EU Member States. Nevertheless, the PQD indicates that the specialty is not recognised in some Member States. In particular, this goes for two countries that are a part of this study, namely the Netherlands and Belgium. Paediatric surgeons from these Member States may run into difficulties, as the table in Annex V point 5.1.3 of the PQD providing for the national titles of paediatric surgeons comes up empty, meaning that – formally – paediatric surgery is not considered a medical specialty in those Member States.

Table 1 shows that paediatric surgery is indeed not considered a medical specialty in the context of the PQD in the Netherlands and Belgium. The swift (and automatic) recognition of paediatric surgeons under the PQD is of interest to the envisaged Euregional Centre for Paediatric Surgery Netherlands-Germany-Belgium, as its staff needs to be able to operate in all three Member States. The current situation may be problematic because

	Paediatric surgery
	Minimum period of training: 5 years
Country	Title
Belgique/België/ Belgien	
България	Детска хирургия
Česká republika	Dětská chirurgie
Danmark	
Deutschland	Kinderchirurgie
Eesti	Lastekirurgia
Ελλάδα	Χειρουργική Παιδών
España	Cirurgia pediátrica
France	Chirurgie infantile
Hrvatska	Dječja kirurgija
Ireland	Paediatric surgery
Italia	Chirurgia pediatrica
Κύπρος	Χειρουργική Παιδών
Latvija	Bērnu ķirurģija
Lietuva	Vaikų chirurgija
Luxembourg	Chirurgie pédiatrique
Magyarország	Gyermeksebészet
Malta	Kirurgija Pedjatrika
Nederland	
Österreich	Kinder— und Jugendchirurgie
Polska	Chirurgia dziecięca
Portugal	Cirurgia pediátrica
România	Chirurgie pediatrică
Slovenija	
Slovensko	Detská chirurgia
Suomi/Finland	Lastenkirurgia/Barnkirurgi
Sverige	Barn— och ungdomskirurgi
United Kingdom	Paediatric surgery

Table 1. Paediatric surgery as a specialty under the Professional Qualifications Directive's Annex V, point 5.1.3

²⁸ Article 26 Professional Qualifications Directive.

these specialists cannot benefit from the expedited recognition procedures provided by the system for automatic recognition.

Instead, they will have to fall back on the general system for their recognition procedure. Indeed, the general system acts as a safety net for doctors whose qualifications may not be recognised automatically and allows for them to still obtain recognition. Nevertheless, whereas those professionals able to benefit from automatic recognition only need to present their professional qualifications to a competent authority for a check in line with the PQD Annexes, the general system entails an evaluation of the professional qualifications as regards their contents.²⁹ Not only does this procedure take longer (a maximum of four months as opposed to the maximum time period of three months for automatic recognition),³⁰ but it may also be paired with so-called compensation measures. In line with the directive, these may consist of an adaptation period of up to three years or an aptitude test when an authority considers that the education and training followed by the medical specialist concerned differs substantially from that required in the host Member State.³¹ The interview conducted with the *Ärztammer Nordrhein* (i.e. the competent authority for the recognition of qualifications for doctors seeking to work in the Aachen region) confirms that Dutch and Belgian paediatric surgeons will indeed have to obtain recognition in accordance with the general system and that, coincidentally, adaptation periods may be imposed which typically (i.e. taking all specialties into account) range between six months and one and a half years.³²

Another aspect that is important to stress in relation to the general system relates to the specialists that are actually affected by the application of the general system. One may be inclined to think that only Dutch and Belgian doctors going to Germany will not be able to benefit from automatic recognition and face the issue of possible compensation measures. Nevertheless, the issue also exists in the scenario where a German paediatric surgeon needs recognition of his or her professional qualifications in the Netherlands or Belgium. In this case, the qualifications of a German trained paediatric surgeon are also assessed under the general system due to the fact that the specialty is not recognised in those Member States. It follows from the interview conducted with representatives of the Medical Specialties Council (*College Geneeskundige Specialisten*, CGS) and the Registration Commission Medical Specialists (*Registratiecommissie Geneeskundig Specialisten*, RGS) of the *Koninklijke Nederlandsche Maatschappij tot bevordering der Geneeskunst* – KNMG (Royal Dutch Medical Association), of which the RGS is the competent authority for recognition of qualifications for medical specialists wanting to work in the Netherlands, that German paediatric surgeons will indeed have to obtain recognition in accordance with the general system as well, as it is impossible to register as a paediatric surgeon in the Netherlands. Instead, German paediatric surgeons will have to register as general surgeons which may occasionally lead to adaptation periods that generally (i.e. taking all specialties into account) last between six months and one and a half years.³³ The interview with a representative from the – Belgian Association of Paediatric Surgeons – BELAPS furthermore confirms

²⁹ L. Kortese, H. Schneider, A. Hoogenboom, Bijlagen: Toelichtingsnota “Verwezenlijking van een grondbeginsel: De wederzijdse erkenning van beroepskwalificaties” – Richtlijn 2005/36/EG zoals gewijzigd door Richtlijn 2013/55/EU, ITEM September 2018, p. 7.

³⁰ Article 51(2) Professional Qualifications Directive.

³¹ Article 14(1)(4) Professional Qualifications Directive.

³² Interview representative *Ärztammer Nordrhein*, 6 December 2018.

³³ Interview representatives KNMG, 2 November 2018.

that even if surgeons are specialised in paediatric surgery, they will formally register as general surgeons in Belgium.³⁴ It may be inferred from this that paediatric surgeons from Germany will also have to register as general surgeons and face the possibility of compensation measures.

Therefore, the difference in regulation where paediatric surgery is recognised as a specialty in Germany and is not recognised as such in the Netherlands and Belgium has detrimental effects both ways. On the one hand, Dutch and Belgian paediatric surgeons must have their qualifications recognised under the general system when going to Germany. On the other hand, German paediatric surgeons must also obtain recognition on the basis of the general system, as they will have to register as general surgeons in the Netherlands and Belgium. Despite the fact that the general system is based on the principle of mutual recognition meaning that recognition should be granted to those who have obtained their qualifications lawfully in one Member State,³⁵ the possible compensation measures imposed under the latter system may render procedures volatile, as Member States have considerable leeway in their decisions to impose the measures. In this context, the question rises why paediatric surgery is not recognised as a specialty under the PQD and in the Netherlands and Belgium. The following Sections are dedicated to exploring this question.

3. Exploring Training in Paediatric Surgery in the Euregio Meuse-Rhine

The abovementioned Section has shown that the fact that the table in Annex V point 5.1.3 comes up empty as regards the medical specialty of paediatric surgery in the Netherlands and Belgium is potentially liable to have a significant effect on the intra-EU and cross-border mobility of these professionals and especially on the envisaged tri-Member State Euregional Centre for Paediatric Surgery. Nevertheless, the absence of a medical specialist title in paediatric surgery for the Netherlands and Belgium may be considered peculiar, as paediatric surgeons do exist in the Netherlands as well as in Belgium. Several pieces of evidence may be found in support of this statement.

First of all, evidence supporting the existence of paediatric surgery as a medical specialty may be found in the existence of professional organisations. Such organisations through which paediatric surgeons are represented exist in both the Netherlands as well as Belgium. In the Netherlands, this representation is taken care of by the *Nederlandse Vereniging voor de Kinderchirurgie – NVKC* (Dutch association for paediatric surgery). Despite being a part of the more general national surgical association *NVvH*, this organisation sets its own quality requirements and competences and even issues its own certifications to paediatric surgeons who fulfil these standards.³⁶ Moreover, the Netherlands counts a fair number of institutions and departments specialised in paediatric surgery.³⁷ Similarly in Belgium, there is an association for paediatric surgery *BELAPS – Belgian Association of*

³⁴ Interview representative BELAPS, 18 October 2018.

³⁵ See Case C-340/89 *Vlassopoulou* EU:C:1991:193.

³⁶ See NVKC, 'Certificering', <https://kinderchirurgie.nl/certificering>.

³⁷ For example, Maastricht UMC+, the Erasmus MC, Universitair Medisch Centrum Groningen, VU MC, HagaZiekenhuis The Hague, Radboud UMC, Wilhelmina Children's Hospital are some examples of healthcare institutions employing paediatric surgeons or having designated departments or even centres for paediatric surgery.

Paediatric Surgeons.³⁸ As is the case in the Netherlands, multiple hospitals employ paediatric surgeons and/or have departments dedicated to paediatric surgery in Belgium.³⁹

The existence of these professional organisations and paediatric surgical departments and institutions in the Netherlands and Belgium lead to questions in relation to the training of paediatric surgeons. The following Section focuses on ascertaining how individuals may qualify as paediatric surgeons in the Netherlands, Belgium, and Germany. For the latter Member State, the focus is placed on North Rhine-Westphalia due to the location of the Uniklinik Aachen. For Belgium, the focus is placed on the French Community due to the location of the Centre Hospitalier Chrétien (CHC) in Liège. As mentioned earlier in this study, paediatric surgery is not considered a separate specialty in the Netherlands and Belgium. Nevertheless, it is a separate specialty in Germany. Consequently, the structure of the education and training in the Netherlands and Belgium will be compared to that of Germany and to the minimum training conditions required by the Professional Qualifications Directive.

3.1 Qualifying as a Paediatric Surgeon in the Netherlands

In the Netherlands, the organisation of medical specialties is left to professional organisations meaning they are allowed to regulate which specialties there are and how education and training is structured.⁴⁰ Nevertheless, the regulations adopted by professional organisations must fulfil conditions set by law and have to be approved by the Minister of Health, Welfare and Sport.⁴¹ The legal framework for this is based on the *Wet op de beroepen in de individuele gezondheidszorg – Wet BIG* (Individual Healthcare Professions Act – BIG Act).⁴² In line with this framework, professional organisations must have a body whose task is, among others, to adopt rules in relation to the requirements set for registration as a specialist.⁴³ The Royal Dutch Medical Association KNMG has two such bodies: the *College Geneeskundige Specialismen – CGS* (Medical Specialities Council) and the *Registratiecommissie Geneeskundig Specialisten – RGS* (Registration Commission Medical Specialists).⁴⁴ Despite both being instituted by the KNMG, both bodies have an independent status within the association.⁴⁵ As far as their activities are concerned, the RGS is the executive body evaluating applications and safeguarding the quality of training, the CGS is the legislative body setting regulations for this.⁴⁶ Indeed, the CGS is the body tasked with, among others, deciding on the criteria allowing certain medical specialties to become independent specialties and the contents of the medical specialist training.⁴⁷ In this context, the CGS has adopted a General Resolution (*Kaderbesluit*) setting out how doctors with basic medical training may become specialists in various fields in the Netherlands. The Resolution was lastly adapted in June 2018; the renewed version of the General Resolution is to enter into force on 1 January 2019.

³⁸ See <http://www.belaps.com/index.html>.

³⁹ For example, the UZA, UZ Gent, UZ Brussel, CHR de la Citadelle, and UZ Leuven.

