

# Gesundheit!

Stockholm Network Health and Welfare Newsletter

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## Commentary

Helen Disney, chief executive of the Stockholm Network

The gradual opening up of borders within the European Union promises to turn what were once stand-alone national health systems into an integrated health service market. This trend is already progressing and has become increasingly politically sensitive. Unfortunately for politicians, 'health tourism' reveals weaknesses among national systems as consumers travel abroad to get the treatment either denied to them by their home country or offered to an inferior standard (be it quality or waiting time).

The right to cross-border healthcare has been enshrined in law since 1998 under the Kohll-Decker ruling from the European Court of Justice. This verdict gave two European patients the right to claim reimbursement from their own national system for treatment they had received in another EU member state. A number of similar judgements have followed including the high-profile case of British patient Yvonne Watts. What is significant about these rulings is that they effectively mean that healthcare is now treated as a service under EU law.

Back in 2004, the Stockholm Network commissioned a major piece of market research from Populus which was eventually published as the book *Impatient for Change*. What we discovered then bears repetition even now, six years later, as Europe's politicians debate and contest the cross-border healthcare directive. Some 64% of those people we polled at that time – across 8 EU member states – were already expressing willingness to travel abroad for treatment if their own health system paid, rising to as many as three-quarters among young people. In general, waiting for treatment – one of the key motivations for travelling – was regarded as a key political concern with 83% of Europeans seeing this as being important to good quality care but only 20% rating their own health services as good in this regard.

As this issue of *Gesundheit!* explores, there do of course remain valid concerns about continuity of care, equality of access and about 'overcrowding' of popular services but, nevertheless, a steadily growing demand for cross-border care exists and it will not go away. Now Europe needs to find a way to meet this challenge in the interests of greater consumer choice, more clarity and better patient care.

## Topic of the Month

Paul Healy, policy analyst of the Stockholm Network

It seems that few policy stones remain unturned by the European Union when it comes to harmonisation, yet in health policy the EU has appeared to acknowledge that national institutions should remain autonomous. However, the cross-border healthcare debate is now forcing the EU to confront health policy and decide how it should connect with the principle of a common market.

## Travelling for Treatment

The debate questions whether patients should have the right to access the same healthcare entitlements they receive at home all the way through the Union. Traditionally, the EU felt no need to guarantee this right and patients who had decided to go abroad for medical treatment were often responsible for the costs incurred. This fitted well with a “hands-off” approach to healthcare and seemed a reasonable tactic considering the rarity of such trips.

However, a succession of cases brought before the European Court of Justice have seen patients challenge this assumption

and ultimately judgements have fallen on the side of enforcing patients’ right to reimbursement. Therefore, it is now understandable that citizens are looking for the EU to clarify the rules for patients. A recent EU barometer showed 70% of EU citizens believing they should have an entitlement to receive medical treatment in another EU country reimbursed by their national health authority or healthcare insurer.

In response, the European Commission drafted a directive, published in July 2008, which laid out plans to form a Community framework for the provision of cross-border healthcare. In this, the Commission called for a clarification of the entitlements owed to patients. In addition, the directive called for the establishment of common principles within the Union for healthcare and for greater cooperation in areas such as European reference networks for rare diseases, health technology assessment, data collection and quality and safety.

Simply put, the directive would allow a patient who is waiting for an operation in their own country to instead seek the treatment more promptly in another EU country, paid for by their original healthcare provider. The directive would not cover emergency care needed whilst visiting another country, as this is already

ensured through the European Health Insurance Card.

A final cross-border healthcare report, drafted by the UK Conservative Party MEP John Bowis, was adopted by the European Parliament in April 2009 and it has been left up to national governments to try to reach a final agreement. In this respect, the Swedish presidency of the European Union in late-2009 set out to confirm a deal but was ultimately unable to do so. The current holder of the Presidency is Spain, which has been a major opponent of the directive.

The Council of the European Union has identified that the main hurdles in reaching an agreement have been the reimbursement costs with regard to non-contractual healthcare providers and to pensioners living abroad. Spain specifically argues that cross-border healthcare could cost it €2bn a year. The impact assessment that accompanied the directive calculated that cross-border healthcare represents around 1% of public expenditure on healthcare in Member States, which in the UK could represent around £1.2bn for the year 2010-11.

Another concern has been the potential for patients to have the right to receive free private healthcare, but not in their

home country. This is because those patients that do travel the EU for treatment are likely to be cared for by private providers.

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**4%** EU citizens who have received medical treatment in another Member State in the last year.

