UEMS Guide
to the Proposal for a
Directive on Services in the Internal Market
COM(2004)2

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1. INTRODUCTION

1.1. OBJECTIVES AND SCOPE

The objective of the Draft Directive ("DD") is “to achieve a genuine Internal Market in services by removing legal and administrative barriers to the development of service activities between Member States ["MS"]). Those barriers may occur either when service providers from one MS wish to establish themselves in another MS or when service providers wish to provide a service from their MS of origin into another MS. The DD “would guarantee service providers more legal certainty if they want to exercise two fundamental freedoms (freedom of establishment and freedom to provide services) enshrined in the EC Treaty.” (Reference: www.europa.eu.int)

**Freedom of establishment vs. free movement of services**

According to the definition mentioned in Article 4-(5), establishment in another MS means the creation of any fixed infrastructure (such as medical practice, laboratory, hospital, etc.) through which the activity is actually pursued. In this case, the service provider is subject to all the rules and regulations of that MS.

Conversely, free movement of services includes cases where:

- a service provider established in a MS, moves temporarily into another MS without having any fixed and permanent infrastructure there for the provision of his service;
- a temporary infrastructure is created for the duration of a particular service.

Whether service provision is temporary has to be determined on the basis of the duration of the service, its regularity, periodicity and continuity in conformity with case law of the ECJ.

**DD on services vs. DD on mutual recognition**

In this framework, it is important to understand the way the DD on services and the one on mutual recognition interlock. According to the European Commission (“Com”), these should be seen as complementary to one another. Both aim to facilitate the free movement of professionals across the EU, though on a different scale. (See below)
1.2. SERVICES COVERED

The DD covers a wide range of services: from business services to consumer services in which health care services ("HCS") are included.

It also covers several types of service provision:

- where the provider establishes in another MS;
- where the provider moves temporarily to the country where the customer is located;
- where the provider provides services in his home MS to a customer who has travelled from another MS.

The DD does not cover services of a non-economic nature (i.e. provided by the State in fulfilment of its public mission without any economic consideration). It only deals with services corresponding to an economic activity, so-called services of general economic interest which, pursuant to the case law of the European Court of Justice ("ECJ"), are services within the meaning of the Internal Market principles provided in the EU Treaty.

Also, according to the Com, the DD would not affect the freedom of MS to define what they consider to be services of general economic interest and how they should be organised or financed.

“The proposal does not require MS to privatise those activities that are considered services of general economic interest, nor to open them up to competition. Nor does the proposal require the abolition of monopolies. It is also important to note that subsidies and financial grants aimed at maintaining the quality and affordability of certain services, in particular HCS (…), are dealt with under the EU state aids rules, which are outside the scope of application of the proposed Directive. Accordingly, the proposed Directive is without prejudice to any Community initiative concerning the application of state aid rules to certain services.

“It is also important to note that for those services of general economic interest which are covered by the proposed Services Directive, the proposal does not prejudice the work on or the outcome of specific Community initiatives, in particular the follow-up to the White Paper and resulting new initiatives relating to services of general interest.” (Ref: www.europa.eu.int)

The question here is: are HCS of an economic nature? Should they be considered in the same way as business services? These questions overlap the issue of defining HCS (which are not considered in the same way throughout the EU) and are linked to the notion of accessibility and quality of HCS (see below).

Article 4-(1) provides for the definition of “services”: “any self-employed economic activity, as referred to in Article 50 of the Treaty, consisting in the provision of a service for consideration”. This idea of services is quite wide and covers undeniably HCS even if all medical doctors are not necessarily self-employed.
During the public hearing held on 11th November by the European Parliament’s Committee on Internal Market and Consumer Protection (see D-0441), it was recalled that HCS should not be considered as of a commercial nature and that their organisation at national level was complex and precarious to some extent. Can HCS be reduced to a strictly mercantilist relation between a “customer” and a “provider” without any consideration of social security systems?

If HCS are to be included in the scope of the DD, it is important to ensure a genuine assessment of the possible outcome regarding HCS of an implemented Directive on Services.

On 11th November, Dr. Margot Froehlinger, Head of Unit in DG Markt, who was responsible for drafting the proposed Directive said she believed the DD would have “no adverse consequences” on HCS as these could benefit from general derogations (Article 15: Requirements to be evaluated and Article 17: General derogations form the country of origin principle) and case-by-case derogations (Article 19: Case-by-case derogations from the country of origin principle). This would of course need clarifications and appropriate safeguards should be guaranteed.