⁴⁰ H.J.J. Leenen et al., *Handboek gezondheidsrecht: Deel II Gezondheidszorg en recht* (Houten: Bohn Stafleu van Loghum 2008), p. 89.

⁴¹ Ibid.

⁴² Chapter II § 2 Wet op de beroepen in de individuele gezondheidszorg.

⁴³ Article 14(d) Wet op de beroepen in de individuele gezondheidszorg.

⁴⁴ Article 2 Regeling specialismen en profielen geneeskunst.

⁴⁵ Interview representatives KNMG, 2 November 2018.

⁴⁶ Ibid.

⁴⁷ Article 11(1)(a)(g) Regeling specialismen en profielen geneeskunst.

The Resolution sets out the different medical specialties to be found in the Netherlands.⁴⁸ Specific Resolutions have been adopted by the CGS laying down the required competences per Dutch medical specialty.⁴⁹ In this context, the CGS has adopted a number of decisions on the conditions needing to be fulfilled before one may call him- or herself a medical specialist. The exact content of the specialist training is specified in a training plan that is developed by the scientific association for the medical specialty concerned.⁵⁰ Notably, paediatric surgery is not listed as a separate medical specialty in the Netherlands. In order to further this study, the focus must instead be directed to the general surgical specialty. In this context, the *Besluit Heelkunde* (Resolution on surgery) is of particular importance as it lays down the general requirements of surgical training.⁵¹ Through its regulations, the CGS aims to establish general criteria for training in medical specialties.⁵² The actual content of the training is provided by the scientific associations.⁵³ In the case of surgery, the detailed content of surgical training is laid down in the *Landelijk opleidingsplan* (National training plan) of the *Nederlandse Vereniging voor Heelkunde – NVvH* (Dutch Association for Surgery), i.e. the scientific association for the surgical specialty.⁵⁴

When it comes to the training, it may only be accessed by trainee specialists who have not only concluded basic medical training but are also registered as such in the *BIG-register* (Professions in individual healthcare register).⁵⁵ During their training, trainee specialists must be registered in a training register. In order to be registered he or she must, among others, show that they have been admitted to training, indicate in which specialty they will be trained and hand over the training schedule that has been approved by the future trainer.⁵⁶

In order to become a general surgeon, one has to fulfil six years of training which consists of a mandatory part in general surgery and a surgical differentiation.⁵⁷ Surgeons may specialise in paediatric surgery in the latter part of their training (i.e. the differentiation).⁵⁸ Within the six years of

⁴⁸ Article A.5.(1) Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁴⁹ Article B.2.(2) Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁵⁰ Article B.1.(1) io. Article B.3.(1) Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁵¹ Besluit van 15 mei 2018 houdende de opleidings- en erkenningseisen voor het medisch specialisme heelkunde (Besluit heelkunde).

⁵² Interview representatives KNMG, 2 November 2018.

⁵³ Ibid.

⁵⁴ Nederlandse Vereniging voor Heelkunde, SCHERP 2.0: Structuur Curriculum Heelkunde voor Reflectieve Professionals – Opleidingsplan Heelkunde.

⁵⁵ Article B.8. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS); Article 3 and 18 Wet op de beroepen in de individuele gezondheidszorg; Article 3 Besluit opleidingseisen arts.

⁵⁶ Article B.9. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁵⁷ Article B.1. and B.3. Besluit van 15 mei 2018 houdende de opleidings- en erkenningseisen voor het medisch specialisme heelkunde (Besluit heelkunde).

⁵⁸ Article B.3.(3)(d) Besluit van 15 mei 2018 houdende de opleidings- en erkenningseisen voor het medisch specialisme heelkunde (Besluit heelkunde).

education and training, four years are reserved for an initial phase and for general surgery.⁵⁹ Years five and six are reserved for the differentiation.⁶⁰ This means that those surgeons in the Netherlands specialising in paediatric surgery have two years of education and training specifically focused on the paediatric surgical field.

Speaking in terms of the Professional Qualifications Directive, paediatric surgery in the Netherlands is considered to be part of the training in general surgery. Indeed, the explanatory memorandum to the Resolution on Surgery indicates that the duration of training for the specialty of general surgery is in line with the PQD. According to the latter directive, general surgery as a specialty requires a minimum period of five years of training.⁶¹ The Netherlands fulfils this criterion, with its six years of training, comprising a two-year differentiation. The CGS General Resolution requires this differentiation.⁶² Apart from paediatric surgery, other surgical specialties not included in the PQD and thereby falling within the context of general surgery in the Netherlands are vascular surgery, gastro-intestinal surgery, trauma surgery and surgical oncology.⁶³ Interestingly, other surgical specialties such as thoracic surgery, plastic surgery, orthopaedics, and neurological surgery are considered separate surgical specialties in the Netherlands and are recognised accordingly under the PQD.⁶⁴

Although in the Netherlands only general surgery (and not its differentiations) is formally recognised as a specialty, this does not entail an absence of professionals with a high-level of expertise in a particular surgical field. The National training plan indicates that medical specialist training in the surgical field comprises early differentiation in order to deliver a differentiated surgeon with sufficient expertise in one field of interest allowing the surgeon to be admitted into a surgical association.⁶⁵ Furthermore, each field of interest (i.e. differentiation, one of which is paediatric surgery) has its own attainment levels to be reached at the end of the differentiation.⁶⁶ These levels have been determined via a cooperation of the sub-associations (per field of interest/differentiation) of the Dutch Association for Surgery NVvH and the Concilium Chirurgicum (i.e. the Advisory Committee of the Association). Paediatric surgeons must be able to perform a number of procedures independently and must follow a set number of courses and attend conferences as part of their training.⁶⁷

⁵⁹ Nederlandse Vereniging voor Heelkunde, SCHERP 2.0: Structuur Curriculum Heelkunde voor Reflectieve Professionals – Opleidingsplan Heelkunde p. 8.

⁶⁰ Ibid.

⁶¹ Annex V, Point 5.1.3 Professional Qualifications Directive.

⁶² Article B.5.(3) Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁶³ Article B.3.(3(a-e) Besluit van 15 mei 2018 houdende de opleidings- en erkenningseisen voor het medisch specialisme heelkunde (Besluit heelkunde).

⁶⁴ Article A.5.(1) Besluit van 15 mei 2018 houdende de opleidings- en erkenningseisen voor het medisch specialisme heelkunde (Besluit heelkunde); Annex V, point 5.1.3 Professional Qualifications Directive.

⁶⁵ Nederlandse Vereniging voor Heelkunde, SCHERP 2.0: Structuur Curriculum Heelkunde voor Reflectieve Professionals – Opleidingsplan Heelkunde, p. 9.

⁶⁶ Ibid.

⁶⁷ Ibid., Addendum Eindtermen Differentiaties, p. 9-10.

Before initiating the training, the trainee specialist must establish a training schedule and a training plan with his or her supervisors and shall maintain a portfolio.⁶⁸ In this portfolio, trainee specialists document their individual training plan, progress on the required competence tests, documentation of the progress and evaluation conversations, the training activities conducted and the reports by the trainer indicating that the trainee specialist has concluded a certain part of training.⁶⁹ In line with Article B.8. of the General resolution trainee specialists shall also complete, among others, the following tasks during their training: visit certain scientific conferences and meetings, support teaching activities to other members of staff, follow up instructions related to patient care and take consultations from other medical specialists into account when seeing patients.

Apart from having to compete several tests,⁷⁰ trainee specialists will be subject to regular progress and annual appraisal conversations.⁷¹ In order to conclude training, trainees will have to undergo one final conversation with their trainer to ensure that they have completed their training and are fit to exercise the profession. In order to confirm this, the trainer will provide the trainee specialist and the RGS with a written declaration indicating the successful completion of training.⁷²

When a surgeon has successfully concluded their training, they may exercise the profession as long as they are registered with the RGS.⁷³ After completion of the paediatric surgical differentiation as part of general surgery, paediatric surgeons in the Netherlands will nevertheless register as surgeons with the RGS.⁷⁴ They may however additionally register with the *Nederlandse Vereniging voor Kinderchirurgie – NVKC* (Dutch Association for Paediatric Surgery). In that case, they must fulfil the private law quality criteria and competences set by the NVKC before they will be registered as NVKC-certified paediatric surgeons.⁷⁵ Nevertheless, this specific registration has no implications for the official authorisations of the surgeon, as it only implies his or her skills or competences in paediatric surgery.⁷⁶

⁶⁸ Article B.8. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁶⁹ Article B.10. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁷⁰ Article B.12. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁷¹ Articles B.13. through 15. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁷² Article B.13.(1)(c) and B.16. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁷³ Article D.1. and D.2.(a) Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

⁷⁴ Interview representative Nederlandse Vereniging voor Heelkunde – NVvH, 1 November 2018; Interview representatives KNMG, 2 November 2018.

⁷⁵ NVKC, 'Certificering', <https://kinderchirurgie.nl/certificering>; Interview representative Nederlandse Vereniging voor Heelkunde – NVvH, 1 November 2018.

⁷⁶ Interview representatives KNMG, 2 November 2018.

As far as the setting in which paediatric surgeons will work, the National training plan also provides information on this topic. In particular, the plan indicates that the differentiation in paediatric surgery may only be followed at a paediatric surgical centre because there are limited training places.⁷⁷ In particular, paediatric surgeons may only be trained fully in a paediatric surgical centre due to specific facilities required and due to the fact that the labour market for paediatric surgeons is fairly small, as is the number of future employers. At the same time, the National training plan also indicates that paediatric surgical care should not only be provided in specialised centres. This means that surgeons in training have the possibility to follow a paediatric surgery module as part of another differentiation. Indeed, surgeons may follow a module surgery with children which trains them to perform simpler paediatric surgical procedures.⁷⁸

3.2 Becoming a Paediatric Surgeon in Belgium

In order to gain access to training as a medical specialist in Belgium, a doctor with basic medical training needs to fulfil a number of criteria before being able to initiate the training. First of all, he or she will need to possess a diploma in medicine.⁷⁹ Additionally, starting doctors need to obtain a so-called *visum* for their diploma and must be registered with the Belgian *Orde der artsen* (Order of Doctors).⁸⁰ If a professional has the right qualifications and has obtained a *visum* and a registration with the Order, he or she may access training to become a medical specialist.⁸¹

When a doctor has gained access to medical specialist training, he or she will follow training consisting of a theoretical and a practical part.⁸² The theoretical part is provided by a university.⁸³ The practical part is called the *stage* and takes place in at least two hospitals which have obtained separate recognitions as training hospitals.⁸⁴ In line with the 2014 Ministerial Decision, a candidate must spend at least 12 months of their traineeship at a university hospital and a minimum of 12 months at a non-university hospital. They may also work in a non-hospital setting as long as this does not cover more than 40% of the *stage*. Following Articles 11, 12 and 13 of the same Decision, candidates have the possibility to follow part of their training abroad or in another service or specialty to obtain specific skills. However, candidate specialists also have the possibility to conduct scientific research during the practical part of their training. According to Article 14, part of that research may be considered to replace part of the practical training.

