



**COUNCIL OF  
THE EUROPEAN UNION**



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### **Directive on cross-border healthcare adopted**

The Council today approved<sup>1</sup> the European Parliament's amendments on a draft directive aimed at facilitating access to safe and high-quality cross-border healthcare and promoting cooperation on healthcare between member states ([6/11](#) + [6590/11 ADD 1 REV 2](#))<sup>2</sup>. The European Parliament's amendments reflect a second-reading-compromise reached between the Belgian Presidency and representatives of the European Parliament in an informal trilogue on 15 December 2010. In line with article 294 of the Lisbon Treaty the cross-border healthcare directive has now been adopted. Member states will have 30 months to transpose the directive's provision into national legislation.

The new directive provides clarity about the rights of patients who seek healthcare in another member state and supplements the rights that patients already have at EU level through the legislation on the coordination of social security schemes (regulation 883/04). It meets the Council's wish to fully respect the case law of the European Court of Justice on patients' rights in cross-border healthcare while preserving member states' rights to organise their own healthcare systems.

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<sup>1</sup> The decision was taken, without debate, at a session of the Transport, Telecommunications and Energy Council in Brussels.

<sup>2</sup> The Austrian, Polish, Portuguese and Romanian delegations voted against and the Slovak delegation abstained.

# **P R E S S**

More specifically, the new directive contains the following provisions:

- as a general rule, patients will be allowed to receive healthcare in another member state and be **reimbursed up to the level** of costs that would have been **assumed by the member state of affiliation**, if this healthcare had been provided on its territory;
- instead of reimbursing the patient, **member states of affiliation may** also decide to **pay** the healthcare provider **directly**;
- for overriding reasons of general interest (such as planning requirements for ensuring permanent access to a balanced range of high-quality treatment or the wish to control costs and to avoid any waste of resources) a member state of affiliation may limit the application of the rules on reimbursement for cross-border healthcare;
- member states may introduce a system of prior authorisation to **manage the possible outflow of patients**. This is, however, limited to healthcare that is subject to planning requirements, such as hospital care (defined as care involving overnight hospital accommodation) and healthcare that involves highly specialised and cost-intensive medical infrastructure or equipment, healthcare that involves treatments presenting a particular risk for the patient or the population, or healthcare which would be provided by a healthcare provider which could raise serious concerns with regard to the quality or safety of the care<sup>1</sup>
- in order to **manage incoming flows of patients** and to ensure sufficient and permanent access to healthcare within its territory, a member state of treatment may adopt measures concerning access to treatment where this is justified by overriding reasons of general interest (such as planning requirements for ensuring permanent access to a balanced range of high-quality treatment or the wish to control costs and to avoid any waste of resources);
- member states will have to establish **national contact points** that must provide patients with information about their rights and entitlements and practical aspects of receiving cross border healthcare, e.g. information about healthcare providers, quality and safety, accessibility of hospitals for persons with disabilities, to enable patients to make an informed choice;

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<sup>1</sup> A member state of affiliation may **refuse to grant prior authorisation** if the patient seeking cross-border healthcare will be exposed to an unacceptable safety risk, if the general public will be exposed to a substantial safety hazard, if the healthcare is to be provided by a healthcare provider that raises serious concerns relating to compliance with standards and guidelines on quality and safety, or if the healthcare can be provided on its territory within a medically justifiable time-limit.

- **cooperation** between member states in the field of healthcare **has been strengthened**, for example, in the field of e-health and through the development of a European network which will bring together, on a voluntary basis, the national authorities responsible for e-health; another example is rare diseases, where the Commission will have to support member states in cooperating in the field of diagnosis and treatment capacity;
  - the **recognition of prescriptions** issued in another member state has been improved; as a general rule, if a product is authorised to be marketed on its territory, a member state must ensure that prescriptions issued for such a product in another member state can be dispensed in its territory in compliance with its national legislation;
  - sales of medicinal products and medical devices via **internet, long-term care services** provided in residential homes and the access and allocation of organs for the purpose of **transplantation** fall outside the scope of the directive.
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