EU citizens willing to travel to another EU country to receive medical treatment **53%**

*Source: Eurobarometer*

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Interestingly, the main reason that EU citizens give for wanting to access overseas health services is to receive treatments unavailable in their own healthcare system. Yet these excursions would still not be covered by this EU directive, which maintains that national health authorities are the sole deciders of reimbursement packages. What the directive would cover would be patients seeking better quality treatment than at home, receiving treatment from a renowned specialist and receiving treatment more quickly, which are all other reasons EU citizens give for travelling for treatment.

Yet, the directive maintains that the financial stability of Member States' health systems should be ensured and acknowledges the diversity in reimbursement packages across the EU. As a result, prior authorisation from the domestic health authority is required before patients seek to receive care in another EU state.

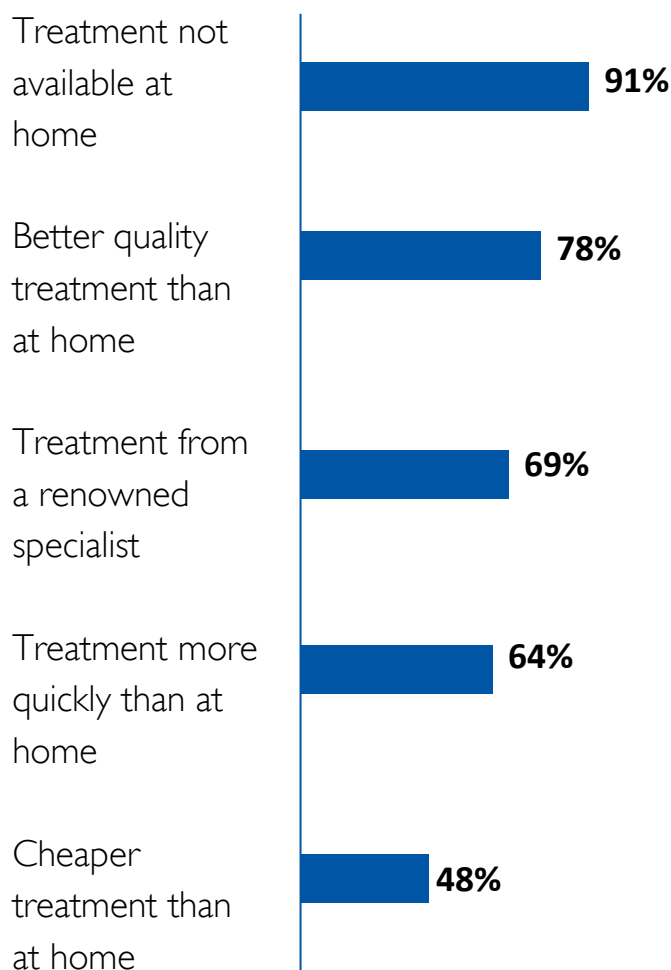
Curiously, the proposals only suggest that this authorisation is necessary for hospital care and so non-hospital costs, such as dentists and opticians, should be reimbursed without the need for the aforementioned consent. This separation of hospital and non-hospital is curious because it relies on a degree of universality between healthcare systems. The EU defines hospital care as requiring at least one night of hospitalisation, however it is not clear that each health system defines it in this way.

What is certain is that this distinction was not present in earlier drafts of the directive, indeed prior authorisation was deemed unnecessary altogether. Yet, opposition has meant that the European Commission has been forced to make concessions and to include a system of prior authorisation on the basis of an uncertain division between costs incurred

in hospitals and those in the wider healthcare system.

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### Reasons why EU citizens would travel to another EU country to receive medical treatment



Source: Eurobarometer

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### Care in the Community

In reality, most people would prefer to receive medical treatment as close to their

homes as possible. If a patient has decided that they are willing to endure the inconvenience of overseas travel as an alternative to the healthcare offered domestically, then it is right to assume that they will have an understandable reason for doing so.

It is also not unreasonable to consider that domestic health authorities should be responsible if their services have been deemed inadequate by patients, whose contributions fund such services. However, the multiplicity of healthcare arrangements within the EU makes this a much more complicated reform than it may seem at first glance. After all, how do you easily reconcile the rights of a Dutch patient, who is likely to be insured by a private company, with a British patient who will rely on the state-run National Health Service?

Clearly, these national differences have been difficult to overcome, which is why an agreement has still to be reached. The EU has always been keen to insist that the authority of national Member States over their healthcare systems should not be undermined, which is why they must now respect the objections that Member States have to the cross-border directive.

Nevertheless, the EU strategy has evidently contrasted with its traditional role in health policy. A new healthcare Community framework would take the EU beyond its primary commitment to simply “encouraging cooperation between the Member States” as enshrined in Article 152 of the EC Treaty (now Article 168 of the Treaty on the Functioning of the European Union).