It is also confusing that no clear distinction were made between services, as defined in the DD, and services of general interest, as defined in the “White Paper on services of general interest”. Where should HCS be included?

2. BACKGROUND

This DD is part of the “Lisbon Strategy” set up by the European Council of March 2000 and aiming to make Europe the most competitive and dynamic knowledge-based economy in the world, able to develop a sustainable economic growth along with a quantitative and qualitative improvement of employment and a better social cohesion. In this framework, it was decided to devise a strategy aimed at eliminating the obstacles to the free movement of services.

In December 2000, the Com presented its response to the call of the Lisbon Summit in its communication entitled “An Internal Market Strategy for Services”, which was strongly supported by the MS, the European Parliament (“EP”), the Economic and Social Committee (“Ecosoc”) and the Committee of Regions (“COR”). Its aim was to enable services to move across national borders as easily as within a single MS.

In July 2002, the Com set out a report on “The State of the Internal Market for Services” which provided as exhaustive a list as possible of barriers existing in the internal market for services and made an initial evaluation of their economic impact.

In November 2002, on the basis of the Com’s report, the Council (“CL”) concluded that work still needed to be done and emphasised the high political priority to be given to the removal of legislative and non-legislative barriers to services in the internal market. The CL also urged the Com to accelerate work.
In February 2003, the EP welcomed the Com’s report and emphasised the CL’s “commitment to the country of origin and mutual recognition principles as the essential basis for completing the internal market in goods and services” and “the free movement of services in the form of mutual recognition, administrative cooperation and harmonisation (where strictly necessary)”.

In March 2003, the Spring European CL specified the establishment of a clear legal framework to facilitate the free movement of services in the internal market as one of the elements necessary for the success of the competitiveness strategy.

In May 2003, the Com announced its future proposal for a Directive on services. In October 2003, the European CL called the Com on to present its proposals.

In the light of this, it is obvious that this Draft Directive does not come “out of the blue”. It seems therefore useless and utopian to request a complete withdraw and redraft of the text. However it is certainly not senseless to require amendments and clarifications.

3. APPROACH

3.1. A FRAMEWORK DIRECTIVE

The DD aims to establish a general legal framework. This horizontal approach is justified by the fact that the legal obstacles to the free movement of services are often common to a large number of different activities. The DD does not aim to lay down detailed rules or to harmonise all the rules in the MS applicable to service activities.

Such a horizontal approach furthermore avoids inconsistencies between separate regulatory initiatives and is also less likely than a sectoral approach to give rise to unnecessarily detailed and prescriptive rules.

The DD although recognises the specific characteristics of each profession or field of activity. For example, in Article 17, the proposal provides for a number of derogations to the country of origin principle (“COP”).

3.2. EXPECTED BENEFITS

The DD is expected to give consumers more choice by removing the obstacles they face when attempting to use cross-border services and by strengthening their rights as users of services (see below).
4. CONTENT

4.1. MAIN FEATURES OF THE DD

4.1.1. FREEDOM OF ESTABLISHMENT

4.1.1.1. Simplification of administrative procedures (Articles 5 to 8)

This includes the obligation of MS on offering easy access to information on all relevant legal and administrative requirements for setting up new service activities and completion of formalities and procedures through single points of contact. Also, administrative procedures should also be made available on-line by 2008.

4.1.1.2. Modernisation of authorisation and licensing regimes (Articles 9 to 13)

Authorisation and licensing schemes should be replaced by simpler measures (notifications) which should respect principles such as non-discrimination, objectivity and transparency.

4.1.1.3. Requirements prohibited or subject to evaluation (Articles 14 and 15)

4.1.1.3.1. Prohibited requirements

These requirements notably include discrimination on the basis of the nationality or place of residence. They were already found to be unacceptable by the ECJ.

4.1.1.3.2. Evaluation of a further set of listed requirements

The DD foresees a process of evaluation by MS and the Com and consultations with stakeholders with a view to examining, according to criteria developed by the ECJ, in which areas such restrictions are justified and where they should be removed.

"Article 15 – Requirements to be evaluated"

1. MS shall examine whether, under their legal system, any of the requirements listed in paragraph 2 are imposed and shall ensure that any such requirements are compatible with the conditions laid down in paragraph 3. MS shall adapt their laws, regulations or administrative provisions so as to make them compatible with those conditions.