⁷⁷ Nederlandse Vereniging voor Heelkunde, SCHERP 2.0: Structuur Curriculum Heelkunde voor Reflectieve Professionals – Opleidingsplan Heelkunde, Addendum Eindtermen Differentiaties, p. 12.

⁷⁸ Interview representative Nederlandse Vereniging voor Heelkunde – NVvH, 1 November 2018.

⁷⁹ Article 3(1) Gecoördineerde wet betreffende de uitoefening van de gezondheidszorgberoepen, BS 19-06-2015.

⁸⁰ Article 25(1) Gecoördineerde wet betreffende de uitoefening van de gezondheidszorgberoepen, BS 19-06-2015.

⁸¹ Article 2 Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014;

⁸² Article 3(1) Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014.

⁸³ Interview representative BELAPS, 18 October 2018.

⁸⁴ Article 7 Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014.

Over the course of the training, the trainee specialist will keep track of their progress in a *stageboekje* (training record book).⁸⁵ Upon completion of the specialist medical training, the professional will have to possess a formal approval (*erkenning*) before being able to practice as a medical specialist.⁸⁶ In order to obtain this approval, a specialist in training must hand in a plan for the traineeships he or she is planning to undertake at the Ministry of the French Community *at the start* of the practical training.⁸⁷ That plan must be evaluated and approved by a committee (*erkenningscommissie*).⁸⁸ The committee consists of various doctors and is tasked among others with advising the Minister on the approval of the traineeship plan and monitoring the execution of the plan.⁸⁹ Upon completion of the traineeships, the candidate specialist must apply for approval at the Ministry.⁹⁰ In this application, the candidates must show, among others that they have followed specific theoretical training at university level at the same time as the first two years of their specialist training. In particular, a specialist in training must prove that he or she fulfils the attainment levels set for the specialty and must show that he or she is competent to exercise the specialty independently and under their own responsibility.⁹¹ Other aspects related to the training that must be proven relate to communication, quality of care, evidence-based medicine, electronic data management, and critical leadership.⁹² Additionally, candidates must show that they have successfully completed a final evaluation and that they have published an article in an influential peer reviewed medical journal.⁹³ The committee will advise the Minister on whether or not to grant the approval.⁹⁴

In addition to the general requirements made to the training of medical specialists above, the content and the duration of the training are established per specialism. The organisation responsible for this is the *Hoge raad van artsen-specialisten en van huisartsen* (Supreme Council for doctor-specialists and general practitioners), which is also responsible for setting attainment levels.⁹⁵ In this context, the most important document concerning the education and training for general surgeons in Belgium is a

⁸⁵ Article 2(9) Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

⁸⁶ Articles 86 and 88 Gecoördineerde wet betreffende de uitoefening van de gezondheidszorgberoepen, BS 19-06-2015.

⁸⁷ Article 7 Besluit van de Regering van de Franse Gemeenschap tot vaststelling van de procedure voor de erkenning van artsen-specialisten en van huisartsen, BS 29-01-2018; the focus is placed on the French Community due to the fact that one of the cooperating partners (i.e. the Centre Hospitalier Chrétien (CHC)) is again located in Liège which is located in the French Community.

⁸⁸ Article 8 and 10 Besluit van de Regering van de Franse Gemeenschap tot vaststelling van de procedure voor de erkenning van artsen-specialisten en van huisartsen, BS 29-01-2018.

⁸⁹ Articles 3 and 4 Besluit van de Regering van de Franse Gemeenschap tot vaststelling van de procedure voor de erkenning van artsen-specialisten en van huisartsen, BS 29-01-2018.

⁹⁰ Article 18 Besluit van de Regering van de Franse Gemeenschap tot vaststelling van de procedure voor de erkenning van artsen-specialisten en van huisartsen, BS 29-01-2018.

⁹¹ Article 19 Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014.

⁹² Article 19(1-5) Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014.

⁹³ Article 20 Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014.

⁹⁴ Articles 20 and 21 Besluit van de Regering van de Franse Gemeenschap tot vaststelling van de procedure voor de erkenning van artsen-specialisten en van huisartsen, BS 29-01-2018.

⁹⁵ Article 3(2)(3) Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014.

2002 Ministerial Decision.⁹⁶ That Decision indicates that the duration of training for surgeons is at least six years.⁹⁷

Article 2 of the 2002 Ministerial Decision further indicates that surgical training is divided between basic and advanced training but does not specify defined ranges for these cycles. Instead, the Decision specifies that the future surgeon must obtain global knowledge of surgical conditions and must obtain both theoretical and clinical knowledge in various fields related to general surgery.⁹⁸ Furthermore, the traineeships followed during basic surgical training are aimed at familiarising candidate specialists with the most important surgical fields. In this context, paediatric surgery is considered to be one such fields (along with abdominal surgery, trauma surgery, urology, orthopaedics, thoracic surgery, urgent neurosurgery, vascular surgery, plastic surgery, gynaecologic and oncologic surgery). Some of these surgical fields are considered independent medical specialties. In particular, this goes for neurosurgery, plastic surgery, urology and orthopaedic surgery.⁹⁹ Indeed, all of these specialties are featured in Annex V, point 5.1.3 of the Professional Qualifications Directive, confirming that these surgical fields are considered independent medical specialties in Belgium. Candidate specialists for these four specialties also follow basic training and later advanced training.¹⁰⁰ Where neurosurgeons will follow two years of basic training after which they will follow four years of advanced training, plastic surgeons, urologists and orthopaedic surgeons will follow three years of basic training and three years of advanced training in their respective fields.

For general surgeons, their advanced training mainly consists of the exercise of diversified surgical procedures.¹⁰¹ In particular, candidate specialists need to have completed at least 750 surgeries in different fields of general surgery.¹⁰² As far as paediatric surgery is concerned, it is a topic under general surgery but there is no specific training for that specialty. Therefore, whereas some paediatric surgical training in the context of general surgical training may be sufficient for general surgeons to carry out simple procedures on children, currently there is no possibility to become highly specialised in paediatric surgery in Belgium.¹⁰³ If doctors want to specialise in this field, they may go abroad to other Member States to do a residency or other complementary training.¹⁰⁴ However, changes are

⁹⁶ Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

⁹⁷ Article 2(2) Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

⁹⁸ Article 2(4)(5) Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

⁹⁹ Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteiten van heelkunde, neurochirurgie, plastische heelkunde, urologie en orthopedie, BS 26-09-1979.

¹⁰⁰ See Chapters II, III, IV, Articles A(2) of Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteiten van heelkunde, neurochirurgie, plastische heelkunde, urologie en orthopedie, BS 26-09-1979.

¹⁰¹ Article 2(6) Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

¹⁰² Article 2(8) Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

¹⁰³ Interview representative BELAPS, 18 October 2018.

¹⁰⁴ Interview representative BELAPS, 18 October 2018.

occurring in Belgium as there is a proposal on the table to alter the structure of training and to recognise paediatric surgery as a specialty. This proposal will be discussed in Section 4 of this study.

3.3 Education and Training as a Paediatric Surgeon in North Rhine-Westphalia

Earlier in this study, it was already established that individuals who want to qualify as doctor in the EU undergo a two-step qualification process in order to become medical specialists (i.e. students qualify as doctors with basic medical training first, then as medical specialists). The same is the case in Germany. To become a doctor with basic medical training, graduates need to obtain an *Approbation*.¹⁰⁵ In order to obtain the *Approbation* one needs to fulfil several criteria, among which, having the required training. Article 3(1) of the *Bundesärzteordnung* indicates that the training for doctor with basic medical training comprises a six-year course of study of 5500 hours of which 8 to 12 months must be spent in practice at a hospital or other medical care institution. Furthermore, doctors must successfully complete an examination before obtaining the *Approbation*.¹⁰⁶ This latter document is essential to be able to work as a doctor in Germany.¹⁰⁷

After having qualified as a doctor with basic medical training, doctors may specialise as paediatric surgeons. Different from basic medical training, the education and training for this specialisation is not organised at the federal level in Germany, but at the level of the *Bundesländer* by the relevant *Landesärztekammern* (State Medical Associations). North Rhine-Westphalia, the focus area for this research, has two such associations for the territories *Nordrhein* and *Westfalen-Lippe*. These State Medical Associations have a competence to organise medical specialist training in line with the North Rhine-Westphalian *Heilberufegesetz*.¹⁰⁸

Considering the fact that the Euregional Centre for Paediatric Surgery is cooperating with the Uniklinik Aachen, attention must be placed in particular on the legislation of the *Ärztekammer Nordrhein*. The *Ärztekammer Nordrhein* has its own regulations on specialist medical training in the form of a *Weiterbildungsordnung* (Regulation on further education).¹⁰⁹ In this regulation, details are provided as to how the education and training for the medical specialties recognised in Germany are structured and what contents they must include.

When it comes to paediatric surgeons, their specialist training comprises six years of study, consisting of two years of basic training in the field of surgery and four years of training as a specialist for paediatric surgery.¹¹⁰ Within the two years of general surgical training, candidate surgeons will complete six months of emergency care, six months of surgical intensive care and 12 months of surgery of which another six months may be spent in outpatient care.¹¹¹ After concluding this general surgical training candidates will devote four years on the paediatric surgical specialty. From these four

¹⁰⁵ Section 2(1) *Bundesärzteordnung* – BÄO.

¹⁰⁶ Section 39 *Approbationsordnung für Ärzte* – ÄApprO.

¹⁰⁷ Section 2(1) *Bundesärzteordnung* – BÄO; Section 4 *Weiterbildungsordnung der Ärztekammer Nordrhein* vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

¹⁰⁸ Section 6(4) *Heilberufegesetz NRW* (*HeilBerG NW*); Interview representative *Ärztekammer Nordrhein*, 6 December 2018.

