



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 7 September 2010 (08.09)  
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**ADDENDUM TO "I/A" ITEM NOTE**

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from : General Secretariat of the Council  
to : COREPER/COUNCIL

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Subject : Proposal for a Directive of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare [**first reading**] (LA+S)  
– Adoption  
a) of the Council's position  
b) of the Council's statement of reasons  
– Statements

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**STATEMENT BY THE EUROPEAN COMMISSION**

In a spirit of compromise, the Commission will not stand against a qualified majority vote in favour of the Council's position at first reading although it could have benefited from some more clarity.

In particular, the Commission considers that the scope of the prior authorisation scheme should be well defined and justified.

The Commission is convinced of the need to ensure that patients seeking healthcare in another Member State can exercise their rights as confirmed by the Court in its settled case-law and without undermining the rights granted under Regulation (EC) No 883/2004. The Commission has proposed the measures necessary to ensure that patients benefit from legal certainty in exercising those rights while respecting Member States' power to organise and deliver healthcare.

The Commission recalls that the conditions for access and exercise of health professions have been harmonised by the professional qualifications directive.

As regards eHealth, the Commission considers it necessary to contribute at Union level to creating the conditions for ensuring continuity of care and patient safety by enabling use of medical information across borders, with the highest level of security and protection of personal data.

As the position of the European Parliament on prior authorisation and eHealth is more favourable to the patients, closer to the Commission's proposal and to its reading of the existing case-law, the Commission reserves the right to support the European Parliament's amendments on these issues during the second reading and will continue to collaborate closely with both institutions with the aim of further improving the text.

### **JOINT STATEMENT BY POLAND, PORTUGAL AND SLOVAKIA**

Poland, Portugal and Slovakia regret that the Directive on the application of patients' rights in cross-border healthcare does not provide a sufficient guarantee of a high level of quality and safety to patients wishing to receive cross-border healthcare and does not entirely respect the responsibilities and competences of the Member States in relation to the organisation and planning of national health systems.

### **STATEMENT BY THE AUSTRIAN DELEGATION**

Austria strongly welcomes the fact that the matter of price setting by healthcare providers has been included in Article 4(4) of the Directive.

However, Austria considers that further clarification is necessary, if not in the operative provisions then at least in the recitals of the Directive, in order to improve legal certainty.

With regard to the first sentence of paragraph (3) and to paragraph (4) of Article 4 Austria assumes that in the case of inpatient and outpatient hospital treatment, healthcare providers may charge for the costs of examinations and treatments which the healthcare system of the Member State of treatment pays for domestic patients for comparable treatment, and that healthcare service providers are able to demand advance payment of costs from patients from another Member State.

Austria has put its request for the above clarification on ice for the time being so as not to hinder further proceedings, but nevertheless reserves the right to return to this issue in the course of further discussions.

### **STATEMENT BY THE ITALIAN DELEGATION**

Although Italy thinks the compromise text does not ensure proportionate levels of quality and safety in relation to accreditation, it can support the proposed text on two conditions:

- that the Commission immediately starts work on defining the standards and guidelines provided for in Article 8(5)(e);
- that during the co-legislation stage with the European Parliament the position advocated is that of high-quality harmonisation of freedom of movement for patients.

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