2. MS shall examine whether their legal system makes access to a service activity or the exercise of it subject to compliance to any of the following non-discriminatory requirements:

(a) quantitative or territorial restrictions, in particular in the form of limits fixed according to population, or of a minimum geographical distance between service-providers;

(b) an obligation on a provider to take a specific legal form (…);

(d) requirements, other than those concerning professional qualifications or provided for in other Community instruments, which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity;

(g) fixed minimum and/or maximum tariffs with which the provider must comply;
3. MS shall verify that requirements referred to in paragraph 2 satisfy the following conditions:
   (a) non-discrimination (…);
   (b) necessity (…);
   (c) proportionality(…).  (…)" (Reference: COM(2004)2)

4.1.2. FREE MOVEMENT OF SERVICES

4.1.2.1. Country of origin principle (Articles 16 to 19)

4.1.2.1.1. Definition

For services provided without an establishment in another MS, the DD applies the COP, albeit
with a number of derogations. This means that MS may not restrict incoming cross-border
services from a provider established in another MS by applying its own administrative and legal
regime in addition to the requirements the service provider is already subject to in his MS of
establishment. Service providers should in principle be able to provide their service into another
MS on the basis of compliance with administrative and legal requirements in the country where
they are established. They would not be made subject to additional requirements such as
authorisations or declarations each time they cross a border.

"Article 4 – Definitions

(5) “establishment” means the actual pursuit of an economic activity, as referred to in Article
43 of the Treaty, through a fixed establishment of the provider for an indefinite period.”
(Reference: COM(2004)2)

4.1.2.1.2. Derogations

However, the COP is subject to a number of important derogations. Some derogations are
necessary in order to take into account a different approach in certain existing Community
instruments according to which the service provider is subject to the law of the country of
destination of the service. Other derogations cover services of particular sensitivity and where
the current divergence of MS’ legislation does not allow the application of the COP.

"Article 17 – General derogations from the country of origin principle

Article 16 (Country of origin principle) shall not apply to the following:
(5) matters covered by Directive 96/71/EC (Posting of workers);
(8) the provisions of Article (…) of Directive ../../EC on the recognition of professional
qualifications;
(16) services which, in the MS to which the provider moves temporarily in order to provide his
service, are covered by a total prohibition which is justified by reasons relating to public
policy, public security or public health;
(17) specific requirements of the MS to which the provider moves, that are directly linked to the
particular characteristics of the place where the service is provided and with which
compliance is indispensable for reasons of public policy or public security or for the
protection of public health or the environment:
Derogations can also be applied in individual cases against individual service providers creating a particular risk. In this framework, MS would be entitled to take measures which would be subject to a Community procedure.

"Article 19 – Case-by-case derogations from the country of origin principle"

1. By way of derogation from Article 16 (Country of origin principle), and in exceptional circumstances only, a MS may, in respect of a provider established in another MS, take measures to any of the following:
   (a) the safety of services, including aspects related to public health;
   (b) the exercise of a health profession;
   (c) the protection of public policy (...).

2. The measures provided for in paragraph 1 may be taken only if the mutual assistance procedure laid down in Article 37 is complied with and all the following conditions are fulfilled:
   (a) the national provisions in accordance with which the measure is taken have not been subject to Community harmonisation in the fields referred to in paragraph 1;
   (b) the measures provide for a higher level of protection of the recipient than would be the case in a measure taken by the MS of origin in accordance with its national provisions;
   (c) the MS of origin has not taken any measures or has taken measures which are insufficient as compared with those referred in Article 37-(2).
   (d) the measures are proportionate.

3. Paragraphs 1 and 2 shall be without prejudice to provisions, laid down in Community instruments, which guarantee the freedom to provide services or which allow derogations therefrom." (Reference: COM(2004)2)

It is important to note that the COP applies only in the case of cross-border provision of services without establishment in the MS of destination of the service. For services provided via an establishment in another MS, the COP does not apply and they have to comply with all the relevant rules and regulations in that MS.

However, it is of the highest importance to ensure that the derogations provided are reliable enough in order to guarantee the necessary safeguards with regard to quality of and accessibility to HC and patient safety. For instance, the notion of “exceptional circumstances” mentioned in Article 19-1 should be clarified.
4.1.2.2. Rights of recipients of services (Articles 20 to 23)

These articles notably include the right of non-discrimination and the right of patients for reimbursement of costs of HC obtained in another MS (Article 23). This latter is in line with well-established case law of the ECJ and was integrated in the DD as many MS still fail to comply with the aforementioned case law. According to the Com, this would also provide greater legal certainty both for patients and MS’ social security systems.

