

1. INTRODUCTION

The Member States of the European Union are facing increasing challenges in the field of provision of health services, also largely due to demographic ageing.

Greece welcomes the initiative of the Commission for this consultation and the fact that it represents an opportunity to clarify matters relating to the EU citizens' right to health care. We think that some of these matters must be regulated and not merely become the subject of cooperation or interpretative communication. For this reason, Greece is very positive regarding the Commission's initiative to discuss with other Member States the future action of the Community in the field of healthcare services.

Greece is also supportive of this initiative because it would be preferable to put into force a properly structured system, in accordance with which citizens will be able to have access to health services of other Member States, than to develop a new system mainly based on court judgments, which would mandatorily come about due to the lack of such a structured system.

Greece underlines that the document expressly states that Community action on health services does not mean harmonising national health or social security systems. The exclusive responsibility of Member States for the national healthcare systems should be respected and should not be allowed to be prejudiced.

When applying Community provisions on free movement, competition, state aid etc., the specific character of each national healthcare system should be taken into consideration. In this framework, attention must therefore be paid to ensure full implementation of the principles of subsidiarity and proportionality.

Greece thinks that, in a future system, the Commission should focus on issues being common to all Member States, where there is a clear need to create common rules and increased safeguarding of values. Any possible

future Community action may aim at ensuring clarity over what is applicable to citizens seeking healthcare or work in the healthcare services of another Member State and the greatest possible safety of patients and describing efforts that Member States should make in order to achieve the best possible quality and improve access to healthcare services of their country.

2.1 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?

Cross-border mobility in Greece concerns the provision of healthcare mainly to short-term visitors and European citizens who are established in Greece and receive healthcare equal to that of Greek citizens for the account of their country of insurance.

When European citizens move within the European Union, they have access, on the basis of Community regulations, to necessary care services in the host country, provided that they have ensured the corresponding right in the country of their permanent residence. Therefore, for medical, pharmaceutical and hospital care, all Community citizens should produce the European Health Insurance Card to the Health Unit whose services they seek. Only the holders of an insurance booklet are entitled to such Card. The holders of the European Health Insurance Card have direct access to health services in the host country and the insurance carrier of the card-holder's place of residence pays the hospitalisation expenses in the host country. The Social Insurance Institute (IKA) is the competent authority for monitoring the implementation of the European Health Insurance Card in Greece and holds the relevant data on the number of European Citizens served, their cost of hospitalisation and any legal clarifications required.

It is important to enable every EU citizen to obtain healthcare in another EU Member State, the cost of which will be payable by the patient's insurance organisation. It is also necessary to inform the healthcare services of each Member State. All patients from other countries should be informed, if

possible in their own language, of the opportunities of access to health services.

Today, the provision of cross-border healthcare for short-term visitors does not seem to exert any substantial effects on the field of public health in Greece. However, the increasing number of permanently established European citizens who make use of public health services and the professionals' pressures on the existing system may cause organisational problems. This matter should be seriously taken into account in the future.

Account should also be taken of the fact that the number of citizens seeking cross-border healthcare is estimated to increase in the future, depending on the citizens' familiarisation with the health systems of other Member States. By continuously monitoring this issue, planning properly, determining the citizen-related procedures and defining logic strategies, undesirable effects may be averted as regards the sustainability of a national healthcare system.

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

Greece considers that, to enable high quality and efficient health care, special attention should be paid to the clarification and settlement of the following matters:

- The determination of the beneficiaries and the terms of compensation by a Member State, relating to scheduled and emergency care, the relative velocity of service (depending on whether the case is urgent or chronic) and the clear definition of the procedures for referring patients to another country and the right to administrative action in case of rejection (e.g. lodging of an appeal in the event of refusal to accept healthcare etc.).
- The clearly determination of expenditure by the compensating healthcare services, examination and analysis of the cases of compensation or claim for expenditure reimbursement, and determination of the payment procedure, the method and the time

required for the reimbursement of expenditure through the national health insurance plan and/or directly to the persons.

- Every Member State should be responsible for the safety of its patients and their oversight. The matter of guaranteeing safety in case of cross-border care should be regulated solely by the state providing health services. Given the differences in the health systems of each Member State and the complex institutional framework governing compensations, any harmonisation effort would both be extremely difficult and may create bureaucratic structures.
- Quality control of provided health services and intensified cooperation for improving the quality in healthcare throughout the Union.
- The need to determine the waiting period before patients seek healthcare in other countries.
- The future implementation of a sufficiently delimited institutional framework concerning the field of e-health in order to meet increased needs. Electronic databases that may provide, possibly via the European Health Insurance Card, information on the patients' state of health, so as to make the diagnosis available in a faster and safer way and increase the chances of providing proper and fast treatment.
- The clear determination of the obligations of the state primary, secondary and tertiary health services.
- The management of sensitive personal data of moving patients and the determination of the patients' rights, e.g. provision of information to patients in order for them to decide which institute to address. Concerning the handling of medical files and the transfer of information on patients between Member States, it is important to safeguard the patients' need for secrecy and their consent for the processing of the information. It is also important to determine who will have access, and at what level, as well as the type of information to be provided to patients in order to receive proper healthcare.

