

Cross-border healthcare: the ECJ “Petru” case C-268/13

from Prof. Alceste SANTUARI (alceste.santuari@unibo.it)

In a previous article published on this site (see [www.femteconline.org/commissions/Cross-Border Healthcare1.pdf](http://www.femteconline.org/commissions/Cross-Border%20Healthcare1.pdf)) I referred to conclusions of the Advocate General of the ECJ, Mr. Cruz Villalón, stated in his Opinion on 19 June 2014.

Now, with the decision taken on 9 October 2014, the ECJ has stated as follows:

1. any European worker has the right to go abroad to access health care according to his/her personal state of health;
2. he/she can accordingly benefit from the health provisions which are needed as if he/she belongs to the national health system in which he/she is treated and the expenses he/she incurred into abroad are reimbursed by his/her health system of affiliation;
3. national health authorities cannot deny prior authorisation:
 - a) when health treatments fall within those granted by the relevant national health system;
 - b) if, depending on the single worker's health conditions and their future evolution the requested treatments cannot be provided within a reasonable period of time in the Member State of affiliation;
 - c) when the same treatment or a treatment which may have the same medical effectiveness cannot be supplied within a reasonable period of time in the Member State where the worker lives;
4. the impossibility of providing the requested health services requires an all comprehensive assessment on the part of the health authorities;
5. the lack of pharmaceutical products or priority medical stuff, which then may prevent health care from being supplied within a reasonable period of time, is a sufficient reason not to deny prior authorisation and accordingly the reimbursement of the expenses incurred abroad

It is noteworthy that the ECJ decision under consideration is based on the interpretation of the EU Regulation No.1408/71 and subsequent amendments and not on the EU Directive No. 2011/24. Yet the decision is of a paramount importance because once again the Luxembourg judges stressed the principle according to which *if a worker cannot find a prompt health provision in his/her country he/she is entitled not only to go abroad but also to get the reimbursement of the costs paid to access health care abroad.*