

**Deutscher Richterbund** (German Association of Judges)

Association of Judges and Public Prosecutors

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**Opinion**  
**of the German Association of Judges on the Green Paper on the European**  
**Workforce for Health [COM(2008) 725]**

The German Association of Judges (DRB) agrees with the Commission's statement in the Green Paper that the Member States' health systems need 'efficient and effective workforces of the highest quality', as health services are very labour-intensive. The Commission's aims of increasing the visibility of the issues facing the health workforce, generating a clearer picture of the challenges and providing a basis for considering how to address the problems are welcomed. The demographic data confirm that the situation in the health sector as described in the Green Paper will arise. The present and future situations of the health workforce are described correctly. In particular, the migration of specialised doctors to Scandinavia is already causing problems/gaps in basic medical care in certain (mainly rural) regions. The problem of finding sufficient and suitable health professionals will become more critical as the number of school leavers falls and the number of elderly people in need of care rises. The health professions must therefore be attractive, in order to draw in and retain workers.

The DRB therefore supports the Green Paper's aims of increasing the visibility of the issues facing the health workforce, generating a clearer picture of the challenges facing local and/or national health managers, and providing a better basis for considering what can be done to address these problems effectively. However, it is questionable whether any further data need to be collected for this purpose. Reports by the senior *Land* authorities on the recognition procedures for foreign qualifications in the health system are already available. Therefore there are no obvious benefits to collecting further data.

As regards the specific measures being considered, it should also be noted that Article 152 of the EC Treaty specifically states that 'Community action in the field of public health shall fully respect the responsibilities of the Member States for the organisation and delivery of health services and medical care'. If the Green Paper assumes that Community action is intended to complement the Member States' measures, this functional responsibility of the Member States must nevertheless be regarded as the dividing line, and the proposed measures must be examined in the light of this line. If the Commission lists specific measures under the heading 'Influencing factors and possible areas for action', it must therefore be ensured that the Commission does not impose an obligation on the Member States to take action — unless it is authorised to do so under other Treaty provisions. There is no legal basis for imposing 'assessing levels of expenditure on the health workforce' as an area for action. The same applies with regard to 'ensuring better working conditions for health workers, increasing staff motivation and moral' — whatever this means in terms of possibilities for action — and to 'more effective deployment of the available health workforce'. It is not clear what 'promoting more social and ethnic diversity in recruitment' has to do with the specific subject. Likewise the possible obligations in terms of workforce planning: the requirement for Member States 'to assess what types of specialist skills will be needed', together with the action area derived from this by the authors of the Green Paper concerning 'training course design', 'focusing on health professionals' continuous professional development', etc.

The DRB has reservations about the Commission's view that instructions to the Member States to take action should also be derived from the identified areas for action. Many of the proposed measures would first and foremost generate costs without any guarantee of achieving the aim to secure the availability of sufficient personnel. For example, the obligation to provide language training so as to assist potential mobility could have negative consequences for many Member States. Overall, the suspicion of more extensive regulation arises. The question is whether the Member States cannot be left to ensure healthcare for their own citizens. Furthermore, the Green Paper's approach often involves actors who, in the German health system, are not authorised to take the required action — for example concerning the obligation to provide career guidance and appropriate working conditions. It is necessary to take account here of both the federal state's responsibilities and the self-administration of training providers and social partners. The obligation to develop ethical recruitment also seems to be an unacceptable interference in non-state legal circumstances.

The DRB is willing to continue to participate in the further discussions on the preparation of specific legal framework conditions for the health workforce.

*[signed] Evers-Vosgerau, Member of the DRB Board*

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