- Clear information to patients in order for them to feel safe about their healthcare abroad. The compensating country, the healthcare providing country and the providers of the latter should jointly be responsible for the provision of necessary information to patients. Each State should determine the method by which this information will be provided and its content.
- Determination of the responsibility and the obligations of healthcare service employees. Healthcare providers should be responsible for the continuous training and updating of their staff.

2.3 Which issues (e.g. 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 described in section 2.2 above?

Greece is supportive of the view that the country providing the healthcare should also be fully responsible for the quality and the planning of health care, as well as for the system dealing with any injuries suffered by patients. Greece also thinks that every Member State should be responsible for ensuring the best possible quality of health services provided to third-party citizens, as well as to provide to the citizens of other EU Member States the same services provided to its own nationals. The complaints and expenditure refund system should perhaps regulated centrally by the EU and become domestic law for the Member States.

The country compensating for the provision of services to another Member State should not be responsible, unless otherwise agreed, for the content of healthcare and any harm caused to patients.

2.4 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?

It is true that Member States have different legal systems concerning compensations for medical negligence. This system may relate to criminal and/or civil liability. In many countries, the compensations system is

complex and time-consuming until patients receive compensation. European medical associations have suggested a compensation based on "non-fault", whereby patients will be compensated within a relatively short period of time for possible implications, irrespective of the presence or not of medical liability.

Greece supports the provision of safe and high-quality healthcare to patients through the institution of closer cooperation between the competent authorities of Member States in relation to information on vocational training matters for health professionals, in addition to those provided for by Directive 2005/36/EC on the recognition of professional qualifications.

Matters relating to the safety of patients are among the most important ingredients of any possible future legal initiative aiming at clarifying what is applicable to patients seeking healthcare in another Member State. However, there should be no common institutional position determining the way that such a system must or should be planned. At the same time, pursuing broader cooperation on matters of patients' safety is of utmost importance.

Greece thinks that the Member State in which medical measures were taken or healthcare was provided should be responsible for the safety of patients, irrespective of whether the provided healthcare is cross-border or not and irrespective of the place of origin of the health professionals or the patient.

Safety in the provision of healthcare in case patients are referred by the National Healthcare Insurance System of their country for treatment to another Member State should be the responsibility of the competent authority of the country where the service is provided. In case of harm, the compensation should be covered by the National Healthcare Insurance System of the country referring the patient. Later, the reimbursement of compensation expenses should be made by the National Healthcare Insurance System of the host country to the National Healthcare Insurance System that compensated the patient.

In general, aiming at safeguarding the rights of patients in case of harm, healthcare providers should hold adequate insurance for their own liability in case of cross-border activities.

2.5 What action is needed to ensure that treating patients from other Member States is compatible with the provision of balanced medical and hospital services accessible to all (for example, by means of financial compensation for their treatment in "receiving" countries)?

Greece thinks that EU citizens should be treated in the same way, irrespective of the place at which they seek healthcare; this should be defined in any future Community action. It should also be declared that, in principle, healthcare should be provided to patients with greater needs. There should be no common institutional framework for other national priorities regarding the provision of healthcare, healthcare expenditure and the order of priority of conditions etc.

In certain regions and for certain medical reasons, cross-border healthcare may be increased. However, it relates to what is covered by the insurance organisation of each citizen-patient. There could be financial compensation for treatment in receiving countries, but this could cause financial problems to economically-weaker countries, especially the recently joined EU Member States, given that, in non-emergency cases, patients may seek healthcare in other countries considered as providing better healthcare. It is a matter that should be determined by the EU, which should decide whether financial resources should be made available for cross-border patient healthcare.

Concerning the European Health Insurance Card, we are of the opinion that it could be linked to a "modern patient file system".

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

The issue of free movement of medical doctors has been regulated to a satisfactory degree, but there are other problems, such as the recognition of medical specialities, which could be resolved in a uniform manner for all medical doctors of the Community. Legislatively safeguarded professions,

both within and outside the field of healthcare, are covered by Community legislation by means of 15 current Directives. Within a year, these Directives will be replaced by a single Directive (European Parliament and Council Directive 2005/36/EC of 7 September 2005) on the recognition of professional qualifications. This Directive should be implemented by Member States by 20 October 2007.

In this stage, Greece does not think that there is need to incorporate rules and terms for legislative safeguarding at Community level. Any possible clarifications, if required, could be made by interpretative communications. Moreover, the appropriate tools could include common instructions by the Commission.

