

## Volume 13, Issue 2/2011 - Editorial

### European Directive on Cross-Border Healthcare: A Milestone for Patients as Well?

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The title of the Directive 2011/24, published on 4th of April 2011 in the Official Journal of the European Union, already says it all: The issue at hand is the 'exercise of patient rights in cross-border healthcare'. It took the Commission, the EU-Parliament and the Council of Ministers – the health ministers of the 27 EU member states in particular – almost three years to reach a compromise and fine-tune legal intricacies.

First of all it is important to say that in whatever way the Directive will be applied with regard to the patients' interpretation, this guideline has long been overdue. It all started in the mid-90s, after the European Court of Justice (ECJ) awarded two Luxembourg citizens, Kohll and Decker, the right to be reimbursed by their health insurance for their visual aids and dental prosthesis respectively, which they had bought in neighbouring European countries. This decision by the ECJ has its source in the free movement of goods within the single market, which is firmly embedded within European Law. Many other decisions by the ECJ have since joined the European judicature.

As noted in this journal before, due to the lack of an existing Directive in healthcare, the ECJ has taken over a job that in any democracy should be in the hands of the legislative bodies, in this case the European Parliament. The newly adopted directive puts an end to this shortcoming, even if the verdicts and other regulations adopted so far (such as the continuity of the EU-regulation No. 883/2004) were taken over or slightly honed as an integral part of the new Directive. This is certainly not likely to increase the patients' understanding of the modalities of reimbursement for healthcare services within the EU.

The relevance of this Directive however, far expands the questions of reimbursement for mobile patients. Even if the attempt to create a legal basis for healthcare fails to secure a high level of healthcare (TFEU Art 168) and it is the legal basis for the improvement of the function of the single market (free movement of people and goods) that prevails, this would still be the first time that a basic legal principle for a European health system has been passed. This includes the patients' rights already existing in some countries as well as quality and safety standards. It is probably safe to assume that it was the intention of the European Commission to use these standards as a basis for the reliability of healthcare in other EU countries; without mutual trust a close cooperation would indeed seem highly unlikely.

The European Association of Hospital Managers (EAHM) has been pleading for years to draft and develop such standards of safety and quality. Even if the Directive states that such norms are to be installed autonomously by the member states and not, as would have been our wish, on a European level, a further development towards European alignment can hardly be avoided. This is all the more true since patients and organisations will receive their information at their respective points of contact, which every member state will have to establish. Moreover, exchanges and mutual assistance between the contact points are explicitly demanded. A similar interface between national healthcare systems is also sure to emerge by setting up cross-national reference centres and networks.

In our view hospitals, or rather their management boards, must certainly engage in this process of a European health market, in the domestic development as within a European exchange. The old adage of learning from each other applies to this situation as well. In order to correctly use the scope of the Directive and to illustrate its potential, our Advisory Board for European Affairs is hosting a major event. Together with other top European associations in the health sector we will use the occasion of the MEDICA on 18th November 2011 in Dusseldorf to set the right course – in order that this Directive can be a milestone of improved European cooperation for patients too.

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