

VZP ČR RESPONSE

to the Commissions „Consultation regarding Community action on health services“

Preliminary remarks

In an enlarged European Union exist increasing differences among the Member States as to size, economic resources and resulting funding potential and therefore guaranteeing high-quality medical care in the EU is a major task. A European initiative could help to realise this interest, whilst not overstepping the EU's competences. Freedom of movement in accordance with Art. 42 EC and the freedom to receive services in another member state in accordance with Art. 49-55 EC, as well as Council Regulation (EC) No 1408/71, offer legal foundation for the cross-border use of health services.

The VZP ČR welcomes the growing attention of the European Union for health and social services. In accordance with the “Statement of common values and principles in EU health systems” adopted by health ministers at the ‘Health’ Council of 1 June 2006, the VZP ČR also underlines the importance of “protecting the values and principles that underpin health systems in the EU”. It is of high importance to ensure clarity for European citizens about their rights and entitlements when they move from one EU Member State to another and to enshrine these values and principles in a legal framework in order to ensure legal certainty”.

The VZP ČR would also like to highlight the common values and principles of the European health systems: universality, access to good quality, equity and solidarity. In principle, each EU Member State must initially ensure standard care of its population.

Question 1

What is the current impact (local, regional, national) of cross-border healthcare on accessibility, quality and financial sustainability of healthcare systems, and how might this evolve?

The practical utility of European cooperation has been shown through increasing cross-border cooperation on health services across most of the internal borders

of the Union. Cooperation is not only about patients moving between countries, but also about mobility of health professionals.

In the Czech Republic there exist both following kinds of cross-border healthcare: 'patient mobility' within Council Regulation (EC) No 1408/71 that has already successfully regulated cross-border healthcare in EU/EEA for many years and 'patient mobility' in particular with application of ECJ case-law. The patient mobility based on the cost refund procedure described by the ECJ we regard only as an addition to the existing procedure under Council Regulation (EC) No 1408/71.

Actually we can state that the cross-border mobility of patients in the Czech Republic hasn't have any more significant impact on the sustainability of healthcare and social security systems up to now. Nevertheless the Czech Republic has to be really attentive in order to ensure the future sustainability of healthcare and social security systems. It requires efforts to improve efficiency and effectiveness of these systems whilst respecting the shared European objectives of universal access to high-quality healthcare on a financially sustainable basis, founded on the principles of equity, equality and solidarity.

Question 2

What specific legal clarification and what practical information is required by whom (eg; authorities, purchasers, providers, patients) to enable safe, high-quality and efficient cross-border healthcare?

The VZP ČR knows that clarity is needed in order to facilitate the general application of Treaty provisions on free movement to health services following the legal developments for citizens as well as for health systems overall. The ECJ has repeatedly emphasised the original competence of the Member States in organising their healthcare systems in accordance with Article 152 EC.

We also embrace clarifying procedures and conditions how to obtain cross-border healthcare, such as detailed clarification of all Member States regarding treatments and providers in other Member States. Also knowledge of eventual cost participation of patients is important. Better functioning reporting system based on standardised set of data on responsibility of each Member State would be welcomed. The European Commission could also provide more support to improve access to reliable information to all components of the system.

We are also convinced that most problems could be solved by the modification of the Regulation 1408/71 and the inclusion of former art. 23 of the draft Service Directive in this Regulation. The VZP ČR is furthermore in favour to harmonise the 1408/71 with the ECJ rulings on patient mobility..

Concerning the provider mobility, it is regulated by Directive 2005/36/EC on the recognition of professional qualifications and its predecessors. There is no need for any regulation over and above this.

Question 3

Which issues (eg: clinical oversight, financial responsibility) should be the responsibility of the authorities of which country?
Are these different for the different kinds of cross-border healthcare?

On principle, specialist medical supervision, as well as safeguarding quality-assured medical care, must be provided in accordance with national regulations by the competent authorities and facilities of the country in which the service is provided. The principle that the applicable law, as well as checks and supervision of suppliers, is to be determined by the country of destination also applies to temporary service provision and to establishment.