4.1.2.3. Specific provisions on the posting of workers (Articles 24 and 25)

This would be achieved through the removal of certain disproportionate administrative requirements. However, the DD seeks at the same time to strengthen the protection of workers through mandatory administrative cooperation aiming to ensure a better application of the Posting of Workers Directive. (See below)

The posting of third country nationals would also be facilitated in administrative terms.

4.1.3. Quality of services

4.1.3.1. Harmonisation of certain requirements (Article 26 to 30)

This harmonisation aims to enhance consumer protection. It notably includes:

- obligation to provide better information to consumers;
- obligation to subscribe to genuine professional insurance (for service providers providing services creating particular risk for the health, safety and financial security of consumers);
- replacement of bans on commercial communications under certain conditions for regulated professions;
- rules guaranteeing, for multidisciplinary practices, the independence and impartiality of practitioners.

4.1.3.2. Encouragement of voluntary quality-enhancing measures (Articles 31 and 39)

The DD encourages the development of measures aimed at improving the quality of services. In this framework, it recognises the role of deontological rules of the regulated professions, which could be developed at European level by relevant professional bodies.

4.1.4. Administrative cooperation (Articles 34 to 38)

This aims to enhance trust and confidence between MS. This cooperation will improve efficiency of supervision in case of cross-border activities and ensure the protection of the public interest and citizens and at the same time avoid duplication of controls on service providers.
4.5. **LINKS WITH EXISTING EU LEGISLATION**

4.5.1. **PRIMARY AND SECONDARY LAW**

The DD is in line with the provisions of the Treaty as it guarantees the full application of the freedom of establishment and the free movement of services. The Com considers this DD as complementary to the current EU legislation in vigour.

Where a service activity is already covered by existing or future legal instruments, the DD will apply in addition to their specific provisions. In cases of incompatibility, the DD provides for derogations or appropriate clauses describing the relationship between the DD on services and other relevant instruments in order to ensure consistency and legal certainty.

4.5.2. **DD ON THE MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS**

The DD on services would not affect the one on the mutual recognition of professional qualifications and is supposed to complement this one, given that it deals with other questions.

In the case of a service provider establishing himself in another MS, his qualifications would be recognised under the provisions of the DD on mutual recognition. The DD on services would not affect this as it would deal with other questions.

In the same way, in the case of temporary cross-border service provision, none of the measures applicable in the MS of destination under the DD on mutual recognition will be affected by the COP provided by the DD on services (Article 17-(8) (General derogations from the country of origin principle)). However, if the MS of destination imposes further requirements not linked to qualifications, the free movement of services provisions of the DD on services would apply.

Where a professional practitioner temporarily provides his service, MS may require prior declarations and pro forma registration with professional bodies in its territory. With regard to health professions, MS will also be entitled to check the professional qualifications just as they would on their own health professionals.

4.5.3. **DIRECTIVE ON THE POSTING OF WORKERS**

4.5.3.1. **DD on services vs. Directive on posted workers**

Temporary and cross-border provision of services often means that the provider has to move his employees to the MS where the service is provided. DG Markt’s report on the “State of the Internal Market” identified administrative and legal obstacles which hamper and render costly and complicated such posting of workers. As these requirements are not effective in preventing illegal labour, the DD on services therefore seeks to reduce administrative burdens while at the same time strengthening control through reinforced cooperation between MS.
4.5.3.2. Added value of the DD

According to the Com, the proposal aims to reinforce the application of the Posting of Workers Directive according to which minimum working conditions of the country where a worker is posted have to be respected. In comparison with the Posting of Workers Directive, there are three new elements:

- “Firstly, the DD on services imposes a clear legal obligation on the host Member State to ensure not only that its working conditions (including minimum wages) are applied to all workers posted to its territory, but also to carry out effective supervision (including checks and controls on the spot if necessary).

- “Secondly, the DD would oblige the Member State of establishment of the service provider to assist the authorities of the host Member State in the supervision of the service provider when it operates temporarily in the host Member State. These obligations to cooperate between Member States would make supervision more efficient and ensure that violations of the host Member State’s laws can be dealt with more effectively.