¹⁰⁹ *Weiterbildungsordnung der Ärztekammer Nordrhein* vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

¹¹⁰ Point 7.4 *Weiterbildungsordnung der Ärztekammer Nordrhein* vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

¹¹¹ Point 7. *Weiterbildungsordnung der Ärztekammer Nordrhein* vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

years, the candidate medical specialist will spend a year of training in the area of paediatrics and six months in the intensive care of children and adolescents. Additionally, the candidate may decide to spend six months in another medical specialist field and may also decide to work up to twelve months in a non-hospital setting. During their paediatric surgical training surgeons will focus on obtaining knowledge, experience and skills in, among others, prevention, detection, operative and conservative treatment, aftercare and rehabilitation of malformations, diseases, infections, organ tumours, injuries, burns and their consequences in childhood, including prenatal developmental disorders and enteral and parenteral nutrition, especially after operations, also for premature and new-born babies.¹¹² The *Landesärztekammer* provides additional guidelines on the content of training containing reference numbers which indicate how many procedures trainee specialists must have completed in certain categories.¹¹³

In order to conclude their training as paediatric surgeons, candidates must complete several steps.¹¹⁴ Candidates must have obtained certificates during their training and must successfully complete an examination at the end of their training. After having completed these steps, they will obtain a so-called *Anerkennungsurkunde* (Certificate of recognition) to indicate that they are qualified to work as paediatric surgeons. This certificate is essential for the exercise of the medical specialty and may only be obtained upon conclusion of the relevant specialist training.¹¹⁵ In order to attest to the completion of training, progress of the candidates is documented on a yearly basis by means of conversations.¹¹⁶ Furthermore, they must obtain certificates from the doctor authorised to give further training. He or she must draft these certificates thereby indicating which knowledge, experience and skills the candidate paediatric surgeon has completed and should go into detail about the professional aptitude of the candidate.¹¹⁷ The candidate will need this evidence attesting to the successful completion of training coming from the annual conversations and certificates to be able to access the final examination.¹¹⁸ Successful completion of that final examination results in the grant of the *Anerkennungsurkunde* and thus in the possibility to carry the specialist title.¹¹⁹

3.4 Comparing Paediatric Surgery Education and Training in the Euregio Meuse-Rhine

The previous Sections have shown that training for as a paediatric surgeon is structured differently in the Netherlands, Belgium and Germany. Nevertheless, some commonalities may also be identified. First of all, final evaluations are conducted in all three Member States. Secondly, in the Netherlands and Germany annual progress conversations are scheduled. Furthermore, all three countries have additional provisions for keeping track of progress. Whereas in Belgium and the Netherlands trainee specialists are themselves responsible for keeping track of their progress in a *portfolio* or *stageboekje*, in Germany progress is recorded via certificates issued by the trainer after completion of a certain part

¹¹² Point 7.4 Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

¹¹³ Ärztekammer Nordrhein, Richtlinien über den Inhalt der Weiterbildungsordnung der Ärztekammer Nordrhein, 2012, retrievable via: <https://www.aekno.de/downloads/aekno/07-4-kinderchirurgie-2012.pdf>.

¹¹⁴ Preamble Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

¹¹⁵ Section 35 Heilberufegesetz NRW (HeilBerG NW).

¹¹⁶ Section 8 Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

¹¹⁷ Section 9 Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

¹¹⁸ Section 12(1) Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

¹¹⁹ Section 15(2) Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

of training. Finally, a specific training plan is established before the start of training in the Netherlands and Belgium.

In terms of the content of training, the three aforementioned countries all have six years of specialist medical training as far as surgical training is concerned. Nevertheless, the way they devote this training differs. Unsurprisingly, the way in which the training is structured depends strongly on the relationship between general surgical training and surgical specialties. It is here that one runs into a complication in relation to the potential swift recognition of qualifications in paediatric surgery.

The Netherlands and Belgium do not recognise paediatric surgery as an independent specialty. Instead, the Netherlands and Belgium both have paediatric surgery as a subtopic in general surgical training. They both make a distinction: routine paediatric surgeries may be carried out by doctors who have completed some form of training as a part of general surgery. On the other hand, highly specialised paediatric surgeries will be performed by surgeons who have specialised themselves further. Therefore, those wishing to work as paediatric surgeons will qualify as general surgeons and will then train as paediatric surgeons by devoting their time to that particular surgical field. In the Netherlands, candidate specialists will spend four years of general training and two years on their surgical differentiation. Upon completion of this period, they will be general surgeons but will have specialised in their differentiation (e.g. paediatric surgery). They may subsequently specialise further in the field of paediatric surgery by following courses and obtaining certifications organised by the Dutch association for paediatric surgery NVKC. The situation differs in Belgium. Here, six years are devoted to general surgical training. The advanced stages of specialist training relate to the surgeon obtaining experience in various surgical procedures. In Germany, specialist medical training for paediatric surgeons is available. In this case, candidates follow two years of basic medical training after which they will complete four years of training devoted exclusively to the paediatric surgical field.

In terms of structure one could say that the Dutch and German system somewhat resemble one another as both countries have general surgical training and a specialisation. However, the number of years the countries devote to basic surgical training and the paediatric surgical field differs. Where the Netherlands has a four-year basic programme and a two-year paediatric specialisation, Germany has a two-year basic programme and a four-year specialisation. The Belgian system is again different as surgical training is mostly devoted to exploring different surgical fields. Nevertheless, paragraph 4 of this study will show that the situation in Belgium is changing as there is currently a proposal to ensure the independence of the paediatric surgical field.

4. Investigating the Possible Independence & Recognition of the Paediatric Surgical Specialty

The previous paragraphs have shown that paediatric surgery is not considered as an independent specialty in the Netherlands and Belgium. Whereas in the Netherlands it is considered a differentiation within the general surgical field, it is not granted any particular status in Belgium (i.e. there is no training available to specialise in paediatric surgery). This present paragraph explores the possibilities to recognise paediatric surgery as an independent specialty and explores an ongoing initiative in Belgium to achieve the independence and recognition of the paediatric surgical specialty.

As Section 2.2 of this study has shown, the Annex of the Professional Qualifications Directive (PQD) comes up empty as far as a specialist title in paediatric surgery is concerned in the Netherlands and Belgium. A question that arises is whether it is possible to add paediatric surgery as a specialty in the Netherlands and Belgium to the list in the directive's Annex. Under Article 21a of the PQD, the Commission has a competence to adopt so-called delegated acts through which the directive's Annexes may be amended. Through this process, the Commission would be able to add paediatric surgery as a medical specialty for the Netherlands and Belgium. However, in order for the Commission to adopt a delegated act, it needs to first have obtained a notification from the Member State(s) concerned.¹²⁰ Such a notification is obligatory in the event of new laws, regulations and administrative provisions adopted by a Member State. This shows that the possible inclusion of paediatric surgery as an independent specialty cannot be instituted top-down from the EU level. Instead, such an amendment must be instituted bottom-up from the Member State(s) concerned. The case law of the Court of Justice of the EU (CJEU) supports this bottom-up approach. According to the Court, the Member States themselves are allowed to lay down the knowledge and qualifications needed to pursue a certain profession.¹²¹ As Member States may decide how they want the pursuit of a profession to be organised with due regard of EU law, they may not be forced to model their professions in a way that is prevalent in other Member States.¹²² This reasoning confirms that any decision to recognise paediatric surgery as an independent specialty will need to originate from the Member States concerned, in this case the Netherlands and Belgium.

The question then becomes whether and how paediatric surgery may be recognised as an independent specialty in the Netherlands and Belgium. Starting with the Netherlands, the recognition of medical specialties is regulated under the *Wet op de beroepen in de individuele gezondheidszorg – Wet BIG* (Individual Healthcare Professions Act – BIG Act). According to Article 14 of the Act, a professional organisation may maintain a specialist register in which professionals with a certain professional title may be registered. The Dutch Minister of Health, Welfare and Sport may then recognise such a professional title, meaning that titles of a private law nature will become legally recognised specialist titles.¹²³ In particular, a specialist title may become recognised by law (i.e. the profession is regulated) if there is a particular expertise, if there is a specialist register, and if there is a specific title connected to the particular expertise and specialist register.¹²⁴ The *College Geneeskundige Specialismen – CGS* (Medical Specialties Council) of the Royal Dutch Medical Association KNMG is responsible for the adoption of specific decisions per medical specialty pertaining to the education and training, recognition and registration of medical specialists.¹²⁵ Accordingly, the CGS may establish criteria to designate parts of the medical profession as a specialty and may do so at its own initiative or on the request of the medical field. Nevertheless, the latter appears to be more common.¹²⁶ Before taking a decision on whether a part of the medical profession may become a specialty, the CGS will consult relevant parties and will incorporate reactions or feedback into its final

¹²⁰ Article 21a(1) Professional Qualifications Directive.

¹²¹ Case 222/86 *Heylens*, EU:C:1987:442, para. 10; Case C-340/89 *Vlassopoulou* EU:C:1991:193, para. 9.

¹²² Case C-125/16 *Reynaud*, EU:C:2017:707, para. 49.

¹²³ H.J.J. Leenen et al., *Handboek gezondheidsrecht: Deel II Gezondheidszorg en recht* (Houten: Bohn Stafleu van Loghum 2008), p. 89.

¹²⁴ Article 14(1) *Wet op de beroepen in de individuele gezondheidszorg*.

¹²⁵ Article 11 *Regeling specialismen en profielen geneeskunst*.

¹²⁶ Interview representatives KNMG, 2 November 2018.

decision.¹²⁷ In particular, it is of importance that there is a real societal need to separately regulate a specialty. In this context, the CGS maintains a high standard to ensure that the medical specialist field does not become unnecessarily dispersed.¹²⁸

The interviewees from the CGS and RGS of the Royal Dutch Medical Association KNMG and the Dutch association for Surgery NVvH consulted in the context of this study confirm that the independence of a medical specialty in the Netherlands very much depends on the initiative of the medical specialty concerned. They indicate that there are currently no initiatives known to them aiming at recognising paediatric surgery as an independent specialty in the Netherlands. The most recent example of a medical specialty wanting to be recognised as an independent specialty is that of sports medicine. Nevertheless, the professional organisation for sports medicine (*Vereniging voor Sportgeneeskunde*) saw their desire met with a rejection and decided to challenge this rejection in court. In the case, the Dutch Council of State argued that there is no obligation for the (at that time named) Central Council of Medical Specialties – CCMS (*Centraal College Medische Specialismen*), i.e. the frontrunner of the CGS,¹²⁹ to recognise a medical specialty.¹³⁰ In particular, the CCMS had discretion to decide on the designation of medical specialties meaning that a decision not to recognise a specialty as independent could only be up for annulment if the rejection was taken in violation of the law or any general principle of law.¹³¹

In conclusion, it can be said that in order for paediatric surgery to become an independent specialty in the Netherlands several steps would have to be taken. On the one hand, the paediatric surgical field would have to consider the specialty's independence as beneficial for the provision of care. On the other hand, the *College Geneeskundige Specialismen – CGS* (Medical Specialties Council)¹³² would have to decide whether or not to recognise the independence of the specialty. Finally, the Minister for Health, Welfare and Sports would have to approve of the initiative. Nevertheless, rendering the paediatric surgical field an independent specialty would not immediately lead to conformity with the Professional Qualifications Directive and its minimum training conditions. As of yet, paediatric surgical training in the Netherlands comprises a two-year differentiation in the context of a six-year course of general surgical training. This means that the independence of the paediatric surgical field in the Netherlands would have to be paired with a reform of the education and training in order to ensure its compliance with the Professional Qualifications Directive, which requires a minimum of 5 years of training for paediatric surgeons.¹³³ This compliance with the PQD is also maintained at the national level when assessing the possible independence of a certain specialty.¹³⁴

¹²⁷ Article 13 Regeling specialismen en profielen geneeskunst.

¹²⁸ Interview representatives KNMG, 2 November 2018.

¹²⁹ The CCMS used to be in charge of designating medical specialties. In 2010, the CCMS was merged with the *College voor Huisartsgeneeskunde, Verpleeghuidgeneeskunde en medische zorg voor verstandelijk gehandicapten – CHVG* and the *College voor Sociale Geneeskunde – CSG* into the current *College Geneeskundige Specialismen – CGS* (Medical Specialties Council); KNMG, 'College Geneeskundige Specialismen', <https://www.knmg.nl/opleiding-herregistratie-carriere/cgs/over-cgs.htm>.

