Assemblée des Régions d'Europe
Assembly of European Regions
Versammlung der Regionen Europas
Asamblea de las Regiones de Europa
Assemblea delle Regioni d'Europa

**AER Response to the European Commission Consultation regarding Community Action on health services**

The AER member regions are responding to this consultation in their capacity as the competent authorities for the organisation, management and/or delivery of health services.

The AER represents over 250 regions from 32 European countries and 14 interregional organisations. The AER is the political organisation of Regions in Europe and their spokesperson at European and international level. Its vocation is to defend the Regions' interests in the political process and develop interregional cooperation.

This contribution is based on the one hand on the outcomes of an internal consultation among the AER member regions active the "Social Policy and Public Health" Committee and on the other hand on past AER positions in the context of the debates on services of general interest in Europe, the European Social Model and the Directive on services in the internal market[1].

## *General Remarks*

### Scope of the European Commission consultation

The AER feels that the scope of this consultation is too narrow. As the Commission correctly notes[2] and as the history of the EU clearly demonstrates, if Community action is taken in relation to cross-border health services, then this action will definitely have an impact on national health care systems and health providers operating within a single Member State.

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| The current consultation should clearly acknowledge and raise questions regarding the implications of Community action for national health and/or social systems and not limit itself to identifying initiatives only in the field of cross-border healthcare. Likewise, any future Community action regarding cross-border healthcare should include an assessment of the potential impact on national healthcare systems. |

### The benefits of cross-border cooperation

The AER member regions welcome the acknowledgement of the importance of cross-border cooperation in the development of quality, innovative and efficient health services[3]. The experience of the AER member regions is that cooperation is essential for the development of quality, innovative and efficient health services. A key function of the AER is to provide a forum where regions can exchange knowledge and experience and formulate cooperation projects.

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| The AER therefore encourages the Commission to specifically acknowledge the benefits of interregional cooperation in the context of health services and to commit to this cooperation within its policies and its instruments. |

[1] These positions are available on the AER website or from the AER Secretariat at request.
[2] Page 3 of the consultation document SEC(2006) 1195/4, 26/9/2006.
[3] Page 5 of the abovementioned document.

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**The link between health and social services**

The AER member regions confirm that it is very difficult to make a clear distinction between health and social services that is applicable to all EU Member States. Even within regional governments, the division between the two is often blurred. For example, the Social Department of Austrian Länder is responsible for social and care services, whereas other health services fall under the remit of the Health Department. It is also the experience of AER regions that the two departments are sometimes in direct competition to attract competences and funding.

The AER is therefore convinced that the Commission must coordinate any proposed initiatives in the fields of health and social services and assesses the potential impact of proposed measures on both sectors.

In this context, the AER notes that it is unclear to us how the two European Commission consultations on health and social services respectively[4] are complementary and how the resulting legislative instruments for each sector will co-exist.

The AER therefore requests that any future initiatives in the field of either health or social services clearly indicate the implications it is expected to have on the other sector and that the Commission DGs concerned work together.

**The effect of the EC internal market rules**

The AER fully appreciates the importance of the principles and rules of the EC internal market and their contribution to the overall development of the European Union, in particular in terms of economic growth and raising the standard of living.

The regions are concerned however that the internal market rules are not a satisfactory legal framework for health and social services as such. The EC internal market does not take into full account the specific features of health and social services nor the missions they are meant to serve.

The AER reiterates its demand that a sufficient legal framework is developed under the EC Treaty provisions on public health (Article 152 EC). This legal framework should be linked to and further the fundamental principles of the EC (Articles 2 and 3 EC) and thereby counterbalance the impact of the EC internal market rules on health and social services.

The AER regions firmly believe that any modernisation of national healthcare systems should not be the result of the expansion of the internal market rules. Developments in health services should be the result of a political consensus and not only the development of case law on the internal market.

**The need for legal clarity**

The AER regions feel that overall, cross-border healthcare functions smoothly. On the basis of interregional cooperation, the regions have successfully developed legal and institutional frameworks for cross-border healthcare.