- “Thirdly, the DD abolishes a limited number of administrative requirements which are especially burdensome and disproportionate.” (Reference: www.europa.eu.int)

4.5.3.3. Risk of “social dumping”

The Posting of Workers Directive prevents social dumping and continues to apply in full. It provides that posted workers, including temporary workers, are subject to the working conditions of the MS where the worker is posted. These working conditions notably cover minimum wages, working time and minimum rest periods, health, hygiene and safety standards and other provisions on non-discrimination. All these matters covered by the Posting of Workers Directive are excluded from the country of origin principle.

This means that a company cannot pay wages to posted workers lower than the minimum wages in the host MS. It also means that service providers from another MS must abide by the health and safety rules in the host country. This concerns not only minimum working conditions laid down by law but also those laid down by collective agreements. Therefore, the Com considers that the DD on services “does not increase the risk of social dumping”. (Reference: www.europa.eu.int)

Finally, service providers cannot use this D to establish letter-box firms in MS with lower wages and social security contributions and provide services from there into other MS. The DD will allow more effective control of the real place of establishment of companies. According to it, the place of establishment will not be determined on the basis of formal criteria, such as the location of the registered office, but on the basis of where a company has its infrastructure from which it in reality pursues its economic activity (Article 4-(5), see above).
5. HEALTH CARE SERVICES

5.1. INCLUSION OF HCS IN THE DD

The DD seeks to remove unjustifiable and in particular discriminatory restrictions on the freedom of establishment and the freedom to provide services for a variety of activities including HCS. According to the Com, it does not aim to harmonise MS’ regulation or modes of delivery of health or social services. Nor does it call into question the competence of MS to decide how these services should be organised or financed.

The DD would provide for:

- the clarification of the right of patients to receive, under certain conditions and within certain limits, reimbursement of costs for non-hospital care received in another MS without having obtained a prior authorisation from their national social security system;
- information and transparency obligations for HCS providers;
- provisions on administrative cooperation concerning the supervision of HCS providers in case of cross-border activities.

This would increase information for patients and enhance their protection throughout Europe, in particular where they travel to the country of establishment of the provider.

5.2. FREEDOM OF ESTABLISHMENT

HCS are considered as services under the EU Treaty. Therefore, the Com consider that they should, like other services, benefit from an Internal Market framework. The DD’s provisions aiming to facilitate the freedom of establishment therefore also apply to HCS.

However,

“It is important to keep in mind that the proposal does not require the liberalisation or privatisation of services which are currently provided at national, regional or local level by the public sector or public entities and that it facilitates the freedom of establishment only in those areas where private operators are permitted. For example, the proposal would not require Member States to allow private hospitals to operate where they are not allowed now. Where private hospitals are permitted, the relevant authorisation schemes would have to respect the disciplines set out in the proposed Directive e.g. they would have to be non-discriminatory, objective and transparent.”

(Reference: www.europa.eu.int)
The DD does not in any way interfere with the way MS organise and finance their health and social systems. It is for MS to decide to what extent and under what conditions private operators such as private hospitals receive funding from the public budget or the social security system.

The DD submits certain national requirements affecting establishment of private operators, including in the health sector, to the mutual evaluation process. This evaluation concerns certain requirements, such as quantitative restrictions. It requires MS to assess their own rules and regulations in order to examine whether they discriminate against operators from other MS or go further than necessary to protect, for example, consumers or public health. However, it seems obvious to the Com that in the area of health and social services these types of requirements are justified as long as they are objective and transparent and do not discriminate against operators from other MS. (“It is important to note that this evaluation process only serves to detect restrictions on the establishment of new operators which are clearly discriminatory or disproportionate in the light of the case law of the European Court of Justice. It does not aim to evaluate the functioning of services of general economic interest such as health and social services or assess whether these services should be opened up to competition” (Reference: www.europa.eu.int)).

5.3. COP VS. PUBLIC HEALTH

Firstly, the scope of the application of the country of origin principle in the health sector should be in practice very limited. The provision of these services normally requires a fixed infrastructure, such as a hospital, a home for the elderly, or a doctor’s practice, which would be considered as an establishment within the meaning of the DD (Article 4-(5)). As a result, in all these cases HCS will be entirely subject to the law of the country where they are provided.

Where there is a cross-border supply of services, the Com thinks the DD would not result in weakening but rather in strengthening the protection of public health because of the combination of the COP with derogations, harmonisation and administrative cooperation.

