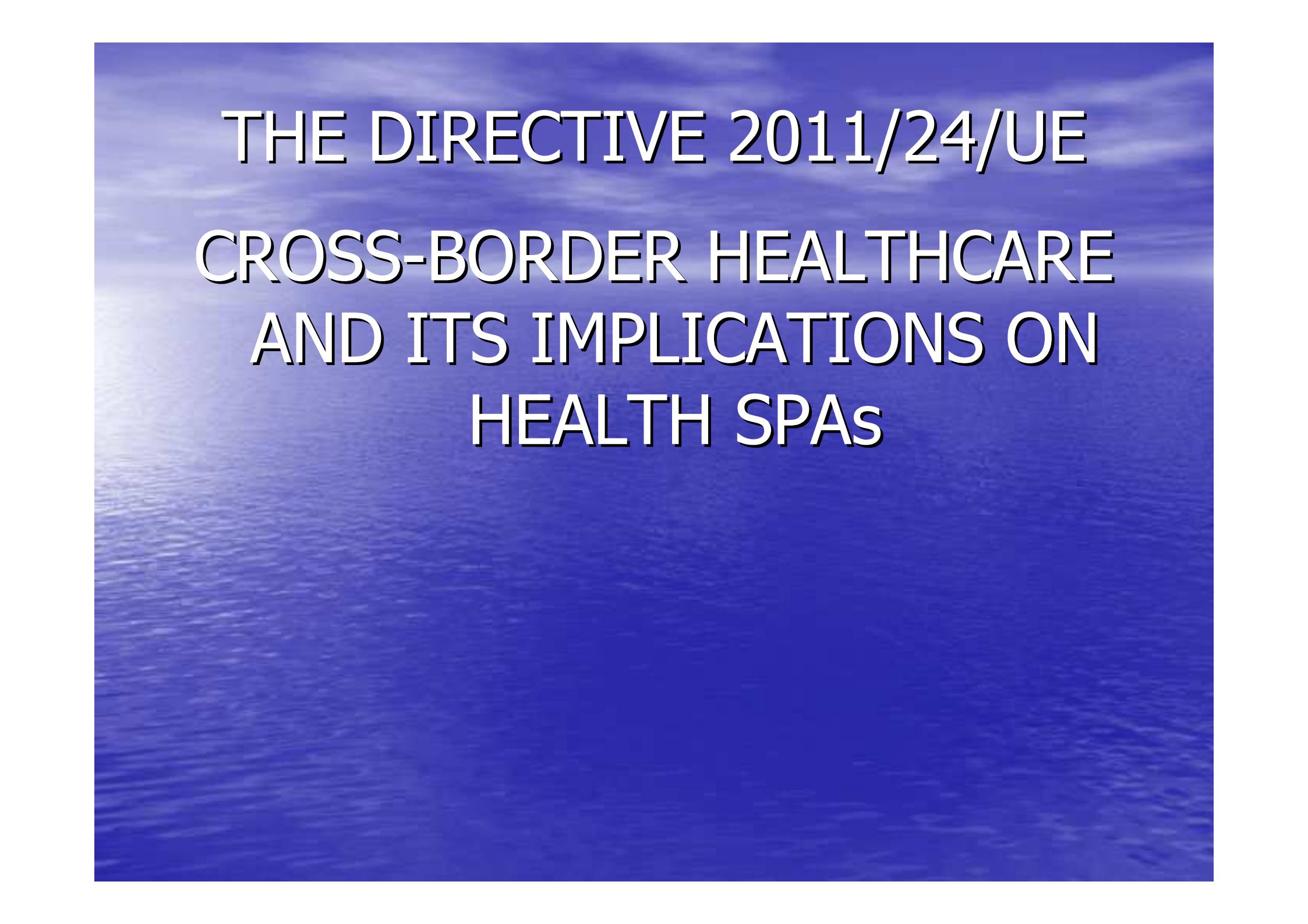


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THE DIRECTIVE 2011/24/UE
CROSS-BORDER HEALTHCARE
AND ITS IMPLICATIONS ON
HEALTH SPAs

HEALTH SPAs

ARE:

HEALTH

and

TOURISM

HEALTH TOURISM ?