The AER believes that legal certainty is required as regards the impact of the European initiatives on cross-border healthcare, patient mobility and mutual recognition of professional qualifications on national and regional health systems in their entirety.

[4] COM (2006) 177 final, 26/4/2006 - *Implementing the Community Lisbon programme: Social services of general interest in the European Union*

The present consultation, as well as any resulting Community action, should therefore focus mainly on the future of health systems, in light of the pressures resulting from cross-border healthcare.

**Common Values Underpin European health services**

Any Community action regarding health (and social) services should first set out the key principles in which these services are grounded. The AER member regions have declared these principles to be:

a. Solidarity
b. Social Justice
c. Social Cohesion
d. Equal access to employment, in particular for the young and the disabled
e. Gender equality
f. Equal access to health and social protection
g. Universal access to education
h. Universal access to health and social services
i. Equal opportunities for everybody in society, in particular the elderly, the young, the disabled, the socially excluded and minority groups
j. Universal access to, development of and implementation of knowledge in health and social services.

The AER very much welcomes the application of common values and operational principles in EU health systems, as decided by the Council of Ministers for Employment, Social Policy, Health and Consumer affairs, meeting on 1-2 June 2006 in Luxembourg. These principles are in line with the values identified by the AER member regions as being fundamental to EU health and social systems and the EU institutions should keep these in mind when taking actions regarding health services.

The AER strongly encourages the European institutions to ensure that these principles become legally binding and that they are taken into account whenever European action is taken on health and social services.

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***AER response to the questions raised in the consultation document***

In response to the questions raised in the consultation document, the AER has the following contributions:

**Question 1**

Most AER member regions responding to this consultation confirm that cross-border healthcare is currently limited either to emergencies (visiting tourists requiring emergency health care) or to the case of border regions, where for example the closest hospital is situated on the other side of the border. In the case of Friuli Venezia Giulia (I) and Land Kärnten (A), for example, there exists an agreement whereby the hospital of Villach (Kärnten) acts as emergency hospital for those living in Italy along the border. The regions do not appear to encounter significant obstacles in such cases.

<u>Regions concerned over the impact on health and social systems as a whole</u>

In terms of impact, the AER member regions are concerned that Community actions in cross-border healthcare will have a significant effect on national health systems as a whole. The regions repeat their demand that any change to the current status of public

health in Europe is the result of an open dialogue and a political consensus, rather than the extended application of EC internal market rules.

**Question 2**
In general terms, and as was stated in the AER position on the Directive in services in the internal market, legal certainty is guaranteed through the application of the rules of the country of destination, namely where the health service is provided and received.

Facilitating the transfer of medical data
The AER member regions are currently focusing on jointly developing ICT tools and e-health policies that will facilitate the management and provision of health services both within their borders and across the EU. In this context, regions are interested in cooperating for the development of interoperable systems that facilitate the exchange of medical data and telemedicine tools. Such tools will facilitate all actors in the health chain as well as patients themselves.

In the context of cross-border care and the need to exchange medical data, common guidelines regarding data protection and accessibility would be a useful tool and would further encourage the development of this sector.

**Question 3**
Apply the rules of the country in which the health service is provided and received
Again, legal clarity is best guaranteed where the rules of the country in which the health service is provided and/or received are applied. The AER believes that this holds true for all cases of cross-border healthcare, as identified in the consultation document (cross-border provision of services; use of services abroad/patient mobility; establishment of a service provider in another Member State; temporary presence of a service provider in another Member State.)

The AER experience shows that liability is allocated in different ways across Europe, depending on the respective national health systems. In the case of Italy for example, the Regions are responsible for guaranteeing quality, whereas the individual health agencies are responsible for safety and are liable for indemnities in case of omission or clinical error.

In particular as regards the mobility of health professionals, insurance for professional liability that is valid across the EU should be included as an essential condition for practising a medical profession on a cross-border basis.

**Question 4**
In the case of ensuring safety in cross-border healthcare and providing redress to patients, the rules of the country in which the services are provided and/or received should apply.

