

## Cross-border healthcare: it is a right, but ... ECJ General Attorney C-268/13

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**EU citizens have the right to access cross-border healthcare.** This is the main principle that the Advocate General of the ECJ, Mr. Cruz Villalón, stated in his Opinion on 19 June 2014. According to his reasoning, a Member State is obliged to authorise the provision of a service in another EU State when the fact that the service cannot be provided in its territory is the result of an occasional, temporary deficiency in its hospital facilities.

The Advocate General however underlines that **if the problem is structural in nature, i.e. if the authorisation would put the viability of its social security system at risk, the Member State is not obliged to authorise the provision of that service in another State.** In this respect, then the authorisation should be denied even though this could mean that certain healthcare services cannot actually be provided.

The General Advocate then stresses the fact that a national health presenting a shortage of adequate health facilities could not be capable of affording the financial burden deriving from a massive health migration of its insurers to other Member States.

This is to say, as it is incorporated in Directive 24/2011/EU concerning patients' rights to cross border healthcare, that Member States are the sole responsible for the programming and provision of health services to their citizens. Although prior authorisation amounts to a barrier to cross-border health provisions, it is nonetheless to be accepted in the name of **financial sustainability of national health systems.**