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In 2006, following the rulings of the European Court of Justice, the Commission wanted to legislate on access to healthcare abroad, but the Council and the European Parliament demanded that health be removed from the "services" sector.

Subsequently, the Commission decided to introduce a draft directive to codify the European jurisprudence concerning access to scheduled care. Following a first draft which had difficulty passing the stage of the "College of Commissioners", the draft directive was submitted in July 2008 and was the subject of a large number of proposed amendments in Parliament. The Commission then reviewed the text, but few changes were made during the Czech presidency. The Swedish presidency proposed a compromise, which was rejected. However, the Spanish presidency revised it, and on 8 June the text was adopted by the Council on first reading.

It is now returning to Parliament. Will Parliament appreciate the proposed compromise? This does not seem likely, as the initial ambitions of the Commission have been substantially reduced and the result is somewhat meagre.

The compromise draft confirms the pre-eminence of the social security system coordination regulations and legislates on the reimbursement of outpatient care delivered without prior medical authorization on the basis of the rates of the country of affiliation. It does not incorporate any progress with regard to hospital care. It establishes an information network on health systems and proposes a European prescription for drugs. So to some extent "the mountain gave birth to a mouse!"

Despite this rather slow progress, cross-border health cooperation continues to be organized at regional level. For example, in the French-Belgian space, substantial advances have been recorded. Six "organized cross-border healthcare access areas" bringing together a total of some forty healthcare establishments provide near-complete coverage of the border territory. Patients on both sides have access to cross-border healthcare provision without administrative or financial obstacles. French and Belgian emergency medical assistance is now coordinated to shorten response times. An upgraded website will soon be able to provide patients and healthcare providers with detailed information about all French-Belgian cross-border healthcare provision and about the administrative and financial arrangements in effect in the establishments concerned by cross-border agreements.

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



Construction of the Cerdagne cross-border hospital in Puigcerda

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 Tournai, 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 delocalizations 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 European 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 border territories 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.espaces-transfrontaliers.eu



MOT contribution to the consultation on the EGTC

The Committee of the Regions has launched a European consultation* on the revision of the EGTC regulation. The results will contribute to the revision of this regulation, scheduled for early 2011, and will be presented at a workshop on 6 October during the Open Days. Some points raised by the MOT in its contribution** are outlined below. The MOT has invited all of its network, in particular the EGTCs, to communicate their comments.

■ The regulation does not determine to what extent the convention and the statutes can derogate from the law of the place where the registered office of the EGTC is located. Also, with regard to the law governing the personnel (recruitment, contract, taxation, career, social security), the regulation should allow opting for application of the law of the place where personnel work (instead of the law of the place of the registered office).

■ It is necessary to work on better coordination between the states, as the guideline approval time of three months is rarely complied with, in the absence of a mechanism of coordination between them. A Community procedure should be introduced defining the procedures for information exchange between the authorities responsible for examining EGTC establishment requests.

■ The MOT proposes to open participation in an EGTC to partners from countries that are not EU members, for instance when there is territorial continuity between the members. The regulation could stipulate that inter-state agreements can be the legal basis for such participation.

■ It would be useful to draft convention and statute templates for the legal notices to facilitate the procedure of examination by the authorities.

* <http://portal.cor.europa.eu/egtc>

** Now available for browsing in the members' space of the MOT website: www.espaces-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' on 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 EPCIs (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".