¹³⁰ RVS 13 april 2004, ECLI:NL:RVS:2005:AT3767.

¹³¹ Ibid.

¹³² See footnote 130.

¹³³ Annex V, point 5.1.3 Professional Qualifications Directive.

¹³⁴ Interview representatives KNMG, 2 November 2018.

Whereas there appears to be no initiative seeking to achieve the independence of the paediatric surgical field in the Netherlands, this is different for Belgium as the Member State is currently undergoing an extensive amendment of its health system and of its medical specialties. The evaluation and amendment of legislation concerning the recognition of sub- and super specialisations was one of the healthcare reforms mentioned in the 2014 Coalition agreement.¹³⁵ The initiative striving for the independence of the paediatric surgical field originates from 2015 when the *Hoge raad van artsen-specialisten en van huisartsen* (Supreme Council for doctor-specialists and general practitioners) took note of the exploratory activities related to developing new criteria for surgical training.¹³⁶ In its 2015 annual report, the Supreme council notes that the present legislation has been surpassed because most trainee specialists will follow seven or eight years of training.¹³⁷ Furthermore, the report indicates that the General Assembly of the Collegium Chirurgicum (i.e. the platform for the entire Belgian surgical community)¹³⁸ had previously expressed itself in favour of retaining the title of general surgeon whilst introducing new titles in accordance with Annex V of the PQD.¹³⁹ In particular, the titles to be newly introduced were thoracic surgery, paediatric surgery, vascular surgery, visceral surgery, traumatology and cardiac surgery. In particular, the suggestion was made to maintain general surgery and add about two years of additional training in the new specialties. According to the report, compliance with the PQD would then follow from a conformity with Article 25(3a) of the PQD providing for an accumulation of titles.¹⁴⁰ It may be recalled that the PQD requires a minimum of five years of training in paediatric surgery.¹⁴¹ Through the application of Article 25(3a) Member States may ensure that specialists are exempted from having to again follow training they had already followed during a previous qualification in a medical specialty. The PQD and its 2011 proposal seem to indicate that the Article 25(3a) exemption is meant to be applied to individual specialists who have already completed part of the training abroad.¹⁴² Nevertheless, the annual report from the Supreme Council indicates that paediatric surgery, among others, would be partially exempted because trainee specialists already followed certain modules in the context of general surgery thereby fulfilling the criteria of Article 25(3a). As the above shows, the 2015 annual report speaks of exploratory activities and mentions that updated proposals should be discussed further in the future.¹⁴³ Indeed, the Supreme Council annual reports of 2016 and 2017 indicate that discussions concerning the surgical specialties are still pending.¹⁴⁴

In order to learn more about the current state of affairs of the pending proposal an interview was carried out with a representative of the Belgian Association of Paediatric Surgeons – BELAPS. It follows from this interview that the proposed training will be structured differently than it is at the moment.

¹³⁵ Regeerakkoord 9 oktober 2014/Accord de Gouvernement 9 octobre 2014, p. 62.

¹³⁶ Hoge Raad van geneesheren-specialisten en van huisartsen, Jaarverslag 2015, p. 27.

¹³⁷ Ibid., p. 28.

¹³⁸ See <http://belsurg.org/>.

¹³⁹ Hoge Raad van geneesheren-specialisten en van huisartsen, Jaarverslag 2015, p. 28.

¹⁴⁰ Ibid., p. 28.

¹⁴¹ Annex V, point 5.1.3 Professional Qualifications Directive.

¹⁴² Article 25(3a) Professional Qualifications Directive; Proposal for a Directive of the European Parliament and of the Council amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation on administrative cooperation through the Internal Market Information System, COM(2011)883 final, p. 9.

¹⁴³ Hoge Raad van geneesheren-specialisten en van huisartsen, Jaarverslag 2015, p. 28.

¹⁴⁴ Hoge Raad van artsen-specialisten en van huisartsen, Jaarverslag 2016; Hoge Raad van artsen-specialisten en van huisartsen, Jaarverslag 2017.

Those willing to qualify as paediatric surgeons would (after having completed basic medical training, i.e. a bachelor and master in medicine) specialize as general surgeons. Within the specialisation of general surgeon, they would follow three years of basic training and three years of advanced training focusing on one of five specialties: thoracic, cardiac, vascular, general and digestive surgery. Within the latter three years of advanced general surgical training there will be a possibility for candidate surgeons to opt for modules in paediatric surgery allowing them to be able to conduct common paediatric surgical procedures.¹⁴⁵ If, after six years of general surgical training, they want to qualify fully as paediatric surgeons, they may follow additional training of two years (comprising eight years of training in total).

Therefore, paediatric surgical training would become a so-called level three qualification. In Belgium, there is a list of professional titles spanning over different levels.¹⁴⁶ For doctors, the academic degree of doctor (i.e. bachelor and master in medicine) is a level one qualification. Those having completed general surgical training will be *geneesheer specialist in de heelkunde* (medical specialist in general surgery) at level two. Under the new proposal, general surgeons are able to obtain a level three title adding their specialisation in paediatric surgery to their title. Indeed the preservation of the title of general surgeon at level two and the introduction of, among others, paediatric surgery at level three was supported by the General Assembly of the Collegium Chirurgicum back in 2015.¹⁴⁷ The reason why paediatric surgery is to become a “super specialisation” has different reasons.¹⁴⁸ First of all, the number of paediatric surgeons is fairly limited in Belgium, meaning it is a small specialisation. Secondly, it is very complex to organise a whole certification for paediatric surgery within second level qualifications in general surgery. Finally, introducing paediatric surgery as a third level qualification whilst having certain modules in paediatric surgery at level two will not severely disrupt the current state of care provision. Common paediatric surgical procedures will still be able to take place at peripheral hospitals where general surgeons have followed modules on paediatric surgery. Cases requiring more specialised knowledge will be referred to larger paediatric surgical centres. In this way, children will not need to travel far to specialist centres for relatively common procedures. Therefore, recognition for the paediatric surgical specialty is currently pending in Belgium. Nevertheless, its actual implementation may still take some time, as the proposal still needs to be approved by various actors.¹⁴⁹

¹⁴⁵ B. Debusschere, ‘Erkenning kinderchirurgen in de maak’, *De Morgen* (15 June 2017), <https://www.demorgen.be/binnenland/erkenning-kinderchirurgen-in-de-maak-ba30cbf3/?referer=https://www.google.nl/>.

¹⁴⁶ Koninklijk besluit houdende de lijst van bijzondere beroepstitels voorbehouden aan de beoefenaars van de geneeskunde, met inbegrip van de tandheeskunde, BS 14-03-2018.

¹⁴⁷ Hoge Raad van geneesheren-specialisten en van huisartsen, Jaarverslag 2015, p. 28.

¹⁴⁸ Interview representative BELAPS, 18 October 2018.

¹⁴⁹ Ultimately, the amendment of the list of professional titles contained in the abovementioned Royal Decree must be approved by the Minister of Health acting on behalf of the King in line with Article 85 of the Gecoördineerde wet betreffende de uitoefening van de gezondheidszorgberoepen, BS 18-06-2015. The *Hoge Raad van geneesheren-specialisten en van huisartsen* plays a central role in the adoption of new training criteria for medical specialties. It has a competence to issue proposals to the Minister relating to the way in which training is structured for medical specialties on the basis of Article 5(4)(1) Koninklijk besluit tot vaststelling van de nadere regelen voor erkenning van artsen-specialisten en van huisartsen, BS 27-04-1983.

This Section has shown that, from a legal point of view, it is possible to recognise paediatric surgery as an independent specialty in the Netherlands and Belgium. Nevertheless, initiatives for this independence will have to originate from the Member States themselves and may not be instituted top-down from the EU-level. Furthermore, the interviews conducted with the CGS and RGS of the Royal Dutch Medical Association KNMG and the Dutch Association for Surgery NVvH confirmed that there is currently no initiative to recognise paediatric surgery as an independent specialty in the Netherlands. Belgium, on the other hand is undergoing such a process and paediatric surgery is expected to become an independent specialty in the future. In the event that compliance with the PQD is confirmed and paediatric surgery is also taken up in the directive as a specialty this will mean that the Netherlands will be the only Member State in this study not to independently recognise paediatric surgery. For the Euregional Centre for Paediatric Surgery this will mean that, upon completion of their training, paediatric surgeons are able to obtain automatic recognition in Belgium and Germany if they are trained according to the standards in those Member States. However, if they are trained according to Dutch standards in surgery, they will need to consider the application of the general system upon mobility. The question then becomes how the envisioned Euregional Centre for Paediatric Surgery may structure its training in order to best support the tri-Member State functioning of the centre. The following Section is devoted to this question.

5. Implementing an Ideal: The Creation of a Euregional Centre for Paediatric Surgery

The Sections above have shown that training in paediatric surgery differs considerably among the three Member States included in this study. Furthermore, whereas paediatric surgery may become an independent specialty in Belgium in the future, there are no such initiatives being undertaken in the Netherlands meaning that automatic recognition will not be possible for the surgeons working for the Euregional Centre for Paediatric Surgery. Nevertheless, the Centre is not only looking to function cross-border by employing paediatric surgeons that are qualified in the three Member States, but also aspires to provide training in paediatric surgery with its partners located in three Member States. The present Section explores the way in which training may be provided in the Netherlands, Belgium (French Community), and Germany (North Rhine-Westphalia).

5.1 Providing (Paediatric) Surgical Training in the Netherlands

When looking at the way in which training may be provided it is again important to focus on the General Resolution (*Kaderbesluit*) adopted by the *College Geneeskundige Specialismen – CGS* (Medical Specialties Council) as well as the CGS' Resolution on surgery (*Besluit heilkunde*). Chapter C of the General Resolution lays down criteria for the recognition as trainer and as training centre. Surgeons in training must follow training with one or more trainers must do so in one or more training centres.¹⁵⁰ According to Article C.1 of the General Resolution, medical specialists may qualify as trainers if:

¹⁵⁰ Article B.1.(2) Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

- have been registered for at least five years as medical specialist in the field in which they want to teach;
- are working as medical specialists;
- are a member of the scientific association of specialists;
- are a part of and lead a training group at a training centre;
- work as medical specialists in such a manner that they are able to assume responsibility;
- are prepared to train *aios* – *arts in opleiding tot specialist* (doctor in training to become specialist) also when an *aios* is looking for a new training place;
- have created a local plan that describes the link between learning goals, means of learning, examination and competence level of the part of the training they want to provide.

