



19.12.2018

NOTICE TO MEMBERS

Subject: Petition No 0501/2018 by Marcus Davidsson (Swedish) on a single EU licence for medical doctors and a single EU digital prescriptions system for pharmaceuticals

1. Summary of petition

The petitioner objects to the lack of automatic recognition of medical doctors across the EU. He claims that for this reason the prescriptions for medication that he receives from his medical doctor in Germany are not recognised and subsidised by the Swedish government and that this has cost him at least 10,000 EUR over the past 10 years.

He alleges that Article 13 of Directive 2011/24/EU on the application of patients' rights in cross-border healthcare violates the EU single market because it prevents EU citizens from seeking medical treatment in another EU country. Secondly, the petitioner objects to the lack of a single EU digital prescriptions system for pharmaceuticals and the fact that a licensed medical doctor in one Member State cannot send a digital prescription to a patient in another Member State.

2. Admissibility

Declared admissible on 16 October 2018. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 19 December 2018

The Commission's observations

As confirmed by the Court of Justice of the European Union on several occasions, while recognising their specific nature, all types of medical care fall within the scope of the Treaty on the Functioning of the European Union as part of the free movement of services. Directive 2011/24/EU requires costs incurred by an insured person who receives healthcare in another

Member State to be reimbursed, if the healthcare in question is among the statutory health benefits in the Member State of affiliation (Article 7(1)) and recital 13).

The Directive, therefore, does not violate the single market in any manner, but instead seeks to give effect to it, while recognising the freedom of each Member State to decide what type of healthcare it considers appropriate.

The Directive also obliges the Member States to recognise prescriptions issued in another Member State in compliance with their national legislation in force and under certain conditions specified in its Article 11. However, the recognition of prescriptions shall not affect the rules on reimbursement of medicinal products (Article 11(1) 2nd subparagraph).

It appears from the text of the petition that the recognition of prescriptions was not an issue here, since the medicinal products prescribed by a German doctor were, as it looks, indeed dispensed in Sweden. Instead, the petition must be understood to focus on the non-reimbursement of the cost for those medicinal products by the Swedish health system. In this respect, it must be noted that Directive 2011/24/EU does not oblige the Member State of affiliation to reimburse cost of medicinal products dispensed on its own territory. 'Cross-border healthcare' means healthcare provided or prescribed in a Member State other than the Member State of affiliation (Article 1(4) and 3(e) of the Directive) and the Directive respects the competence of the Member States to organise and deliver healthcare in their territory.

Concerning the exchange of electronic prescriptions, Member States are working together to build a eHealth Digital Service Infrastructure (a network of national digital gateways) for the safe cross-border exchange of patient health data, including ePrescriptions. The participation in this exchange (and in this Infrastructure) is voluntary. To date, Sweden is planning to start exchanging ePrescriptions with other EU Member States providing this service by 2020. Germany, on the other hand, has not yet committed to join the exchange of ePrescriptions.

Directive 2005/36/EC constitutes the European legal framework for the recognition of professional qualifications. For seven sectoral professions, including medical doctors, this legal framework sets the harmonised minimum training requirements, which allow for the automatic recognition of these qualifications. Member States are not allowed to have basic medical training in place that does not comply with these requirements, thus there is in fact an automatic recognition of basic medical training in the EU in place.

As to medical specialisations, point 5.1.3 of Annex V to the Directive contains those medical specialisations for which an automatic recognition was agreed upon by Member States based on minimum years of training. Member States are, however, not obliged to participate in this minimum harmonisation. Those Member States that do, can make use of automatic recognition of medical specialist diplomas between them. Currently, point 5.1.3. contains 54 medical specialities.

Thus, the problem of not offering reimbursement for prescribed medicinal products from doctors of other Member States is not linked to the non-recognition of their qualifications, but to the legislation in force in the State of insurance affiliation of the patient that determines which products the insured person may get access to, as described above.

Conclusion

It is not possible to intervene on behalf of the petitioner as the aspect he raises does not fall under the Directive 2011/24/EU.