No regulation is required in relation to the obligations of health professionals providing their services in another country or to patients from other countries concerning the continuation of treatment, their obligation to provide relevant information and cooperation between health professionals responsible for the patient.

Member States decide themselves what professions to regulate. Greece thinks that satisfactory and adequate legislation is in place for legislatively safeguarded professions. As for non-regulated professions in the field of healthcare, we believe that it is important for any future Community initiative to make clear that the legislation of the country in which healthcare is provided shall apply and to include control and responsibility for professional activity and training, in the broad sense of the terms. Member States should also be given the opportunity to regulate a previously non-regulated profession, when such need arises.

2.7 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?

Greece thinks that any future legislative initiative should incorporate the principles formulated through the case law of the European Communities Court of Justice in relation to the provision of healthcare by Member States to citizens of other Member States. There is no other issue to be improved by any institutional initiative in the framework of each health or social protection system. There might be need for an EU Directive, mandatory for Member States, regulating principles of bioethics.

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

Concerning the European Networks of Centres of Reference, we recognise the presence of rare transmitted diseases, which are included in the scope of action of the Hellenic Centre for Infectious Diseases Control (KEEL). The creation of a European network of such centres of reference is desirable and should be implemented in accordance with the standards of already operating networks. At the same time, the dimensions of these networks and the differentiation of targets within each dimension should be distinct. For instance, the implementation of an epidemiological dimension requires the presence of a central coordinating epidemiology body, to be supervised by the EU (e.g. European centres for disease control). Similar networks that are already in operation at European level (e.g. networks for haemorrhagic fever, influenza, EARSS antimicrobial resistance network) enable the creation of shared evidence bases, whose direct effect is the comparability of data and indices that help improving the provision of healthcare. Right now, it is unclear whether an action with therapeutic dimensions for some of these diseases would be feasible and, if so, under what terms. Special planning is required to identify, in the first place, experienced special centres that could coordinate such an effort in order to analyse the targets and conditions. There are other dimensions to this approach.

The wide variations in techniques and outcomes stated in paragraph 3.2.3 cannot be attributed solely to malfunctions of the mechanisms, but also to real differences between states. It is important for the mechanisms for the

creation of shared evidence bases to be controlled by quality certification mechanisms. It is also decisive to provide post-control direct and free access to these bases for all country groups that will ensure any necessary interventions with respect to the targets of healthcare. It is up to the EU to decide whether to improve, using Community funds, the healthcare systems of weaker countries, as well as the training of the medical and other healthcare personnel or to allocate funds for the cross-border care of citizens in other Member States considered to have better healthcare systems.

Greece believes that the following areas are also important:

- Creating a European evidence base on new scientific developments and techniques of the medical science, aiming at disseminating best medical practices at EU level.
- Adopting common principles and possibly establishing cooperation between competent healthcare and social services for the provision of care and support to weaker population groups (illegal immigrants, homeless etc.)
- Motivating and encouraging Member States to develop aspects of their health systems that fall short, such as long-term care, rehabilitation units, mental health etc.
- Community initiatives for reinforcing and extending modern infrastructures, such as telemedicine services etc.
- Holding discussions on quality standards and indices and on effective methods, including cooperation in quality, quality indices and healthcare based on data, as well as the need for reference systems in healthcare.
- Providing information to healthcare professionals wishing to be employed or established in another Member State.
- Discussing and cooperating on the manner in which patients records and other important patient information may follow patients beyond national borders and how patient information may be ensured in a safe and secure way.
- Actively supporting e-Health.

2.9 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?

Greece thinks that it is important and necessary to formulate the existing common values and principles in Member States in the field of health services provision, the application of which would clarify further matters of provision of healthcare services without prejudicing Member States' competence and flexibility in the organisation of their health systems. Greece welcomes the cooperation that would facilitate cross-border healthcare. This requires cooperation in providing information to patients, cooperation for quality and quality indices, exchange of information and statistics on the flow of patients and professionals and cooperation in preparing international conventions in the field of healthcare. It is important not to focus this future task only on an instrument, but to combine it with practice and specific cooperation to the benefit of both health service providers and patients.

We think that, given the right circumstances, a Directive should be issued, which would determine the terms and conditions of cross-border healthcare. The Hellenic Government welcomes a piece of legislation in the form of a Directive on matters relating to cases where patients seek healthcare in other Member States.

The Directive should also include matters of financing of such cross-border healthcare, e.g. who pays for medical care, who compensates in case of medical error etc. All other points may be regulated by recommendations or communications. The Directive should determine who is covered when a right to compensation exists, who would be responsible for oversight, liable for bad practice and competent for the provision of information, who would be responsible for prior treatment and further follow-up. It should also include certain principles of administrative law to be determined by the Court of Justice. In this framework, a clear statement should be made on the powers at national level and on decisions concerning proper treatments for

different diseases or the terms of refund, as well as whether a Member State is justified, in the light of Community law, to require pre-approval etc.

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