



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

from : General Secretariat

to: Council

Subject : EMPLOYMENT, SOCIAL POLICY, HEALTH AND CONSUMER AFFAIRS
COUNCIL MEETING ON 9 AND 10 JUNE 2008

**Proposal for a Community framework on the application of patients' rights
in cross-border healthcare (LA)**

- Information from the Commission
(Other business item)
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With a view to the Council meeting (Employment, Social Policy, Health and Consumer affairs) on 9 and 10 June 2008, Delegations will find in the annex a note from the Commission on the abovementioned subject.

**PROPOSAL FOR A COMMUNITY FRAMEWORK ON THE APPLICATION OF PATIENTS'
RIGHTS IN CROSS-BORDER HEALTHCARE****WRITTEN INFORMATION FROM THE COMMISSION**

Issues relating to patients' rights in cross-border healthcare have been discussed in various fora and for a long time at Community level. These discussions go back to the "High Level Process of Reflection on patient mobility and healthcare developments in the European Union" in 2003. In this reflection process, the Commission brought together health ministers from across the Union together with representatives of patients, professionals, providers and purchasers of healthcare and the European Parliament. They agreed to a wide-ranging report¹ which identified the need to improve legal certainty in this area.

Following this, the Commission's proposal for a directive on services in the internal market at the start of 2004 included provisions codifying the rulings of the Court of Justice in applying free movement principles to health services. This approach, however, was not accepted by Parliament and Council, and the final text of this directive excluded health services from its scope whilst stating that "it is important to address this issue in another Community legal instrument in order to achieve greater legal certainty and clarity"².

In 2006-2007, the Commission held, on the basis of a Commission communication³, a broad public consultation regarding Community action on health services⁴, the results of which have provided a solid basis for developing and shaping the new framework, currently under consideration by the Commission. As part of that consultation, the European Parliament and the Council urged the Commission to come up with appropriate proposals to address the existing uncertainty.

¹ See http://ec.europa.eu/health/ph_overview/Documents/key01_mobility_en.pdf

² Directive 2006/123/EC on services in the internal market, OJ L 376, 27.12.2006, p. 36.

³ SEC (2006) 1195.

⁴ See http://ec.europa.eu/health/ph_overview/co_operation/mobility/results_open_consultation_en.htm

On the basis of this public consultation and in order to fulfil the Commission's commitment given to the other institutions, the Commission has been developing a draft proposal for a directive on the application of patients' rights in cross-border healthcare and an accompanying communication. Since January 2008 internal discussions as well as further contacts with stakeholders have taken place and these have enabled the Commission services to determine how to bring more precision and clarity to some aspects of the implementation of the ECJ case law. This proposal is being finalised and should be submitted for adoption by the College in the near future and before the summer break as part of the broader package of social measures.
