Access to cross-border healthcare: European developments and regional initiatives

Within the European Union, access to healthcare in another member state is governed almost exclusively by European social security regulations. Drafted soon after the signature of the Treaty of Rome, these regulations came into effect in January 1959. Intended to encourage the mobility of workers in the Community space, they have been gradually extended to all citizens and are applied in all the member states.

The regulations provide for: (1) double access to healthcare for salaried border workers (in their country of residence and in the country where they work), (2) management of expenses related to care provided during a temporary stay in another member state, (3) reimbursement of scheduled care authorized in another member state.

European jurisprudence

In 1998, a ruling of the European Court of Justice stated that health is a "service". Consequently, the free provision of services applies in this field. To avoid any discrimination between healthcare providers, the Court considered that the prior medical authorization* was an obstacle to the free provision of services. It introduced, for outpatient care delivered abroad without prior authorization, a specific reimbursement procedure applying the rates of the country of affiliation. It was subsequently led to rule on a series of cases concerning hospital stays abroad without prior authorization. In these cases it judged that prior authorization was an obstacle to the free provision of services, but that it could be justified for reasons of public health and the general interest.

Draft directive

Since then, the draft directive of the European Commission intended to apply the jurisprudence of the Court has passed through the hands of various EU presidencies. On 8 June this year it reached the stage of a compromise text which has to be submitted to Parliament for a second reading. This draft directive on patients' rights is of little concern to cross-border cooperation, as it does not change the procedures for access to hospital care. However, it stipulates payment for outpatient care administered without prior authorization, on the basis of the rates of the country of affiliation.

Local initiatives

As Henri Lewalle explains, "the important thing for those involved in cross-border cooperation is to pursue their development projects with determination". For example, between France and Belgium, where there are many projects, a framework agreement on cross-border health cooperation was ratified between 2007 and 2010. It enables cross-border agreements to be reached between health and prevention establishments. The French-Spanish border also gives the example of a number of projects, including the emblematic one of the construction of the first cross-border hospital, the statutes of which (creation of an EGTC) were signed in April, as well as other cooperations between Basque-country hospitals. The French-Spanish health agreement, modelled on the French-Belgian one, was signed in 2008 but has yet to be ratified by the two states.

* Required to receive reimbursement for healthcare abroad on the basis of the rates of the country where the care is administered (European regulations on the coordination of social security systems).

High-level conference on territorial cooperation

Wallonia, in association with the European Commission and the Interact programme, is organizing a high-level conference on European territorial cooperation.

This event will take place on 30 September and 1 October 2010 in Tourinai, Belgium. It will bring together all the actors of cooperation through the presence of the 71 Interreg programmes. Between 400 and 500 persons are expected to attend the conference in this city of Belgian Picardy.

The objective is to celebrate the 20th anniversary of European cooperation and highlight the origin of the European initiative, the challenges raised, the obstacles encountered, the practical achievements and the contribution in terms of European cohesion. In parallel, and aimed at the general public, an exhibition will present the best cooperation projects and their impact on the daily lives of the citizens.

The conference is also intended to discuss the future of cooperation, bringing together experts and politicians from all levels at which it is put into practice (European, national, regional, local). Meeting in panels, they will cover topics such as the 2020 strategy, the pertinence of the cooperation territory, the optimization of Interreg programme management, and the upcoming revision of the EGTC regulation.

A further ambition of the organizers is that the conclusions of the conference provide input to the work of the informal Council meeting on Cohesion Policy on 22 and 23 November in Liège.
19 proposals for a French cross-border policy

On 23 June Fabienne Keller, senator for Bas-Rhin, Etienne Blanc, MP for Ain, and Marie-Thérèse Sanchez-Schmid, MEP, presented to the press their report on the cross-border policy of France.