In relation to the surgical and paediatric surgical field, it is important to add that the trainer may only be recognised for a differentiation (i.e. paediatric surgery) if he or she is also recognised as trainer for general surgery.¹⁵¹ As the criteria above show, the trainer must be part of a training group. This group also plays an important role in the training of the surgeon and must, among others, comprise a diversified range of activities within the medical specialty concerned and fulfil quality requirements set by the relevant scientific association of medical specialists.¹⁵² In case of surgical training, at least four surgeons must be a member of the training group. Where training in a differentiation is to be provided, at least one of the members of the training group must be concerned mainly with the differentiation and at least one of the other members must to a large extent be concerned with the differentiation.¹⁵³ The role of the training group is of paramount importance in the training of future specialists, as the group is concerned with the practical training whereas the trainer is mostly responsible for the organisation of training.¹⁵⁴ Nevertheless, the training group will not be recognised separately but will be a part of the procedure for the recognition of the trainer, meaning that if the training group does not fulfil the requirements set out in the General Resolution, the trainer cannot be recognised.¹⁵⁵

Apart from the training group, the training must also be provided at a training centre. Such a training centre must again fulfil a large number of criteria.¹⁵⁶ The centre must have a trainer and substitute trainer who are medical specialists in the specialty for which recognition is requested and who fulfil the criteria set in the General Resolution and who documents the cooperation of medical specialists in the context of the training as well as the relationship of the trainers, *aios* and other medical staff

¹⁵¹ Article C.1. Besluit van 15 mei 2018 houdende de opleidings- en erkenningseisen voor het medisch specialisme heelkunde (Besluit heelkunde); Interview representatives KNMG, 2 November 2018.

¹⁵² Article C.3. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

¹⁵³ Article C.2. Besluit van 15 mei 2018 houdende de opleidings- en erkenningseisen voor het medisch specialisme heelkunde (Besluit heelkunde).

¹⁵⁴ Artikelsgewijze toelichting Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS), p. 41.

¹⁵⁵ Ibid, p. 41-42.

¹⁵⁶ Article C.8.(1)(a-l) Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

involved in the training. Furthermore, the centre must have 24-hour access to relevant literature, must have adequate facilities and a laboratory. Additionally, the centre must ensure the cooperation of members of the training group in the case of visitations by the scientific association of medical specialists concerned, ensures cooperation of medical specialist in a training group, must allow *aio's* to undertake training at the centre, is familiar with the training plan and ensures that the trainer adopts a local plan in accordance with the General Resolution. Finally, it is important to note that the centre must have cooperation agreements with other training centres in case the doctors in training will not follow the entire training in that training centre.

In the case of the envisioned Euregional Centre for Paediatric Surgery, the centre would assumedly provide only part of the training. This due to the fact that general surgery is recognised as a medical specialty in the Netherlands where paediatric surgery is a differentiation within that field. The Centre would provide the training for the two-year differentiation in paediatric surgery. In such a scenario, additional requirements apply.¹⁵⁷ In the event that the training is to be provided in multiple locations, the training centre must ensure a certain unity in the training and is bound to a maximum number of specialists in training.¹⁵⁸ Nevertheless, the Euregional Centre for Paediatric Surgery will also have to fulfil additional requirements related to the surgical specialty. In order to be able to provide training in a differentiation, the centre must be recognised as a training centre for general surgery and must provide training in at least two differentiations.¹⁵⁹ This means that training in a differentiation cannot be provided separately and must always be provided in the context of general surgery. Because of the fact that a centre will also have to provide general surgery, they must also fulfil the general surgical requirements contained in the *Besluit heelkunde*. Requirements include:¹⁶⁰ having an emergency care department open 24 hours a day that receives at least 5000 new patients a year, conducting at least 2000 surgeries a year spread over different categories of surgeries and must have a polyclinic where general and specific surgical consultations may be conducted on at least 3000 new patients a year.

In terms of procedure, the application for trainer, substitute trainer and training centre must be made simultaneously with the RGS.¹⁶¹ In fact, the recognitions of the trainers and the training centre are linked, meaning that one cannot exist without the other.¹⁶² In case of newly instated training, Article C.17. of the General Resolution indicates that the trainer and centre will receive an initial recognition for two years which will indicate which part of the training will be provided, during which time-span

¹⁵⁷ Article C.10. and C.11. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

¹⁵⁸ Article C.12.(1)(a)(b) Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

¹⁵⁹ Article C.5. Besluit van 15 mei 2018 houdende de opleidings- en erkenningseisen voor het medisch specialisme heelkunde (Besluit heelkunde).

¹⁶⁰ Article C.4. Besluit van 15 mei 2018 houdende de opleidings- en erkenningseisen voor het medisch specialisme heelkunde (Besluit heelkunde).

¹⁶¹ Article C.15. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS); Interview representatives KNMG, 2 November 2018.

¹⁶² Article C.22. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

and at which locations. Before deciding on a recognition, the RGS will perform visitations.¹⁶³ In order to execute these visitations, the RGS will instate a plenary visitation committee per specialty that will again instate individual visitation committees depending on the visitation to be carried out.¹⁶⁴ In the end, the plenary visitation committee will advise the RGS about the recognition of the (substitute) trainer and training centre, the RGS or an authorised body/person will finally decide on the recognition.¹⁶⁵

For general surgery, the plenary visitation committee is located within the *Nederlandse Vereniging voor Heelkunde – NVvH* (Dutch Association for Surgery).¹⁶⁶ The latter organisation again has guidelines for its committees to successfully conduct visitations. For example, the NVvH has a uniform assessment procedure for differentiations which is carried out parallel to the visitation of general surgical training.¹⁶⁷

5.2 The Organisation of (Paediatric) Surgical Training in Belgium

As is the case for the Netherlands, provisions on the way in which training is provided in Belgium are to be found in the same decisions and regulations providing for the structure of the specialist training. Therefore, particular attention must be paid to the 2014 *Ministerieel besluit* (Ministerial decision), the the 1983 *Koninklijk besluit* (Royal decision) and the 2002 Ministerial decision. Where the first two decisions lay down general criteria for specialists wishing to provide training and the centre in which training is to take place, the latter instrument lays down more specific requirements for training in the context of general surgery. It may be recalled that Belgium (like the Netherlands) does not recognise paediatric surgery as an independent specialty, meaning attention must be redirected to provisions on general surgery.

As far as the qualifications of the medical specialist looking to provide training (i.e. *stagemeester*) are concerned, they need to have been recognised as specialist in the field they want to teach during a period of at least five years and must furthermore follow annual training in relation to the specialist training they are looking to provide.¹⁶⁸ In order to be able to provide surgical training, the trainer must work exclusively in one hospital for at least 0,8 fte.¹⁶⁹ The medical specialist must also be part of a team of medical specialists who have been actively practising in their field for at least three years and must organise regular meetings safeguarding contacts between candidate specialists and the other specialists on staff.¹⁷⁰ As far as the team is concerned, the medical specialist providing training must

¹⁶³ Article C.16. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

¹⁶⁴ Articles 1, 3 and 4 Beleidsregels RGS, Geconsolideerde versie 15 februari 2018.

¹⁶⁵ Articles 2 and 8 Beleidsregels RGS, Geconsolideerde versie 15 februari 2018.

¹⁶⁶ See Nederlandse Vereniging voor Heelkunde, 'Opleidingsvisitatie', <https://heelkunde.nl/opleidingsvisitatie>.

¹⁶⁷ See Nederlandse Vereniging voor Heelkunde, 'Erkenning differentiaties', <https://heelkunde.nl/erkenning-differentiaties>.

¹⁶⁸ Articles 23 and 24 Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014.

¹⁶⁹ Article 3(2) Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

¹⁷⁰ Article 24/1 and 32 Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014.

oversee a team of medical specialists recognised as surgeons.¹⁷¹ In particular, there must be at least one additional medical specialist per 50 beds.

Some of the most important tasks of the trainer are to supervise the activities of the candidate specialists and to establish a training programme in consultation with the candidate specialist. The latter document should be transferred to the Ministry within the first three months of the practical period of training (i.e. the *stage*).¹⁷² It is important to note that during the *stage*, it is possible to have multiple *stagemeesters*. In that case, a distinction is made between a *stagemeester* and a *coördinerend stagemeester* (coordinating trainer).¹⁷³ The latter is responsible for the coordination of the entire specialist training when the trainee specialist has more than one trainer, whereas the other *stagemeesters* are responsible for safeguarding the coherence and quality during the training.¹⁷⁴

As far as the training centre is concerned, it may be recognised for either part of the training or for the entire training in a certain specialty as long as it is led by at least one of the *stagemeesters*.¹⁷⁵ According to Article 41 of the 2014 Ministerial Decision, the activities of the training centre must be sufficiently comprehensive and diverse. When evaluating potential training centres particular attention is paid to the number of beds, the number of admissions and the annual number of consultations, the diversity of cases, activity concerning hospitalisations and the type and number of diagnostic and therapeutic procedures. Additional requirements are set in case the training centre is part of a hospital. Following Article 44, the recognition as centre may concern the entire hospital or certain departments. In the event that the centre has multiple locations, each of the locations must fulfil all requirements of a training centre *except* those concerning the number of beds; these may be cumulated among the different locations. In the event of multiple locations at least two third year trainee specialists must be present specialised in the field of surgery and either one of the fields of internal medicine or anaesthesiology. Moreover, the supervision of every trainee specialist must be assured and the hospital must have a recognised laboratory that is available to the trainee specialists at all times. For surgery, the recognised trainer must carry out a genuine medical activity in all locations and there must be another specialist working full time at each of the locations that also fulfils the criteria set by law.¹⁷⁶

¹⁷¹ Article 3(4) Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

¹⁷² Article 30 and 35 Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeesters en diensten, BS 27-05-2014.

¹⁷³ Article 8(1) Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeesters en diensten, BS 27-05-2014; Article 7(1)(2) Besluit van de Regering van de Franse Gemeenschap tot vaststelling van de procedure voor de erkenning van artsen-specialisten en van huisartsen, BS 29-01-2018.

¹⁷⁴ Article 1(11) Besluit van de Regering van de Franse Gemeenschap tot vaststelling van de procedure voor de erkenning van artsen-specialisten en van huisartsen, BS 29-01-2018; Article 8(2) Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeesters en diensten, BS 27-05-2014.

¹⁷⁵ Article 39 and 40 Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeesters en diensten, BS 27-05-2014.

¹⁷⁶ Article 4(1) Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

A centre may then be recognised as a training centre for general surgery if it is able to provide for sufficiently diversified activities related to various surgical fields.¹⁷⁷ If this is not the case, trainee surgeons will have to follow so-called *rotatiediensten* (rotation services). These may take up a maximum of one year of the total specialist training.¹⁷⁸ In line with Article 4 of the 2002 Ministerial Decision, it must fulfil the following criteria to be able to provide the full training as surgeon:

- Have at least 100 beds including child beds of which at least 20 are reserved for fractures;
- Perform at least 2000 surgeries each year;
- Have a policlinic performing at least 2000 new consultations each year;
- The centre must have access to emergency services and an intensive care unit;
- Have specific infrastructure;
- Have a sufficient number of competent employees to ensure a scientifically based medical practice;
- Have the possibility to perform *ad hoc* biopsies and preoperative radiological research;
- Have a service for internal medicine as well as a service for anaesthesiology.
- Should a centre not be able to fulfil all these criteria, they may still function as a training centre for part of the training. Nevertheless, they must still have at least 50 beds, perform at least 1000 procedures as well as 1000 new consultations each year. Furthermore, there must be a recognised anaesthesiologist heading the anaesthesiology department. Finally, the centre must have access to specialised emergency services as well as an intensive care unit.

