

## **2<sup>nd</sup> Symposium of European Integration and Healthcare Systems**

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### **Policy debate: towards an EU level framework on health care? – Introduction<sup>1</sup>**

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Article 152 of the EEC Treaty lays down the division of competences in the field of health care organization.

The European Union is to ensure a high level of human health protection in the definition and implementation of all Community policies and activities (first paragraph, first sentence).

Community action complements national policies (first paragraph, second sentence): it shall encourage cooperation between the Member States and, if necessary, lend support to their action (second paragraph).

Paragraphs 4 and 5 mark off two major limitations to the activities and policies the Community may develop in the public health sector: on the one hand, any form of harmonization of the Member States' rules and regulations is excluded, in order to protect and improve human health; on the other hand, "Community public health action (shall) fully respect the responsibilities of the Member States for the organization and delivery of health services and medical care."

As stated by Advocate General Geelhoed in the Watts case, the paragraph 5 of this article "is not intended to recognise a general exception to obligations under the Treaty based on the responsibilities of the Member States in the health care sector. Rather, it should be read in line with the Court's well-established approach according to which it is recognized that the Member States retain full power to organize their social security systems, but that in exercising these powers they are required to fully respect their obligations under Community law, particularly those related to the fundamental freedoms guaranteed by the EC Treaty."

The Court has enshrined that interpretation in its arrest: article 152, paragraph 5 does not exclude «the possibility that the Member States may be required under other Treaty provisions, such as Article 49 EC, or Community measures adopted on the basis of other Treaty provisions, such as Article 22 of Regulation No 1408/71, to make adjustments to their national systems of social security. It does not follow that this undermines their sovereign powers in the field.»

Although the single market regulations and competition rules apply to the health sector, a specific approach is nevertheless necessary. Health care services and social security systems are indeed at the heart of a difficult quest to achieve the right balance between economic and social aspects.

Access to health care is a fundamental right in the European Union Member States, by virtue of article 35 of the Charter of Fundamental Rights. The right of access should be guaranteed

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to all, in an equal and well-balanced way. The health care provided to the European citizen should be of high quality. Health care services are a cornerstone to the European social model and contribute to the European social and territorial cohesion.

As a result, the single market regulations and competition rules should allow for a high quality level of health care services for all, while respecting the financial equilibrium of the social security system within each Member State.