“The proposed Directive would provide for a derogation from the country of origin principle for all questions relating to professional qualifications which are covered by the proposal for a Directive on the recognition of professional qualifications. According to this proposal, host Member States will be entitled to check professional qualifications (to the extent that they are not already harmonised at EU level) just as they would in respect of their own health professionals.

“Furthermore, the proposed Services Directive contains a number of other derogations from the country of origin principle which allow Member States to restrict incoming services from other Member States for reasons relating to public health. Member States can for instance prohibit certain treatments and services, or require service providers from other Member States to comply with health and safety standards linked to the characteristics of the place where the service is provided. At the same time, the Directive improves the protection of recipients of services including patients by imposing harmonised information and transparency requirements on service providers, obliging certain professions causing a particular risk for the health and safety of
consumers to take out appropriate indemnity insurance and by obliging Member States to provide recipients, including patients, with information and assistance.

“Finally, the proposal provides for administrative co-operation between Member States, including information exchange, through a legally binding obligation of mutual assistance which will strengthen supervision of service providers and improve prevention of risks to recipients of health services.” (Reference: www.europa.eu.int)

5.4. REIMBURSEMENT OF MEDICAL CARE

The DD does not create new rights for patients but clarifies the conditions under which patients can exercise those rights which have been recognised by case law of the ECJ. In that respect, the DD is complementary to Community Regulation 1408/71 on the coordination of social security systems, which already deals with many aspects of reimbursement for medical treatment obtained in another MS.

According to the case law of the European Court of Justice, the freedom to provide and receive services includes the right of patients to receive non-hospital care such as dental care, specialist advice or ambulant medical treatment in another MS and to obtain, within certain limits, reimbursement from their own health system without having to obtain prior authorisation for the reimbursement. By contrast, with respect to hospital care, the Court has recognised that the need for planning in the hospital sector justifies MS having prior authorisation schemes.

The conditions under which such an authorisation has to be granted and the level of assumption of costs are governed by the Regulation 1408/71. This provides that patients who have been granted an authorisation by their national social security system can access medical treatment in another MS under the same terms and conditions as nationals of that MS and that the costs will be assumed by their own national social security system according to the tariffs and level of cover applicable in the MS where the treatment is received (even if these costs are higher than in the MS of affiliation of the patient). Furthermore, Regulation 1408/71 provides that an authorisation may not be refused if the treatment cannot be provided within a medically justifiable timeframe (for example due to a system of waiting lists).

By contrast, Article 23 of the DD deals primarily with the rights of patients in case of non-hospital care. It aims to define more precisely the distinction between hospital and non-hospital care, it requires MS to abolish prior authorisation schemes for the latter, but also makes clear that the level of costs to be reimbursed is limited to the costs which would have been assumed had the treatment been provided in the MS of affiliation of the patient even if the costs are much higher in the MS where the treatment is received, in which case the patient will have to bear the difference in cost. It also makes clear that the conditions under which certain treatments may be provided in the MS, such as for example the prior consultation of a general practitioner before consultation of a specialist, continue to apply.

By clarifying these issues, the DD is expected by the Com to improve legal certainty both for patients and for social security systems.
6. CONCLUSION

The Com considers that the only effects the DD on services would have on HCS are the clarification of case law of the ECJ and the removal of unnecessary discriminations.

One should though wonder which consequences it might have on the access to and quality of medical care.

On 20th April 2004, the Com issued a communication on patient mobility (COM(2004)301) which aims to set guidelines for the provision of HCS to nationals of other MS. Even if this document was acknowledged, many studies revealed that capacity of patients to move to another country for treatment was linked to income. Therefore it is of the highest importance to facilitate the free movement of professionals in order to guarantee a better access to HC for all citizens.

However, this should not serve as a pretext to implement measures likely to lower the quality of HCS provided. No thorough impact assessment has been realised on the possible consequences an implemented Directive on Services would have.

As a matter of fact, the removal of HCS from the scope of the DD remains hypothetical. The Com built up a strong conviction after its consultations of previous years. Therefore it might be more appropriate to lobby efficiently in the way of better and more appropriate guarantees for HCS. In this framework, the provisions ensuring better information and transparency are good steps on this way.

For this purpose, the “UEMS Declaration on Promoting Good Medical Care” (D 0349) is an appropriate tool for lobbying and ensure quality of specialist practice as requested by the DD.

Frédéric Destrebecq
Assistant to the Secretary General