



Standing Committee of the Hospitals of the EU
Comité permanent des Hôpitaux de l'UE
Ständiger Ausschuss der Krankenhäuser der EU

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HOPE RESPONSE
TO THE PROPOSAL OF DIRECTIVE ON SERVICES

HOPE is asking for the exclusion of health care services (a new article 2.d with the following text: health care services, suppression of article 4. 10 and Article 23). It seems however useful to express remarks on the proposed directive from the point of view of health care institutions.

Definition of hospital care

Article 4 tries to define hospital care. This definition does not take into account the complexity of the concept and its diversity in the member states.

Country of Origin

Article 4 defines as follows the country of origin principle: “member state of origin means the member state in whose territory the provider of the service concerned is established”. This would mean that an establishment in one member state health services would be able to provide care to patients in another one. As a consequence, there is a direct impact on the capacity for each member state to organise and manage its health care system in contradiction with the treaty.

Articles 17, 18 and 19 are presenting the derogations. Since this only concerns general prohibitions a member state will not be able to restrict the provision of a service to pre-selected provider(s). The health care service will then be in competition with providers from other member states.

Establishment

Article 4 paragraph 5 defines the concept of an establishment: “the actual pursuit of an economic activity, as referred to in article 43 of the treaty, through a fixed establishment of the provider for an indefinite period”. Since this does not include temporary establishments, the risk is high for health services being offered across member states without adequate protection.

Healthcare costs

Article 23 covers health care costs. The content is not clear enough and the risk for growing inequalities is high. For example, patients going to another member state for medical treatment will have to pay on arrival. Health care providers may also be led to concentrate their efforts on patients coming from wealthy healthcare systems. Reimbursement of travel costs is not mentioned.

Policy on Quality of Services

Article 31 on the policy on quality of services is obviously not adapted to the healthcare sector. The encouragement, the quality charters and so on, are certainly not enough to ensure high level of quality.

The proposal of directive, that includes healthcare services, long term care and social care would give the Commission and the Court of Justice powers on the internal organisation of the healthcare systems of the member states. This is in contradiction with the subsidiarity principle, defined in article 152-5 and also present in the European Constitution.

To take into account specificity of healthcare services and their necessary sustainability, HOPE considers that healthcare should be explicitly taken out of the proposal and that healthcare costs issues mentioned in article 23 should be dealt with by regulation 1408/71 that constitutes the most appropriate instrument of coordination between member states.