In order to increase transparency and patient confidence, information on the redress mechanisms that are available in each Member state should be made available.

**Question 5**
The regions have experienced the potential impact of patient mobility in specific cases, such as popular tourist destinations. The regions are therefore in favour of facilitating patient mobility, subject of course to the condition that the effect on the entire health system is limited.

In this context, the regions encourage the EU to develop the contents of the European Health Insurance Card (EHIC) and ensure it provides more information to health professionals. An improved EHIC would contribute to simplifying both the administrative procedures for healthcare delivery and the payment of health services.

The regions further suggest that hospitals and other health structures in popular tourist areas should be given specific advantages for treating tourists, for example by allowing for a direct payment of the service from the country of origin.

**Question 6**
As regards the free movement of health professionals, some regions have requested that the EU provides further clarifications regarding the mutual recognition of qualifications for nurses and paramedical personnel, in light of the diverse qualifications found across Europe.

**Question 7**
The regions agree that it is the responsibility of the EU, in cooperation with national, regional and local authorities, to develop and provide a secure and clear operational framework for patient mobility.

In order to avoid an unnecessary and essentially sterile 'competition' among the regions or the various healthcare systems of the EU, some regions suggest that the EU should adopt minimum quality and safety standards for healthcare. Such standards would guarantee safety for patients and also stability for the managing authorities, allowing them to reasonably predict demands and needs in health care and to allocate their resources accordingly.

The regions are interested in working with the European Commission in order to identify these potential quality and safety standards, based on the exchange of best practice.

**Question 8**
Interregional cooperation is essential to developing European excellence
The AER's experience clearly demonstrates that interregional cooperation is essential to the development and successful implementation of best practice and innovative methods for the organisation, management, financing and delivery of health systems. The regions therefore request that European policies and financial instruments support interregional cooperation projects and acknowledge the regions as a key actor in achieving the modernisation and sustainability of health and social systems.

More specifically, the AER member regions are interested in developing partnerships for the sustainable exchange of medical personnel and request the support of the EU. The mutual exchange of medical professionals between the European regions will allow the exchange of know-how and experience, will facilitate the integration of the personnel in question and will combat the 'brain drain' problem encountered in a number of Europe's regions.

AER member regions are also interested in working together to jointly plan and launch common reference centres for rare pathologies and/or centres of excellence, in the expectation that this would lead to increased quality and financial sustainability.

Health & social systems impact assessment: clear methodology & common indicators required
The AER is convinced that a clear methodology is required to assess the impact of any Community action on cross-border healthcare on the entirety of national health systems.

The regions welcome the efforts of the High Level Group to develop such a methodology and are willing to contribute to its formulation.

In this respect, the AER member regions believe that European action could be taken to improve the availability and comparability of Europe-wide indicators for both the health and the social sector.

Investing in the potential of e-health policies and technologies

E-health technologies have an important role to play. The regions encourage the EU to support the regions' initiatives for the development and expansion of interoperable systems.

The AER member regions are currently discussing the development of a tool designed to identify and respond in real time to the rapid evolution of offer and demand in both the health and the social systems. This tool would allow the regions to allocate the necessary resources according to the actual system needs. A European observatory could be useful in this context, but priority must first be given to the regions, which need to be able to monitor and evaluate the changes in demand and needs.

**Question 9**

Emphasis on non-legislative tools

The regions feel that practical cooperation at all levels is key to the development of health systems across Europe.

The AER suggests that any EC legislative measures should first be preceded by non-legislative interventions, in order to best assess actual needs.

Finally, the AER repeats its position that any European action that affects health systems as a whole across Europe, whether directly or indirectly, should be based on the EC Treaty articles on public health, rather than the internal market rules. In this context, the AER member regions encourage the Commission to render legally binding a number of principles that are common to all European health and social systems, as indicated above and as recommended by the Council of Ministers. This would ensure that any European action regarding health services would respect these fundamental values and national and regional competences, on the basis of the subsidiarity principle.