

## Volume 10, Issue 2 /2008 - News

### Europe

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#### **Confusion Surrounds Health Services Directive**

The proposal for a framework directive for crossborder healthcare in the EU has still not been published. Its initial publication date had been foreseen for 19 December 2007. It was shelved on 19 December due to internal disagreement within the European Commission. Several Commissioners' cabinets have reservations about the proposal, as well as criticism from some members of the European Parliament.

There exist fears that the proposal could be considered as yet another Bolkestein Directive, at a politically sensitive time for the EU in the run-up to the ratification of the Lisbon Treaty.

But the Commission has also been criticised for not having been more transparent over the proposal from the beginning, publishing it much earlier in order to launch discussions.

At a debate on patients' rights regarding crossborder healthcare, organised by the European Parliament on 4 March 2008, Philippe Brunet, head of cabinet for the recently appointed Health Commissioner Androulla Vassiliou (see below), said that "we have to rethink the schedule".

Brunet mentioned that the aim was "to ensure that the issue remains at the top of the agenda". A final proposal of the text would be "high on the agenda" the coming months. This could be either in April or June 2008.

#### **New EU Commissioner for Health**

In February Health Commissioner Markos Kyprianou announced his resignation in order to join the new Cypriot government as foreign minister.

Kyprianou was appointed EU Commissioner for health and consumer affairs in May 2004, but had to cede half of his portfolio following Bulgaria's entry to the EU, which led to the nomination of Meglena Kuneva as consumer affairs commissioner.

His successor is Mrs. Androulla Vassiliou, wife of former Cypriot president George Vassiliou. Mrs. Vassiliou has been reportedly very active in the environmental field and human rights. She is known for her outspoken support of women's rights and their representation in politics and business.

Under current EU rules, each of the 27 member states is entitled to one commissioner's post. The new Lisbon treaty, which is to be ratified by all member states and expected to come into force in 2009, will reduce the number of commissioners to 18 by 2014, allowing only two thirds of the member states to send a commissioner to Brussels.

#### **Commission Acts on Privacy Concerns in RFID**

On 21 February, the European Commission issued a draft recommendation (COM/2007/96 - Radio Frequency Identification (RFID) in Europe: steps towards a policy framework) to the operators which use RFID technology, setting up a list of guidelines to be respected in order to avoid privacy breaches.

At the same time, it opened a public consultation on the recommendation for a period of eight weeks, finishing on 25 April 2008. Following the review of submitted comments, the Recommendation is tentatively scheduled to be adopted before the summer of 2008.

According to the Commission, there is an urgent need to update the current legal situation due to the quick take-up of RFID devices. It proposes the introduction of the so-called 'opt-in' principle for RFID, which involves requesting the consent of users when personal data are contained in tags.

#### **Court Confirms Legality of a Risk Equalisation System for Private Medical Insurance Sector**

In a Judgment of the Court of First Instance in Case T-289/03 issued on 12 February 2008, the court approved Ireland's risk equalisation system (RES) for the private medical insurance (PMI) sector.

Such a mechanism is a necessary and proportionate means of compensating the insurers. Indeed, those are required to cover, at the same price, all persons person living in Ireland, independently of their state of health, age or sex, the judges said.

Between 1994 and 1996 the Irish private health insurance market was liberalised. The provisions which liberalised the sector provided for the establishment of a RES, administered by the Health Insurance Authority (HIA).

The RES is a mechanism providing, first, for payment of a levy to the HIA by PMI insurers with a risk profile below the average market risk profile and, second, for a corresponding payment by the HIA to PMI insurers with a risk profile higher than the average.

The case was brought before the court by a PHI (BUPA), as application of the RES would essentially lead to funds being transferred from BUPA to the Voluntary Health Insurance Board, a competitor operator.

The court followed the view of the European Commission, according to which the compensation provided for by the RES constituted an amount intended as compensation for the obligations associated with a service in the general economic interest (SGEI). According to the Commission, the conditions governing this had been fulfilled. (HH)

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