

# The impact of the European Court of Justice case law on national systems for cross-border health service provision

**Claus Adamsen, Ramboll Management**  
**Susie Page, Matrix Research and Consultancy**  
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# Objectives and coverage of the Briefing Note

## Objectives:

- To serve as a contribution to the own-initiative report on the Impact and Consequences of the exclusion of Health Services from the Service Directive
- To provide information on the structure of health care systems with respect to cross-border health care
- To examine to what extent ECJ rulings have caused MS to make legislative or administrative changes

## Geographical coverage:

- Data from 7 Member States: Czech Republic, France, Germany, Poland, Sweden, Spain, UK. Information on each Member State provided by local experts

# Cross-border health care – Current status

- Patients rights recognised and awareness rising
- Quantitative data on patient mobility is limited – numbers are thought to be relatively small but growing
- Unproblematic access (and reimbursement) for **unplanned** and **ambulatory care** (via EHIC system)
- Access to **planned care** (via E112 authorisation) more complex due to variations in authorisation procedures across MS
- Potential opportunities and threats posed by internal market recognised
- Perception exists that more guidance required ('legal certainty')

# What has changed?

- New legal measures on patients' rights to treatment abroad
  - New legislation (France, Germany)
  - Considered in legislation upon EU accession (Czech Republic, Poland)
  - National case law / administrative practice (Sweden, UK)
- Related measures
  - Central authority for reimbursement requests (e.g. Czech Republic)
  - Internal reforms that may reduce need to go abroad (e.g. additional resources & capacity – UK, Sweden)
  - Commissioner actively seeking treatment options abroad (UK)

# Conclusions

- Recognition that ECJ case law confers rights on patients which must be considered
- Legal standards of ECJ rulings perceived as vague; issues remain on the concrete application of terms
- Actual patient mobility still limited; lack of information appears to be a significant factor
- Balancing ECJ rulings with needs of national health care systems raises difficulties, particularly for "benefits in kind" systems
- Waiting lists become less useful as a resource management tool

# EU entitlements to cross-border health care