Question 4

Who should be responsible for ensuring safety in the case of cross-border healthcare?
If patients suffer harm, how should redress for patients be ensured?

On principle, the respectively competent authorities and facilities of the country in which the service is provided, are competent for safety and for supervising service-providers. The recourse available to the patient is defined primarily by the respective national law of the receiving Member State in which the health care service was provided.

Question 5

What action is needed to ensure that treating patients from other Member States is compatible with the provision of a balanced medical and hospital

services accessible to all (for example, by means of financial compensation for their treatment in 'receiving' countries)?

Greater clarity is needed over the possibilities given to the Member State of treatment (i.e. the "receiving country") to ensure that treating patients from other Member States will not prevent the provision of a balanced healthcare service open to all or undermine the overall sustainability of the health system of the Member State.

Given the constant reform of health services, some mechanism for keeping these rules and instruments up to date would also be needed.

To ensure that treating patients from other Member States is compatible with the provision of a balanced medical and hospital services accessible to all we suppose, that any problems which eventually may occur, must be solved at national level of the respective receiving Member State or treated between Member States.

Question 6

Are there further issues to be addressed in the specific context of health services regarding movement of health professionals or establishment of healthcare providers not already addressed by Community legislation?

The Member States must have the right to exclude services from the list of social insurance services or to completely prohibit their provision on their sovereign territory in accordance with their national values and standards. The providers cannot be obliged to approve such services on a cost-refund basis within the meaning of the ECJ case-law. There should also be more clarity over ethical issues.

Free movement of health professionals is already largely addressed Community legislation, although there may be further issues to address in the specific context of health services for either the temporary movement of health professionals or the establishment of healthcare providers in other Member States.

Question 7

Are there other issues where legal certainty should also be improved in the context of each specific health or social protection system? In particular, what improvements do stakeholders directly involved in receiving patients from other

Member States – such as healthcare providers and social security institutions – suggest in order to facilitate cross-border healthcare?

cf. Q 6.

The VZP ČR realises that there is a need of more detailed explanation of „undue delay“, the definition of in / out patient care (also in connection with e.g. One-Day-Surgery etc.)

EU patients are interested in cross-border healthcare in principle but the lack of information about healthcare possibilities in other Member States and the lack of a transparent framework act as a deterrent to seeking care abroad, even where it is appropriate to do so.

Question 8

In what ways should European action help support the health systems of the Member States and the different actors within them? Are there areas not identified above?

We know that this Community action on health services does not mean harmonising national health or social security systems. The benefits that different health and social security systems provide and their organisation remain the responsibility of the Member States, in accordance with the principle of subsidiarity. The VZP ČR welcomes that this Community action doesn't mean stepping back from what already exists and that respects the principles already established by the Court in this area, as well as other existing Community provisions and the basic principles underpinning European health systems, including equity, solidarity and universality.

The EU does not have the authority to harmonise the national social security systems in the Member States, however the EU should support efforts in favour of mobility of patients and would ensure that basic entitlements are upheld also in regard with the observance of the Council Regulation (EC) No 1408/71.

Surely coordinated action between all Member States can bring added value to national health systems. For example improving the availability and comparability of healthcare data and indicators can provide the basis for improving healthcare for all throughout Europe.

Question 9

What tools would be appropriate to tackle the different issues related to health services at EU level? What issues should be addressed through Community legislation and what through non-legislative means?

The VZP ČR doesn't consider there to be any need at the moment to create further sources in addition to national law and Council Regulation (EC) No 1408/71 (or Regulation (EC) No 883/04) and to create any new European legislative measures on the part of the Commission. Most identified patient mobility problems should be regulated within these mechanisms: through adaptation of the Regulation 1408/71 (883/2004) and codifying the case-law of the ECJ.

European action could help to improve transparency cross-border healthcare: for example health service-providers should show via a „EHIC logo“ that they provide services in accordance with Council Regulation (EC) No 1408/71.

Nevertheless, much more remains to be done to realise the potential for European cooperation.

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