

ABSTRACT

Legislation concerning free movement of patients within the European Union is based on free movement of goods, services and persons. Since the establishment of the European Economic Community, free movement of persons is facilitated *inter alia* by regulations on coordination of social security systems. The European Court of Justice (ECJ) has repeatedly held that healthcare falls within the ambit of the fundamental principle of freedom of movement. In July 2008, the European Commission presented a Proposal for a directive on the application of patients' rights in cross-border healthcare. Its declared purpose was to ensure patients mobility in accordance with the principles established in the constant judicature of the ECJ by codifying the principles of reimbursement of cross-border healthcare, to enable patients to access to safe and high quality healthcare in the Community, including provision of relevant information on safety and quality standards as well as on which healthcare providers are subject to these standards. Third pillar of this proposal was to promote cooperation on healthcare between Member States. In November 2009, it is still not sure that the proposal will be approved by the Council of the European Union. The current legal state is established on regulations on social security coordination and on the European Community Treaty, in particular on the provisions concerning free movement of goods and services, as interpreted by the ECJ. In the sake of legal certainty, it is necessary to adopt new legal instrument and to provide rules for enabling and facilitating the access to cross-border healthcare.

This thesis is divided into four Chapters. The first Chapter introduce into the financing of healthcare. Chapter II is devoted to the development of legal instruments concerning cross-border healthcare, the most part being presented by the relevant judicature of the ECJ. Chapter III is intended to analyze the current legal state in the context of Czech legislation. The last Chapter describes in more detail some aspects of cross-border healthcare, particularly the legal base, chosen legal instrument, scope of the proposal, responsibilities of the Member States, healthcare that may be subject to prior authorization and the procedure of granting of prior authorization, recognition of medical prescriptions and price-settings.