

Impact and consequences of the exclusion of Health Services from the Directive on Services in the Internal Market

2006/2275(INI) - 23/05/2007 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report by Bernadette **Vergnaud** (PES, FR) on the impact and consequences of the exclusion of health services from the Directive on services in the internal market. The report was adopted by 514 votes in favour to 132 against with 8 abstentions.

Cross-border mobility of patients and health professionals will increase in future, thus giving patients more choice. Parliament felt that, whatever their level of income or place of residence, all European citizens should be guaranteed equal and affordable access to health care, in accordance with the principles of universality, quality, safety, continuity and solidarity. Parliament stressed that Member States should treat residents of another Member State on an equal basis with regard to access to health services, regardless of whether they are private or public patients.

Member States did not sufficiently promote health care, as a result of which patients' rights were restricted. Parliament recalled that the Member States that had implemented the existing case law of the Court of Justice had not experienced any major increase in health care budgets as a result of patients' increased mobility. Whilst health care systems are not a competence of the Community, issues relating to health care systems, such as access to medicines and treatments, patient information, and the movement of insurance companies and health professionals, had a cross-border character, and those issues need to be addressed by the Union.

Parliament was of the opinion that patients' safety and rights were not ensured in the cross-border provision of health care at present and that legal uncertainty existed regarding reimbursement mechanisms, obligations for national authorities to share regulatory information, the duty of care for both the initial and the follow-up treatment and risk management provisions for private patients.

It requested a clear **definition of health services**, so as to clarify and clearly demarcate the scope of application of future legislation in this field, and stated that any Community action relating to health care services should be consistent with Community action relating to social services of general interest.

Parliament considered that it was important to give **patients the right to choose health care** in another Member State when this allows them to receive appropriate treatment. Patients need to be informed fully of both the terms and prior conditions for access to and the implications of that choice. According to case law of the Court of Justice, prior authorisation for hospital care should be easily obtainable, dealt with immediately and evaluated on the basis of objective criteria. Refusal of authorisation should be justified on the basis of objective criteria which must be verified in a transparent way. Parliament called for the adoption of a European charter of patients' rights on the basis of existing charters in the Member States and of work carried out by non-governmental organisations.

It also called for a **codification of existing case law on the reimbursement of cross-border health care** in order to ensure the proper application of that case law by all Member States and to improve the information available to patients, national insurance schemes and health care providers without creating additional cumbersome bureaucratic burdens for Member States. It should be possible for the Commission to start proceedings against Member States that fail to apply the existing procedures for reimbursement of

cross-border health care. A European reference scheme should be put in place concerning reimbursement in order to allow citizens to make comparisons and to make a choice as to which treatment is most suitable for them.

There must be an examination of ways of actively supporting work aimed at making use of the **European Health Insurance Card** ("EHIC"), containing a standardised set of electronic patient data, in order to simplify procedures for European citizens to obtain health care in other Member States. The holders of an EHIC must determine themselves the data which will appear on it. There must be a high level of data protection for patients as regards cross-border cooperation in health services in order to ensure confidentiality of sensitive medical data.

The Commission was asked to set up a system for collecting data and exchanging information between the various national authorities on health care providers, and to set up a European card to provide access to information on the skills of health care professionals. That information should be available to patient. In the context of **increased professional mobility** in Europe, the Commission was asked to establish a legal duty for national authorities to exchange registration and disciplinary information about health care professionals in order to ensure patient safety.

Parliament insisted that patient mobility needed the safeguards of clear rules governing **liability** for the provision of cross-border health services and the resultant need for ease of access to redress and judicial mechanisms, particularly if the various stages of treatment have taken place in more than one Member State. It called for clarification of liabilities in the event of injury and for an obligation for all health professionals to have compulsory third-party liability insurance at reasonable cost.

Parliament considered that **closer cooperation** between health systems on the local, regional, intergovernmental and European levels should make it possible to obtain appropriate treatment in other Member States, improve the quality of services and thus increase citizens' confidence.

The Commission was asked to draw up technical standards on the introduction of interoperable transparent information systems allowing effective exchange and sharing of information on health between health care providers in different Member States. Parliament encouraged the development of networks of reference centres, including electronic reference centres that deal with rare, specific and chronic diseases, and the exchange of knowledge between Member States on best practices with regard to treatment and the organisation of health care systems. It called for the creation of a point of single contact, on the basis of existing Community instruments, in accordance with the organisational peculiarities of each health care system, to guarantee access to independent information for patients, health professionals, health care institutions and competent authorities.

In conclusion, Parliament asked the Commission to do the following:

- to strengthen its policy of pursuing violations of EU law with a view to ensuring that all Member States comply with the case law of the Court of Justice and that all European patients, irrespective of their country of origin, benefit from the rights conferred on them by the Treaty;
- to submit a proposal for an appropriate instrument with a view, in particular, to codifying the case law of the Court of Justice;
- to submit a proposal taking into account this resolution and ECJ rulings on patients' rights. Parliament called for a guarantee for patients of the greatest possible access to health care services all over Europe as well as a guarantee for health service providers of the freedom to provide services and the freedom of establishment;

- given that the Commission proposal to deal with health issues in Directive 2006/123/EC (the Services Directive) was not accepted by the European Parliament and the Council, Parliament insisted that further action was now required to preserve existing rights, and consequently, called on the Commission, as the guardian of the Treaties, to guarantee the safeguarding of those rights;

Lastly, it stated that a new European regulatory framework for cross-border health care should improve access to high-quality health care in the event of illness, contribute to patient safety and increase the number of choices available to all patients in the EU, without increasing inequality in health care outcomes.