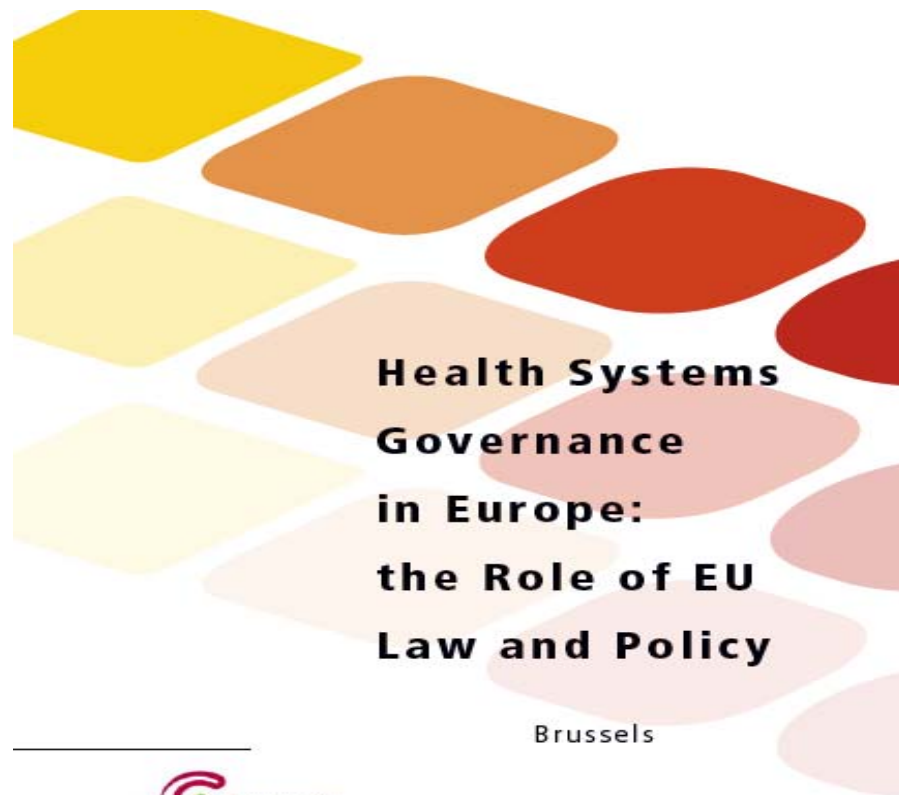




The
University
Of
Sheffield.

Health care and the EU: a legal and policy- making perspective

Tamara Hervey
Professor of Law
University of Sheffield
t.hervey@shef.ac.uk



Health Systems Governance in Europe: the Role of EU Law and Policy

Brussels

11 December 2008



HUSA President Park Hotel
Room Fabiola
boulevard du Roi Albert II, 44
B - 1000 Brussels

With the support of the French Presidency
of the European Union

T Hervey and B Vanhercke, “Healthcare and the EU: the law and policy patchwork”, chapter 2 of Mossialos, Permanand, Baeten and Hervey (eds) *Health Systems Governance in Europe: the Role of EU Law and Policy* (forthcoming CUP)

with thanks to the ‘Shifts in Governance’ programme of the Dutch Science Foundation (NWO) and the ‘ETOS.BE’ Research Programme of the Belgian Science Policy Office.

Overview

- Introduction
- Areas of EU Law Affecting Healthcare
- EU Healthcare Governance
- Conclusions and Looking Forward



Introduction

- No EU competence but ‘patchwork’ of effects on healthcare
- ‘Patchwork’ of governance responses
- ‘New’ modes of governance for the EU, outside traditional binary competence models (eg OMC)



Why does EU law affect healthcare?

- Supremacy and direct effect of EU law
- No general exemption for healthcare as a field from EU law
- Mechanism is litigation – highly unpredictable and destabilizing; not sure all interests taken into account

Areas of EU law affecting healthcare

- EU free movement law
- EU competition law
- EU social and employment law

The five sets of actors shaping EU healthcare governance

- social affairs
- economic
- internal market
- enterprise
- public health

- Hybrid legal instruments
- Embed new relationship between social security and economic activity in EU law
- Develop exceptions to / exclusions from IM law
- Internal market defined in Treaty as including protection for the European Social Model
- Have the right people at the table – probably means an EU healthcare policy