Commissioned since December 2009 by the French Prime Minister following a proposal by Michel Mercier, minister of the rural space and spatial planning, and Pierre Lellouche, secretary of state for European Affairs, the three members of parliament put forward 19 proposals* to develop "a genuine policy in favour of border territories":

A- Provide France with a toolbox for greater competitiveness on its borders
1- Experiment with border economic development clusters, economic areas with a specific status and a strong leveraging effect. These clusters will naturally be located near major infrastructures.
2- Fight de-localizations by adjusting public-sector aids.
3- Systematically promote and exploit French economic advantages on the borders.
4- Give the tax rules a firmer basis and reconsider the conditions of bi-location. End fiscal uncertainty.
5- Simplify customs procedures.
6- Mobilize cross-border financial instruments, seed funding and venture capital locally.

B- Meet the needs of the populations for services
7- Systematically encourage the implementation of cross-border services schemes on the scale of population catchment areas which would involve the state, the territorial authorities of the border areas, and the operators applying for public-sector aid.
8- Pool cross-border provision of healthcare and access to care.
9- Jointly develop learning the language of the neighbour, cultural and sporting activities, training and employment.
10- Facilitate transport and telecommunications on the scale of the cross-border area.
11- Appoint in each border region a correspondent of the Mediator of the Republic dedicated to border issues.

C- Facilitate the spatial organization of border territories
12- Develop mutual consultation and joint preparation of planning documents and projects.
13- Use the space as an asset. Promote land-use and operational instruments dedicated to border regions.
14- Develop more equitable cross-border co-funding.

D- Organize a genuine governance of cross-border issues
15- Establish a dedicated interministerial governmental political authority reporting to the Prime Minister. The commission also suggests the organization of a meeting bringing together, based on its recommendations, all the ministers concerned, under the authority of the Prime Minister, during the second half of 2010, to ensure their implementation.
16- Set up a strategic monitoring unit for border regions and capitalize on successful experiences […] and strengthen the Mission Opérationnelle Transfrontalière.
17- Organize the territorial state and improve its linkage with the central state. The commission also proposes the appointment of an officer in charge of all border issues in each regional prefecture […].
18- Reinforce our French and intergovernmental territorial governance instruments.
19- Structure the governance of cross-border urban and rural regions. Establish urban hubs and cross-border conurbations so that better authorities can better organize themselves on French territory by drawing upon the cross-border area as a whole.

* This article includes extracts from the report available on the website www.datar.gouv.fr. The three proposals in boldface were presented at the press conference as "strong proposals". The issues of this parliamentary mission were discussed and put into perspective with other experiences in Europe at the MOT conference on 2 June this year. Further information at www.spaces-transfrontaliers.eu

Press review

- Compare public services with those of Kent in order to improve them, La Voix du Nord, 12 June - "The department council and its equivalent in Kent, in southern England, have decided to improve their public services by sharing their practices".
- Basle-Mulhouse: French-Swiss discussions on jobs and applicable law, AFP, 22 June - "The French secretary of state for European Affairs, Pierre Lellouche, affirmed on Tuesday that discussions were under way with Switzerland on 'job preservation' and 'clarification of the law' at the EuroAirport (EAP), the French-Swiss airport zone of Basle-Mulhouse".
- The future cross-border parliament, La Tribune de Genève, 8 June - "The first cross-border convention was held on Friday with the ambition of becoming the future cross-border parliament. A necessary and ambitious objective".
- Rhône-Alpes elected representatives want an urban centre with Geneva, Les Echos, 15 June - "Subject to its adoption by the Senate, the amendment to the territorial authorities reform bill provides for a derogation in the establishment of an urban centre when one of the EGCIs (public inter-municipality cooperation establishments) is on the border and encompasses more than 50,000 inhabitants, instead of 150,000".
- A geopark between Piedmont, Savoie and the Briançon district, Dauphiné libéré, 18 June - "Europe will fund a major cross-border programme which is going to enable the Communities of municipalities of Pays Briançonnais, the upper Susa valleys and the Vaud valleys, and the Pays de Maurienne and Haute Maurienne to receive more than €2.7m".
- Bayonne hospital and Osakidetza: signature of an agreement, Le Journal du Pays Basque, 29 May - "The agreement was signed at Bayonne hospital and covers reciprocal medical collaboration between the two parts of the Basque Country. […] It concerns every citizen, potential victim of an accident or illness on the other side of its territory".

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