- THIS EXPRESSION MAY ALSO HAVE A NEGATIVE MEANING (RIGHT ABUSE)

- FREE MOVEMENT OF PATIENTS WITHIN THE EU IS TO BE PREFERRED:

WE ARE DEALING WITH INDIVIDUAL RIGHTS THAT GO ALONG WITH THE DUTY OF THEIR COMPLIANCE AND GUARANTEE IN THE MEMBER STATES

THE EU BACKGROUND

- EVOLUTION OF THE “CURE”
CONCEPT
- INCREASING DEMAND FOR
WELL BEING
- HEALTH TOURISM: MOBILITY
OF EUROPEAN PATIENTS
OUTSIDE NATIONAL BORDERS



PUBLIC HEALTH
IN THE
EUROPEAN
UNION

1. PUBLIC HEALTH IS MEMBER STATES' RESPONSIBILITY
2. FREEDOM OF MOVEMENT
3. IMPORTANCE OF THE ECJ DECISIONS
4. NEED OF EU COORDINATION
5. THE EU DIRECTIVE ON SERVICES IN THE INTERNAL MARKET
6. THE EU DIRECTIVE RELATING TO PATIENTS' RIGHTS TO CROSS-BORDER HEALTHCARE

SECTION 152 AMSTERDAM TREATY

- FULL RIGHT TO HEALTH IS RECOGNISED AS EU ENTITLEMENTS
- THE EU IS ALLOWED TO ACT DIRECTLY IN THOSE SECTORS REGARDED AS TOP PRIORITY FOR HEALTH PROTECTION

HOWEVER....

THE EU MUST
RESPECT THE
SUBSIDIARITY
PRINCIPLE

FREEDOM OF MOVEMENT
ENFORCED BY THE EU
REGULATION No. 1408/71,
ALLOWING
ALL CITIZENS TO ACCESS
ANOTHER MEMBER STATE'S
HEALTH SYSTEM ONLY AFTER
BEING GRANTED PRIOR
AUTHORISATION

PRIOR AUTHORISATION

UP TO RECENT TIMES, IT
ACTUALLY REDUCED THE
POSSIBILITY FOR PATIENTS OF
ACCESSING CROSS-BORDER
HEALTH CARE PROVISIONS
AND SERVICES, REGARDED AS
MORE EFFECTIVE OR
ADEQUATE

THE ECJ RULINGS

- CONFIRM MEMBER STATES' RESPONSIBILITY IN THE HEALTH CARE SECTOR

- BUT ALSO PATIENTS' FREEDOM OF MOVEMENT

AN IMPORTANT PRINCIPLE:

- NATIONAL HEALTH SYSTEMS CAN PAY FOR CROSS-BORDER TREATMENTS
- TO THE EXTENT TO WHICH THEY WOULD PAY IF THAT TREATMENT HAD BEEN ACCESSED AT HOME

THE LEADING CASE “LEICHTLE”

- A GERMAN CITIZEN ASKED FOR PRIOR AUTHORISATION TO GO ISCHIA FOR A MEDICAL SPA TREATMENT
- THE AUTHORISATION WAS DENIED BECAUSE:
 - A) THE TREATMENT ABROAD WAS NOT DEEMED AS ESSENTIAL (NO DANGER OF DEATH)
 - B) THERE WERE SIMILAR CENTRES IN GERMANY

- HERR LEICHTLE APPEALED THE DECISION
- THE APPEAL WAS REJECTED BECAUSE THE COSTS INCURRED ABROAD CAN BE REIMBURSED ONLY IF THE TREATMENT PROVES TO BE MORE SUCCESSFUL
 - HE WENT ABROAD ANYWAY
 - ON HIS RETURN HE ASKED FOR REIMBURSEMENT (MEDICAL AND THERMAL EXPENSES)

THE GERMAN COURT
DECIDED TO REFER
THE CASE TO THE
EUROPEAN COURT
OF JUSTICE

THE ECJ DECISION:

1. THE DENIAL OF
AUTHORISATION IS AGAINST
THE PRINCIPLE OF NON
DISCRIMINATION:

IT DIVIDES BETWEEN THOSE
WHO ACCESS HEALTH CARE
SERVICES AT HOME AND
THOSE WHOM INTEND TO GO
ABROAD

2. NO NEED OF PRIOR
AUTHORISATION TO START A
TREATMENT

3. NO NEED OF A MEDICAL
DOCUMENT THAT STATES A
BETTER SUCCESS ABROAD

4. NEED FOR THE SPA CENTRE TO
BE REGISTERED WITH THE
NATIONAL HEALTH SYSTEM
ABROAD

DIRECTIVE 2011/24/EU
9 MARCH 2011
(GUCE 4.4.2011 L 88):
PATIENTS' RIGHTS
CONCERNING CROSS-
BORDER HEALTH CARE

LEGAL BASIS

- SECTION 114 TFUE:

THE EU IS ENTITLED TO ADOPT LEGAL MEASURES TO CO-ORDINATE THE FUNCTIONING OF INTERNAL MARKET

- THEREFORE, THE DIRECTIVE IS MAINLY AIMED AT DEVELOPING THE SERVICE MARKET WITHIN THE EU

- HOWEVER, THE PROTECTION OF PATIENTS' OWN HEALTH IS ALSO ADDRESSED

THREE MAIN GUIDELINES

1. A COMMON LEGAL BACKGROUND FOR ALL EU MEMBER STATES
2. DEVELOPMENT OF CO-OPERATION AND PARTNERSHIP AMONG THE MEMBER STATES
3. CLARIFIES THE ECJ DECISIONS SO AS TO ENFORCE PATIENTS' RIGHTS TO ACCESS CROSS-BORDER HEALTH CARE SERVICES

DIRECTIVE'S GOALS:

- TO MAKE THE MOVEMENT OF PATIENTS WITHIN THE EU MORE EFFECTIVE
- TO ENSURE A HIGH LEVEL OF HEALTH PROTECTION

HOWEVER, THE
DIRECTIVE SHOULD NOT
BE RATIFIED BY THE
SINGLE MEMBERS
STATES SO AS TO
FOSTER "HEALTH
MIGRATION"

THE KEY PRINCIPLES

- EXPENSES ARE REIMBURSED TO THE SAME EXTENT TO WHICH PATIENTS ARE ENTITLED AT HOME
- TO SET UP NETWORKS OF EXPERTISE AND SPECIALISED CENTRES AMONG THE MEMBER STATES

- REIMBURSEMENTS MAY BE LIMITED GIVEN CERTAIN REASONS OF GENERAL INTEREST
- MEMBER STATES ARE LEFT FREE TO INTRODUCE A SYSTEM OF PRIOR AUTHORISATION
- ESTABLISHING OF NATIONAL CONTACT POINTS

HOWEVER.....

**THE REIMBURSEMENT OF
HEALTH CARE EXPENSES IS
LIMITED TO THOSE
TREATMENTS WHICH THE
CITIZEN IS ENTITLED IN
HIS/HER OWN NATIONAL
HEALTH SYSTEM**

WHAT KIND OF EXPENSES?

- ONLY THE MEDICAL AND HEALTH ONES CONNECTED TO THE TREATMENTS SUPPLIED
- THE MEMBER STATES ARE FREE TO SET UP HIGHER REIMBURSEMENTS

PRIOR AUTHORISATION

- **TO BE DEEMED AS A BARRIER AGAINST THE FREEDOM OF PEOPLE TO MOVE CROSS BORDER**
- **IT IS NOT JUSTIFIED WHEN THE TREATMENT ABROAD IS LISTED IN THE NATIONAL HEALTH SYSTEM**

NATIONAL CONTACT POINTS

- TO PROVIDE CITIZENS WITH ADEQUATE INFORMATION CONCERNING CROSS-BORDER
- TO HELP EU CITIZENS TO UNDERSTAND THE DIFFERENT "OFFERS"
- TO SUPPORT PARTNERSHIPS AMONG PUBLIC INSTITUTIONS AND WITH SOCIAL ORGANISATIONS
- THEIR FUNDAMENTAL ROLE: NETWORK POINTS FOR AN AGREED UPON AND PROGRESSIVE ACCOMPLISHMENT OF THE DIRECTIVE

THE DIRECTIVE THEN....

- ADDRESSES PATIENTS' RIGHTS
- PROVIDES FOR CLEAR RULES TO ACCESS HIGH QUALITY AND SAFE HEALTH CARE SERVICES
 - ENSURES SINGLE CITIZENS' RIGHT TO MOVE CROSS BORDER TO ACCESS HEALTH CARE PROVISIONS AND SERVICES

POTENTIALS

- OPPORTUNITY FOR THOSE COUNTRIES WITH THE BEST QUALITY STANDARDS AND CAPACITY OF EFFECTIVE COMMUNICATION
- POSITIVE IMPACT ON TOURIST PROMOTION LINKED TO HEALTHY LIFE STYLES

SOME ISSUES AT STAKE

- MSs ARE IMPLEMENTING THE DIRECTIVE IN DIFFERENT WAYS
- PRIOR AUTHORISATION (SEE THE EXAMPLE OF ITALY) HAS BEEN REINTRODUCED INTO THE SYSTEM
- LACK OF FINANCIAL RESOURCES IS UNDERMINING THE POTENTIALS OF THE DIRECTIVE
- NEED FOR HEALTH SPAs TO MAKE IT CLEAR AND LOUD THAT IT “HAS TO DO WITH HEALTH CARE”

SOME CONCLUDING REMARKS

- TO STRENGTHEN SUSTAINABILITY
- LOCAL DEVELOPMENT PROJECTS CONSISTENT WITH HEALTH SPAs PROMOTION
 - WORK TOWARDS GREATER INTEGRATION OF SPAs, HEALTH CARE AND TOURISM
 - NEED FOR NEW LEGAL AND ORGANISATIONAL FORMS OF PPPs