In terms of procedure, requests to be recognised as a *stagemeester* and training centre (i.e. *stagedienst*) must be made at the Belgian Federal public service health, food chain safety and environment, whereby information pertaining to the academic titles, functions, publications, lectures, participation in scientific associations and congresses as well as statistical and bibliographical information on scientific activities and titles of the centre must be transmitted.¹⁷⁹ It follows from the 1983 Royal Decision that the applications as trainer or training centre are evaluated together. Indeed, the application forms demonstrate the link between the trainer and training centre.¹⁸⁰ After the dossier is received, the Supreme Council for doctor-specialists and general practitioners will evaluate the application and will advise the Minister on whether or not to recognise the medical specialist as *stagemeester*.¹⁸¹ In order to take this decision, the Supreme Council may instruct one of its members to carry out an investigation (if needed on-site). If granted, the recognition as trainer and training centre will be valid for a period of five years. Finally, the medical specialist acting as *stagemeester* will

¹⁷⁷ Article 4(2) Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

¹⁷⁸ Article 13 Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014.

¹⁷⁹ Article 34 and 35 Koninklijk besluit tot vaststelling van de nadere regelen voor erkenning van artsen-specialisten en van huisartsen, BS 27-04-1983; Fod volksgezondheid, veiligheid van de voedselketen en leefmilieu, 'Stagemeester Arts-specialist', <https://www.health.belgium.be/nl/gezondheid/zorgberoepen/artsen-tandartsen-en-apothekers/artsen-specialisten/stagemeester-arts#hoe>.

¹⁸⁰ Hoge Raad van artsen-specialisten en van huisartsen, 'Formulieren', <https://overlegorganen.gezondheid.belgie.be/nl/advies-en-overlegorgaan/raden/hoge-raad-van-artsen-specialisten-en-van-huisartsen>.

¹⁸¹ Article 36 through 38 Koninklijk besluit tot vaststelling van de nadere regelen voor erkenning van artsen-specialisten en van huisartsen, BS 27-04-1983.

be allotted a maximum number of trainee specialists, although he or she can make a request to increase that maximum.¹⁸² In particular, the medical specialist providing the training must be responsible for a maximum of two trainee specialists per 25 to 30 beds in a nursing unit.¹⁸³ Furthermore, the number of candidates must be in proportion to the activity of the training centre.

5.3 Training Paediatric Surgeons in Germany

Earlier in this study, it was already noted that competences for medical specialist training are located at the level of the *Bundesländer* and particularly lie with the relevant *Landesärztekammern* (State Medical Associations).¹⁸⁴ The *Heilberufegesetz NRW* lays down general requirements in relation to the way in which training is organised and structured. For example, the *Heilberufegesetz NRW* demands that the specialist training takes place under the responsibility of authorised members of the State Medical Association in university hospitals or approved medical facilities.¹⁸⁵ According to Section 38 of the *Heilberufegesetz NRW*, the *Landesärztekammern* are responsible for authorising training centres as well as their members to provide training and shall maintain a register of those members who may provide training.

Specific provisions on providing training are subsequently laid down in the *Weiterbildungsordnung* of the relevant State Medical Association.¹⁸⁶ In case of specialist training at the Uniklinik Aachen, this is the *Weiterbildungsordnung* (Regulation on further education) of the *Ärztekammer Nordrhein*. Apart from provisions on the structure of training for medical specialists, the Regulation also lays down rules on the provision of training. In particular, the regulation confirms that specialist training should be followed under the responsibility of specialists who have been approved by the *Ärztekammer Nordrhein* and must take place at an accredited training centre.¹⁸⁷

As far as the training specialist is concerned, he or she needs to fulfil several criteria.¹⁸⁸ First of all, he or she needs to possess the title in which they want to train future specialists. Next, they must be able to prove that they have exercised their specialty for multiple years. Furthermore, they must personally lead the specialist training and must do so on a full-time basis. However, should a medical specialist providing the training work at more than one training centre, they will need a joint authorisation with another specialist working at each other centre where they are active.¹⁸⁹ According to the *Weiterbildungsordnung*, the scope of the authorisation to act as trainer is dependent on the extent to which the training requirements set in the *Weiterbildungsordnung* are fulfilled by the medical specialist acting as trainer. Furthermore, the scope of their authorisation to act as trainer depends on the amenities of the training centre. As far as the training centre is concerned, it must either be a

¹⁸² Article 29 Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014; Article 39bis Koninklijk besluit tot vaststelling van de nadere regelen voor erkenning van artsen-specialisten en van huisartsen, BS 27-04-1983.

¹⁸³ Article 3(3) Ministerieel besluit tot vaststelling van de bijzondere criteria voor de erkenning van geneesheren-specialisten, stagemeeesters en stagediensten voor de specialiteit heelkunde, BS 20-02-2002.

¹⁸⁴ See Section 6 Heilberufegesetz NRW (HeilBerG NW).

¹⁸⁵ Section 37(1) Heilberufegesetz NRW (HeilBerG NW).

¹⁸⁶ See Section 42 Heilberufegesetz NRW (HeilBerG NW).

¹⁸⁷ §5(1) Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

¹⁸⁸ §5(2)(3) Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

¹⁸⁹ §5(3) Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.

university hospital or a medical care establishment and the centre must, among others, frequently receive patients within the context of the medical specialty to be taught.¹⁹⁰

As far as the scope of the training authorisation is concerned, additional criteria are set for the surgical field. These may be found in the *Richtwerte zur Ermittlung der Weiterbildungsbefugnisse für das Gebiet „Chirurgie“* (Guidelines for the determination of the training authorisation in the field of surgery). The latter document shows that the authorisation to train future specialists is based on data related to personnel, structure and performance of the centre in which a medical specialist trainer works.¹⁹¹ For paediatric surgeons, the authorisation may be given for one, two or three years depending on the aforementioned factors. For example, a paediatric surgeon may hold a competence to train future specialists during a period of three years if he or she works in a hospital with, among others, sonography and X-ray equipment, a neonatology intensive care unit, two paediatric surgeons (one of which is an expert in radiation protection), and the centre conducts more than 80 procedures a year on newborns or infants.¹⁹²

It follows from the provisions above that, again, the training authorisation of the medical specialist acting as trainer is strongly connected to the centre in which training is to take place. As far as the procedure is concerned, medical specialists must make a request to provide training at the *Ärztammer* and must establish a specialist training programme.¹⁹³ It also follows from the *Weiterbildungsordnung* that the medical specialist acting as trainer must regularly take part in evaluations and quality assurance measures of the *Ärztammer*.

5.4 Evaluating the Possibilities for Cross-border Paediatric Surgical Training in the Euregio Meuse-Rhine

The previous Sections have shown how training in (paediatric) surgery may be provided in the Netherlands, Belgium and Germany. Whereas all three countries require a trainer to provide training in a training centre, the exact conditions under which this may be done differ substantially among the Member States. One example of differences in this area relates to the training centre in which the medical specialist training is to be provided. Here, one is again confronted with the distinction in surgical specialties. Because of the fact that the Netherlands and Belgium only formally recognise general surgery as a specialty, the requirements made to the training centre are also adapted to this. This means that they require large numbers of surgical procedures to be carried out in order for recognition as a training centre to be granted. Conversely, the recognition as a paediatric surgical trainer working in a certain training centre with the *Ärztammer Nordrhein* is based on much smaller numbers.

The question then becomes how training may be provided across the border. Of course, one possibility would be to select one of the three locations of the Euregional Centre for Paediatric Surgery and to provide training in that particular Member State. A cross-border element could then be ensured by sending the trainee specialists across the border to work in the other locations of the Euregional

¹⁹⁰ §6(1)(2) *Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.*

¹⁹¹ *Ärztammer Nordrhein, Richtwerte zur Ermittlung der Weiterbildungsbefugnisse für das Gebiet „Chirurgie“, 23.08.2017, p. 2.*

¹⁹² *Ibid.*, p. 12.

¹⁹³ §5(5) *Weiterbildungsordnung der Ärztekammer Nordrhein vom 1. Oktober 2005 in der Fassung vom 1. April 2017.*

Centre for Paediatric Surgery. In the Netherlands, it is possible to follow part of the training outside the Netherlands as long as the trainee specialist has obtained an approval for this from the RGS.¹⁹⁴ In the application, the trainee specialist will need to indicate with which foreign institution they will undertake a certain part of their training and with which specialist. The same type of structure is possible in Belgium. In particular, trainee specialists may go abroad as long as (1) the person responsible for the training abroad has been recognised in accordance with the legislation of that Member State and (2) there is an agreement between the trainer, trainee specialist and the specialist overseeing training in another Member State.¹⁹⁵ In case these conditions are fulfilled, the foreign specialist trainer will be registered with the Belgian Federal public service health, food chain safety and environment. As far as Germany is concerned, the *Weiterbildungsordnung* of the *Ärzttekammer Nordrhein* does not contain specific provisions for sending trainee specialists abroad for training. Section 18a of the *Weiterbildungsordnung* does refer to the possible recognition of foreign specialist training that has not been finished. Nevertheless, this appears to refer to individuals looking to undertake training in Germany and not to German trainee specialists looking to go abroad for part of their training. Information from the *Bundesärztekammer* indicates that periods of at least six months abroad could be included in specialist training.¹⁹⁶ Nevertheless, any approval allowing one to complete study periods abroad must be granted by the State Medical Association as they are responsible for specialist training.

Despite being an apparent possibility, sending trainee specialists to the other Member State implies that they will be undertaking training at a separate training centre. The Euregional Centre for Paediatric Surgery is looking to function as one (training) centre. Furthermore, trainee specialists would have to be sent to another location for designated periods in time meaning that they would not be able to attend training at all three locations simultaneously.

A more suitable solution could be to select one of the Member States' training systems and to have that system be applied to the Euregional Centre for Paediatric Surgery and its three locations in the Euregio Meuse-Rhine. Such a proposition may seem impossible. However, in May 2018 the European Commission proposed the introduction of a so-called European Cross-border Mechanism able to solve legal and administrative obstacles in a cross-border context.¹⁹⁷ The mechanism 'allows for the application in one Member State, with regard to a cross-border region, of the legal provisions from another Member State, where the application of the legal provisions of the former would constitute a legal obstacle hampering the implementation of a joint project'.¹⁹⁸ Under the proposal's definitions laid down in Article 3, the joint project is understood as an item of infrastructure or service of general economic interest in a cross-border region. A legal obstacle is then understood to mean a legal provision in relation to, among others, staffing and functioning obstructing 'the inherent potential of

¹⁹⁴ Article B.21. Besluit van 11 mei 2009 houdende de algemene eisen voor de opleiding, registratie en herregistratie van de medisch specialist en voor de erkenning als opleider, plaatsvervangend opleider en opleidingsinrichting (Kaderbesluit CCMS).

