Unofficial translation

RESPONSE FROM LITHUANIA TO EUROPEAN COMMISSION COMMUNICATION CONSULTATION REGARDING COMMUNITY ACTION ON HEALTH SERVICES (SEC (2006) 1195/4)

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 current volume of patients from other Member States does not make an impact on the accessibility to health care services, nor on the health expenditure or the quality of services in Lithuania. In future, in case the number of such patients further increases, it might pose a threat to the health care services accessibility for all the persons residing and working in the Republic of Lithuania, at the same time it might worsen the quality of services.

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?

General free movement principles are regulated by the Treaty provisions on free movement of patients and Regulation (EC) 1408/71 on coordination of social security schemes to self employed and to members of their families moving within the Community. The present regulations implement the basic patient mobility principles at the same time leaving the right for a Member State to flexibly regulate the mechanisms in practice. Problems arise when national legal norms have to be adjusted to the decisions of the European Court of Justice connected to a free movement of persons and free provision of services. We consider that additional legal regulations are to be created in the Community‘s law on:

- stardartization of requirements for the quality of health care services,
- compatibility of individual patient‘s rights with the country‘s financial healthcare sustainability,
- assuring continuity of cross-border services,
- reimbursement for damage done to the patient abroad (civil responsibility of institutions and specialists),
- cross-border provision of health care services in other Member State (established, non-established provider, telemedicine services),
- reimbursement of cross-border healthcare services provided on the initiative of the patient.

It is important that service funding institutions and patients in that country receive information on healthcare service providers in other Member States. Safe exchange of documents about patient‘s health among service providers on the one hand and with competent service funding institutions on the other should be ensured by the introduction of an electronic European health insurance card, development of eHealth and preparation of standards for electronic data exchange. The patient or his/her representative should have information whom he/she should contact for damage reimbursement.

We think that a competent authority on the EU level should be established for solving such issues. For example, such an institution could perform functions of disseminating information about services provided in Member States and the equipment there. All Member States should be obliged to present this information.

Question 3. which issues (eg. Clinical oversight, financial responsiblility) should be the responsibility of the authorities of which country? Are these different for the different kinds of cross-border healthcare described in section 2.2 above?

The responsibility of the authorities in each Member States depends on the functions and competence of these authorities. In the Republic odf Lithuania health quality services surveillance is performed by the State Medicine Audit Inspection and the State Health Care Accreditation Agency.

When further monitoring of a patient who has received cross-border healthcare services is needed, the continuity of the treatment recommended by the physician who had provided services, should be ensured by service providers in the country of residence. In order to ensure the continuity of treatment, a safe system of information exchange concerning the patient, the disease and the prescribed treatment should be created in the Member States. It might be possible to use several kinds of different cross-border healthcare types as described in part 2.2 of the Communication (telemedicine services, temporary presence of persons, use of services abroad), on the condition that both, the receiver of the services, and the service funding institution have clear understanding of the principles how these services should be provided and payed for.

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?

The authorities, competent institutions funding healthcare services and the users of healthcare services are equally concerned that proper mechanisms helping to resolve arguments about their healthcare in other countries are established.

Responsibility for damage done to the patient lies on the healthcare institution providing services. It is of utmost importance that the patient and/or his representative knows whom he should address for damage reimbursement. Information on the damage to the patient and reimbursement should be sent to the service funding institutions and institutions of the country of residence. Public should be informed on the way of replenishment of funds spent for bad quality services.

The issue of how to decide on the degree of harm done is also important. We think that the decision of the degree of harm should be proportional to the receiving country‘s economy and the prices for services in that country. Besides, the competent institution itself should be provided with a possibility not to cover the low-quality healthcare services provided in a foreign state.

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)?

The difference between the healthcare service prices in Lithuania and other Member States may be the reason for patients from other EU countries to come for cheap and high-quality healthcare services. If the flow of such patients increases, it would cause a disbalance in the Lithuanian healthcare system, make longer waiting lines and worsen the accessibility and quality of services.

The gap in the prices for healthcare services in the Member States should be reduced in order to maintain the balance in providing equally accessible inpatient and outpatient healthcare services for patients from other countries.

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?

Free movement of specialists of personal healthcare is regulated in Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications. The provisions of the Directive are transferred into the Law on Medical Practice of the Republic of Lithuania, the Law of Odontology Practice and the by-laws, also they are moved to the newly prepared Law of Nursing Practice. Healthcare service providers in other Member States, willing to provide temporary or one-time services in Lithuania, have to inform the licence issuing institution about their intention; they have to comply with the same requirements for establishment as citizens of Lithuania.

Taking into account that we do not have information what problems are faced by the Lithuanian healthcare specialists, willing to provide temporary or one-time services or to get established in other Member States, we conclude that the legislation in those countries address the provision of such services fairly well.

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?

Implementing the judgements of the European Court of Justice, it is problematic to ensure that persons who received healthcare services abroad get reimbursed; firstly – because of a difference in the nomenclature of services, their scope, the use of different technologies to treat a particular case than in Lithuania. Sometimes the patient is treated using technologies not used in Lithuania, or it happens that numerous tests are performed for the patient abroad, while in Lithuania such tests are not funded separately but included into the basic price of certain services (for example, consultations or inpatient services). It is obvious that often it is impossible to compare a service provided for the patient abroad with a particular service in Lithuania, therefore practically it is very difficult, and sometimes impossible to determine the amount of reimbursement the patient should receive.

Regulation No 1408/71 (EC) and national legislation of the majority of Member States sets that patients receive free healthcare services that are provided only in the national (governmental) healthcare system institutions. The Treaty of the Community gives the right for the clients to freely chose healthcare providers when abroad, notwithstanding the fact whether these providers belong to the national healthcare system or not. Thus persons visiting abroad, have a possibility to receive healthcare services provided by private service providers, while the expenses for such services have to be reimbursed by the national healthcare system‘s competent institution.

A binding legal act on reimbursement principles and patients safety should be passed in the Community that would regulate principles of funding healthcare services outside the sphere of Regulation No 1408/71 (EC).

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 think that on the EU level there should be supported:

- Establishment of reference centres responsible for disseminating information about services and licenced technologies,

- Studies of possibilities that would clearly illlustrate what investments are needed by the projects and what is the expected result,
- Establishment of European reference centres network,
- Setting up of common criteria to define the possibilities provided by the novelties in healthcare and establishment of evidence based medical technologies database on the EU level,
- Defining of unified EU healthcare indicators and methods for their calculation,
- Creating of common health care system assessment methods.
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9 klausimas. 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 ?

In order to implement the Treaty provisions on free movement of health services, a binding legal act should be passed in the Community for regulation of the protection of the rights of health service consumers. Such a legal act would establish general minimal quality standards for healthcare services, principles of information exchange, and principles of civil responsibility for harm done by the provider to the patients.

At present the draft regulation of the European Parliament laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems is under consideration at the Social Affairs working group. It is possible to include into the Regulation the mechanism of reimbursement for healthcare services provided to persons with no prior authorisation to have a cross-border treatment for services they paid themselves. In this way the freedom to provide and receive services which is laid down in the Treaty of establishing the European Community would be implemented.

As far as the questions related to information on the healthcare services, providers and institutions responsible for pre-trial investigation of patients‘ complaints about reimbursement for damage as well as announcing about evidence based medicine technologies provided in Member States, recommendations, communications and guidelines of the Commission of Europe would suffice.