



# The Newsletter of European Medical Specialists

27 June 2005

UEMS News 2005 / 09 en

## European Parliament - June plenary session

### Summary:

- MEP John Bowis Report on patient mobility and healthcare
- New ECJ ruling provides for patient mobility outside the EU
- State of play one year after EU Enlargement
- New FP7 proposed approach to ethical issues

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### A single market for healthcare?

*On the occasion of its June plenary session, the European Parliament adopted the Report drafted by Mr. John Bowis on patient mobility and healthcare developments in the EU (554 for, 12 against, 18 abstentions).*

Although healthcare cannot be seen as just another commodity, MEPs believed the single market should bring benefits to EU citizens who want to undergo medical care in another Member State.

Rulings of the European Court of Justice provided rights for patients to be reimbursed of their treatment's costs when moving within and even outside the EU under certain conditions (See also page 2). Afterwards, the European Commission took over the ECJ conclusions and drafted a consultation paper in view of launching a European strategy on this issue.

MEPs would even like to go further and called the EU "to develop urgently a coherent policy on patient mobility". They wanted the Commission to draw up "a firm and timetabled proposal for action" us-

ing the open method of coordination. They believed that this matter "needs a separate Commission proposal and should not be included in the general Services Directive".

The report also called for Member States to adopt rules on prescribing drugs, carrying out prescription orders and refunding the cost of medicines bought in another Member State. It says the Commission should "consider, while respecting national rules, harmonisation of the procedures with regard to reimbursement of costs". Lastly, the payment mechanisms for health care should even be "uniform and impartial so as to avoid inequalities and the creation of disadvantages to certain patients".

***The UEMS Executive positively welcomed the adoption of this Report as it believes the statements of the UEMS Motion on healthcare in the Services Directive (D-0513) are fully met. The Executive will keep you informed of the future developments regarding this issue.***

# European Court of Justice

## Increased geography of healthcare

***We already knew that EU Member States health authorities have the obligation to cover the cross-border treatment costs of their residents. This obligation has now been extended to patients being referred for treatment outside the EU by another Member State.***

A recent ECJ ruling in the case of Annette Keller's heirs vs. the Spanish National Institute of Public Health Care (INSS) confirmed this (C-145/03).

Ms. Keller, a German citizen but Spanish resident, was affiliated to the Spanish social security. During a visit to Germany, she was diagnosed with a malignant tumour of the nose, nasal cavity and base of the skull. According to German doctors' diagnosis, Ms. Keller's condition had to be treated immediately as it could result to her death at any time.

Ms. Keller had already applied for the E111 form before leaving for Germany. In order to continue her treatment there, she applied to INSS for E112. This was granted as a transfer back to Spain was not advisable seeing Ms. Keller's condition.

After further examinations, it appeared that Ms. Keller would only be able to receive optimum treatment at the Zurich University Clinic, Switzerland. According to a German ORL specialist's report during the Spanish legal proceedings, this establishment was the only place in Europe where Ms. Keller's condition could be treated with "recognised scientific efficacy".

After successful treatment, Ms. Keller claimed for reimbursement in Spain for the total cost of treatment. The Spanish authority rejected her claim as it considered that national law did not allow for treatment in non-EU Member States unless prior authorisation had

been obtained and because "although the illness was serious, it did not have the character of a life-threatening emergency which justifies going outside the national and/or Community public health scheme in order to be treated in a private setting outside the Community, without allowing the Spanish management authority to examine and propose the corresponding care option appropriate to the condition from which the patient was suffering".

In the framework of legal proceedings in the Social Court of Madrid, two prejudicial questions were referred to the ECJ. First, was the Spanish social security authority bound on the diagnosis and decision to move Ms. Keller to Switzerland? Second, should the Spanish health authority assume the medical costs for a treatment provided in non-EU Member States?

The ECJ considered it was up to professional doctors to decide the best course of treatment. Once social security authorities agreed to issue E111 or E112 forms, they have to respect the opinion of the doctors of the EU Member State of the insured person's stay. According to the ECJ, as long as these doctors act within the scope of their office, social security authorities must accept and recognise the findings and choices of treatment they make. Then, if that decision implies referring the patient to a non-EU country – provided this country is able to provide optimum care, the health authorities of the Member State of affiliation must reimburse the medical costs incurred without question.

***This case-law now confers a new option for EU citizens suffering from serious conditions to receive the best possible treatment in the world and later claim to be reimbursed by their social security.***

*The European Court of Justice rules that EU Member States' Health Authorities would have to pay for treatment provided outside the EU under certain conditions.*



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## EU Enlargement one year on

***For the first anniversary of the May 2004 Enlargement, the European Commission issued a report summarising the state of play compared to the original provisions. Whereas pessimists warned for economic and political disaster, one year on, the trends are positive.***

For the ten new Member States, the gains are clear in economic terms. EU structural and cohesion funds contributed to boost investment in outdated infrastructure. It appeared that the new Members were net beneficiaries of the EU budget with an

overall balance of € 2.8 billion. This investment was allocated to enterprise promotion, environmental protection, tourism and democracy building but also research, training and innovation.

The boost effect of enlargement was also obvious in other ways, i.e. an increased mobility of EU citizens and mostly students. Also, predictions of "second class citizenship" from many observers have not proved true

The entrance of ten new Member States was beneficial for old Member States as well. Whereas accession has boosted trade, more importantly none of the gloomy forecasts of a year ago have been realised. The fears that the enlargement to ten new countries and the freedom granted

to their citizens to move and work across Europe would lead to a great exodus and disaster have not been realised. None of the disaster scenarios have happened.

*"The distinction between new and old Member States no longer makes sense"*

*José Manuel BARROSO*

*President of the European Commission*

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[WWW.UEMS.NET](http://WWW.UEMS.NET)

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## Future meetings

### UEMS Council

Munich, 20-21 Oct. 2005

Brussels, 11 March 2006

### EACCME Adv. Council

Brussels, 26 Nov. 2005

## Ethical framework for European research

***On 6 April last, the European Commission issue its proposals for the Seventh Framework Programme (FP7) together with its proposed approach to ethical issues. This was notably the opportunity to clarify the situation with respect to embryonic stem cell research.***

In all cases, the EU would strictly forbid funding for research involving human reproductive cloning, the creation of embryos for research (therapeutic cloning) or research that would alter

the human genetic heritage. Moreover, the EU would not fund a project carried out in a particular Member State whereas research practices involved are forbidden

in that country. The Commission also refuses to fund projects involving the derivation of embryos directly.

For further information:

<http://europa.eu.int/rapid/pressReleaseAction.do?reference=MEMO/05/121&format=HTML&aged=0&language=EN&guiLanguage=en>

**The voice of practising medical specialists in Europe**