¹⁹⁵ Article 11(2)(3) Ministerieel besluit tot vaststelling van de algemene criteria voor de erkenning van arts-specialisten, stagemeeesters en diensten, BS 27-05-2014.

¹⁹⁶ Bundesärztekammer, 'Ärztliche Tätigkeit im Ausland', <http://www.bundesaerztekammer.de/aerzte/internationales/aerztliche-taetigkeit-im-ausland/>.

¹⁹⁷ Proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context, COM(2018) 373 final.

¹⁹⁸ Ibid., p. 16.

a border region'. The Member State whose legal provisions will apply is considered the transferring Member State whilst the other Member States whose rules will be disapplied are the committing Member States. There must also be an initiator, meaning an actor who identifies the legal obstacle and triggers the application of the cross-border mechanism. The initiator may, among others, be public or private bodies in charge of the joint project and local or regional authorities.¹⁹⁹ The initiator will draft an initiative document which will be transferred to newly instated Cross-border Coordination Points in the Member States involved.²⁰⁰ That document must for example include a list of competent committing authorities which are allowed to accept the application of another Member State's legal provisions.²⁰¹ If the initiative is accepted, it may result in the conclusion of a European Cross-border Commitment (which will organise the applicability of the rules) or a European Cross-border Statement through which a legislative procedure at national level would be initiated.²⁰² Nevertheless, the proposal for this tool still needs to be accepted and some critical sounds have been expressed from the Member States. For example, the Dutch government is of the opinion that the existing cross-border governance system could be more appropriate than the proposed European Cross-border Mechanism.²⁰³

Indeed, there are other tools for cross-border cooperation that may be relevant for the provision of cross-border healthcare. At the EU-level, a tool facilitating cross-border cooperation is the European grouping of territorial cooperation (EGTC).²⁰⁴ Through this instrument, public authorities from various Member States may team up to deliver joint services.²⁰⁵ In fact, the tool allows authorities to set up joint management structures able to enhance cross-border projects.²⁰⁶ In particular, an EGTC is an entity having legal personality as well as the most extensive legal capacity accorded to legal persons under the national law of one of the Member States involved in the EGTC.²⁰⁷ When parties cooperate through such an instrument they will decide on the location of EGTC's registered office. This office must be located in one of the Member States party to the EGTC.²⁰⁸ This choice is of great importance as it will determine which legal system will apply to the EGTC. Indeed, the law of the Member State where the EGTC's registered office is located will be applied to matters that are not or partly regulated under the EGTC Regulation.²⁰⁹ Nevertheless, when looking at Article 7(4) of the EGTC regulation it

¹⁹⁹ Ibid., p. 20.

²⁰⁰ Ibid., p. 21.

²⁰¹ Ibid. p. 17-18 and 21.

²⁰² Ibid., p. 16-17.

²⁰³ H. Schneider, M. Unfried, N. Büttgen, P. ter Vrugt., Statuut voor Limburg? Final Report – project phase 1 (EN), 9 November 2018, p. 126.

²⁰⁴ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC), [2006] OJ L 210/19 as amended by Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings, [2013] OJ L 347/303. The consolidated version of the Regulation may be consulted via: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R1082-20140622&from=EN>.

²⁰⁵ European Commission, 'European Grouping of Territorial Cooperation (EGTC)', https://ec.europa.eu/regional_policy/nl/policy/cooperation/european-territorial/egtc/.

²⁰⁶ H. Schneider, M. Unfried, N. Büttgen, P. ter Vrugt., Statuut voor Limburg? Final Report – project phase 1 (EN), 9 November 2018, p. 48.

²⁰⁷ Article 1(3)(4) Regulation 1082/2006 as amended by Regulation 1302/2013.

²⁰⁸ Article 1(5) Regulation 1082/2006 as amended by Regulation 1302/2013.

²⁰⁹ Article 2(1)(c) Regulation 1082/2006 as amended by Regulation 1302/2013.

becomes apparent that the creation of an EGTC may not solve all issues. EGTCs cannot exercise regulatory powers to resolve legal and administrative obstacles in a cross-border context.²¹⁰ It is exactly in this context that the European Cross-border Mechanism was proposed to tackle such issues.

Apart from the EU-level tools for cross-border cooperation, there are also regional tools with this objective. The Benelux Treaty on cross-border and interterritorial cooperation (*Benelux-Verdrag inzake grensoverschrijdende en interterritoriale samenwerking*) is an example of such a regional initiative. This instrument also allows for cooperation among the three Benelux countries to take place across borders. Under the Treaty, public authorities and other actors may start cross-border projects in various policy areas, one of which is health services.²¹¹ Under the Treaty, cooperating parties may decide on one of three instruments: the Benelux Grouping for Territorial Cooperation (BGTC), an administrative agreement or a joint body.²¹² One may ask whether the inclusion of a German *Bundesland* may not render the abovementioned Treaty irrelevant to the Euregional Centre for Paediatric Surgery. Although it is true that the initiative for the Euregional Centre for Paediatric Surgery only concerns two of the three Benelux countries, the Benelux Treaty may nevertheless act as a solution due to the fact that it provides Germany with the possibility to accede to the Treaty.²¹³

The decision for a certain legal form for cross-border cooperation is an important one to be considered carefully. In this context, the decision for a certain legal form should ideally be based on a legal impact assessment allowing for the study of all the relevant legal aspects connected to the cross-border health care provision at stake.²¹⁴ Recognition of qualifications and the provision of medical specialist training in a cross-border setting are one legal aspect related to the Euregional Centre for Paediatric Surgery. Data protection, social security and insurances are just some examples of other legal aspects to be considered. Furthermore, in order to make an application of any of the abovementioned instruments successful there is a need to ensure the support of the public authorities responsible for the training in (paediatric) surgery. As the paragraphs above show, public authorities play an important role in the application of various tools for cross-border cooperation.

Despite the existing possibilities for cross-border cooperation, an important note must be highlighted in relation to the recognition of qualifications and the provision of cross-border training. Whereas the application of one Member State's training system may ensure that the Euregional Centre for Paediatric Surgery may be able to ensure that training may be provided in its three locations, it does not mean that the surgeons will become qualified according to the standards of the three Member States. In seeking to provide training across the Euregio Meuse-Rhine one cannot avoid the fundamental issue related to the distinction in surgical specialties across the three countries. Even if it may be possible to train specialists in accordance with the training standards of one of the Member States concerned, the present issue lies in the substance of training. The way in which this training is

²¹⁰ Proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context, COM(2018) 373 final, p. 1-2.

²¹¹ H. Schneider, M. Unfried, N. Büttgen, P. ter Vrugt., Statuut voor Limburg? Final Report – project phase 1 (EN), 9 November 2018, p. 74.

²¹² Article 3 Benelux-Verdrag inzake grensoverschrijdende en interterritoriale samenwerking.

²¹³ Article 27 Benelux-Verdrag inzake grensoverschrijdende en interterritoriale samenwerking.

²¹⁴ Bobek et al., Study on Cross-Border Cooperation: Capitalising on existing initiatives for cooperation in cross-border regions – Cross-border.Care – Final Report, March 2018, p. 126.

structured across the Netherlands, Belgium and Germany, adhering to one Member State's criteria will prevent fulfilment of another Member State's criteria. For example, if one decides to adhere to the Dutch system with four years of basic surgical training and two years of paediatric surgical differentiation one does not adhere to the Germany paediatric surgical training comprising four years paediatric surgery and two years in general surgery. The same reasoning applies to Belgium, as there is currently no possibility to follow distinct training on paediatric surgery. Therefore, under the current state of affairs, general system recognition procedures may not be avoided and the possibility of compensation measures should be taken into account.

The restructuring of training and the recognition of the paediatric surgical specialty in Belgium nevertheless has the potential to improve the situation in the future. However, this will depend on the exact way in which the training will be structured. If an additional course in advanced paediatric surgery is introduced and that training will result in a title that will be taken up in the PQD, the issue of recognition will be remedied between Belgium and Germany, as automatic recognition for paediatric surgeons will be available between those Member States. Moreover, if Belgium introduces a system of six years general surgery (with certain modules in paediatric surgery) and two years advanced paediatric surgery, this may ensure that the specialists trained by the Euregional Centre for Paediatric Surgery will have all-round automatic recognition. This is particularly the case because trainees will first qualify as general surgeons (granting them automatic recognition in the Netherlands) after which they will qualify as paediatric surgeons (granting them automatic recognition in Germany). Of course, the exact way in which the training will be shaped will determine whether or not the abovementioned situation will be applicable. Furthermore, in the abovementioned scenario trainees will train for eight years as opposed to the current six-year training.

6. Conclusion

Over the course of this study, it has become clear how training in paediatric surgery is structured in the Netherlands, Belgium and Germany. Whereas all three countries of the Euregio Meuse-Rhine maintain similar approaches to their provision of training, large differences may be perceived in the structure of training. Indeed, whereas all three countries provide for six-year medical specialist training under the supervision of a trainer and at a registered training centre, they all maintain different structures in (paediatric) surgical training. In Germany, paediatric surgery is recognised as an independent specialty and trainees follow two years of general surgical training and four years of paediatric surgical training. In Belgium, six years are spent in general surgery although there is currently a proposal to also recognise paediatric surgery as an independent specialty (a qualification which would be obtained by following another two years of paediatric surgical training after general surgery). In the Netherlands, paediatric surgery is a differentiation within general surgery meaning that trainees will follow four years in general surgical training and a two-year differentiation in paediatric surgery.

It is exactly this structural difference in the training in the three Member States that poses as an obstacle for the Euregional Centre for Paediatric Surgery. First of all, this difference complicates the swift and automatic recognition of the medical specialists on staff, as automatic recognition as a paediatric surgeon is not possible in the Euregio Meuse-Rhine. Secondly, it complicates the provision of training as the three training systems may be considered incompatible with one another. Even if

there are instruments promoting cross-border cooperation enabling the application of just one of the three Member States' training systems, these will still not ensure a compliance with all three Member States' standards. This means that, even with the application of one training system, general system recognition with potential compensation measures may be inevitable. A potential solution to this issue may be found in Belgium. However, this will depend on the way in which training will be structured after the conclusion of ongoing reforms.

Finally, in conclusion of this Study, it must be noted that qualifications and training for paediatric surgery are just one aspect of the Euregional Centre for Paediatric Surgery. It is important to map out different legal aspects crucial to the centre (e.g. issues related to data protection, social security and insurances) before making decisions on applicable regimes and legal form. Furthermore, a holistic approach should be adopted when considering different regulations and their interrelations must be examined. Indeed, the consideration of various national regulations on different topics may be presumed to provide a solid basis for a high quality paediatric surgical care provision in the Euregio Meuse-Rhine and a successful Euregional Centre for Paediatric Surgery.



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