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## **Cross-border health care** **Political agreement seems within reach**

By Marianne Slegers | Friday 30 October 2009

The Council is making progress in its negotiations on the draft directive on cross-border health care and a political agreement now seems within reach. However, much still depends on the outcome of next week's meeting of the Committee of Permanent Representatives (Coreper). During its latest meetings, on 23 and 26 October, the Council's working group discussed a second compromise proposal tabled by the Swedish EU Presidency. In the Presidency's view, the only major outstanding issue is that of patients seeking treatment abroad from private health care providers that are not contracted or otherwise accredited in a member state. The question is whether the costs accrued should be reimbursed by the health care systems - and if yes, how?

This issue will be discussed by Coreper next week on the basis of a Presidency paper, as it appears to be too politically sensitive to be handled by the Council's working group. As things stand today, half of the member states (including France) are in favour of including private, non-contracted health care treatment within the scope of the directive, while the other half (including Spain and Italy) is more or less opposed. Stockholm is hoping to hammer out a political agreement on the draft before the Health Council in December, after which the European Parliament will likely have to start drafting its second-reading report (the rapporteur is French Conservative Françoise Grossetête). For now, Parliament's position remains different from that of the Council (see *Europolitics*3740).

The Swedish compromise proposals advanced the draft on several points. First, the member states' delegates in the working group more or less agreed on what is referred to as 'chapter four', which sets out a framework for EU-wide cooperation in the field of e-health care. However, sources say that "until everything is agreed on, nothing is agreed on," which means that the current "converging opinions" are still subject to change. Furthermore, the member states' "views" on the scope of the directive seem closer today than they were a few months ago. They have agreed that the allocation of organ donation procedure should be excluded from the scope of the directive on cross-border health care, although the organ donation procedure itself should not be excluded. Since the member states' systems of consent for organ donation differ significantly, they do not want to agree to sharing organs across borders, sources say. In the same vein, long-term care will not be covered by the directive, according to the working group's current position.

The member states also agreed on the outstanding issues concerning the linkage between the stipulations of the draft directive on cross-border health care and the way national social security systems are coordinated (in the so-called '883 regulation'). Sources say that the member states have solved the "legal problems" and "discrepancies" between the draft on cross-border health care and the '883 regulation'. This parallel piece of health legislation deals with the coordination of the national social security systems: among other things, it contains provisions on urgent health care needed abroad.

The Council and the European Commission still hold different views on the issue of prior authorisation for reimbursement of health care costs. Under the Commission's proposal, a patient would never need to get prior authorisation. According to this part of the current compromise proposal - with which the member states seem to be satisfied - while this should in principle be the case, the member states would have the right to decide differently to prevent distortions to their national health care systems.

According to the Commission's original proposal, the draft aims to "ensure safe and high-quality health care for all patients; to help patients exercise their rights to cross-border health care; and to promote cooperation between health systems". In particular, the case law of the EU Court of Justice has to be codified, in order to create legal certainty on reimbursement of costs for (private) health care received abroad. The procedure is co-decision and the dossier is at first reading.

The Presidency's compromise proposal is available at [www.europolitics.info](http://www.europolitics.info) > Search = 259706.