Whilst the Union would not dare sanction the reimbursement of treatments unavailable under national arrangements, the directive does allow patients to shop around for the best, quickest or most reliable treatment within a healthcare system of their choice. For many this element of ‘health tourism’ will always be hard to accept, particularly for those in regions where health facilities are so poor that they would be expected to travel and also those where the facilities are excellent meaning they may become overrun. Overall, any progress on cross-border healthcare will need to be based on respecting the authority of national and regional health systems.

Yet, more fundamentally, reform will also need to respect the authority of patients to make decisions about their own healthcare.

## Interview

Jean Lambert, MEP for the European Green Party



Jean Lambert has been a member of the European Parliament since 1999. She is one of two MEPs from the Green Party of England and Wales. In the

Parliament, she is vice-president of the Greens–European Free Alliance and a member of the Employment and Social Affairs committee. In 2005, she received the MEP Award for Justice and Human Rights.

Do you expect the European Union to reach an agreement that clarifies patients' rights in regards to cross border healthcare? If so, when would you anticipate this happening?

I expect an agreement at some point but it may still be some way off. Council's response to Parliament's first reading may be ready under the Spanish Presidency, which runs until the end of June, and there is also the question as to how this new Parliament will see things. There were divisions in political groups in the previous term: I'm not sure things have got easier. We also have a Parliament in which half

the Members are new and so were not there for the previous discussions and vote, so they will have to be brought up to speed with the issues.

In addition, the framework now needs to be set out clearly, following so many European Court of Justice judgements. What many in Parliament have been aiming to do is maintain the balance between the rights of Member States to manage and plan their systems against the single market approach. We don't consider healthcare to be a service like hairdressing or a market such as car sales.

How clear do you feel the current rules are for patients that are looking to have healthcare treatments abroad reimbursed by national healthcare systems?

I don't think that the rules are very clear for those choosing to go abroad and wanting reimbursement. Also, some people simply assume all costs will be covered and have a nasty shock when they find that is not the case. I think most people don't even consider finding treatment abroad or realise that it may be possible to get some of your money back if you choose to do that. Even the existing possibilities concerning emergency treatment under the *Co-ordination of*

*Social Security* are not known to everyone or well understood.

What do you believe to be the biggest reason for citizens looking for healthcare in other EU countries?

Dissatisfaction with one's own healthcare system (length of waiting lists, infection risks, a particular treatment not being available) is probably the main reason. Stories in the media about the quality of care elsewhere, or word-of-mouth, can often act as drivers.

Which citizens do you feel would benefit most from greater cross border healthcare? Which healthcare systems would be most affected?

The articulate, consumer-savvy citizen is the one most likely to benefit from an open choice of care: for those being treated under the regulation rules, it is more likely to be those in greatest need but, even then, it may be those most comfortable with the idea of travel.

As for the systems most likely to be affected, it may be those like Belgium which have a number of neighbouring countries where the nearest facilities may be across the border. There is also a concern that countries where costs are

lower may see an influx of patients. Those who consider they have high-quality care are concerned that their own nationals may be pushed lower down the lists as other cases take priority on grounds of clinical need, thus affecting waiting times and provision of services.

Do you think that an increase in cross border healthcare could take away the incentive on individual states to improve health services to their citizens in certain specific disciplines?

It's possible, particularly if a treatment is very costly to provide but not to buy. I have heard the argument that competition may drive up quality at home, but not every state runs their healthcare system as a market and, for those that do, there will be a temptation to let somewhere else take the strain for cost reasons or due to staffing difficulties. With this in mind, words such as "choice" and "mobility" must not be allowed to mask a potential liberalisation of healthcare services. Generally, people want good care close at hand so there will still be strong domestic pressure for improvement.

Current EU proposals require prior authorisation for the reimbursement of hospital costs incurred in another EU member state, but not for non-hospital

costs. How relevant do you feel this distinction is and how important is it to maintain prior authorisation?

I think the distinction is really a short-hand for something more complex. What is considered hospital treatment varies from one country to another (childbirth is just one example), so the directive aims to define the terms more accurately in terms of the nature and cost of providing the treatment.

A patient cannot just assume reimbursement at the moment for some treatments and therefore takes a financial risk. If you want to be able to control your healthcare budget and be able to plan services, it is made more difficult if the free choice to seek care elsewhere and be reimbursed becomes more widespread. In a worst-case scenario it can put services at risk - either because the number of patients falls significantly, making it more attractive to cut certain provisions, or it rises beyond what can be managed. There are those who say it is only a small number of people who avail themselves of the choice, but no-one has really studied the possible growth.

Prior authorisation can help reduce uncertainties for patients and healthcare systems. If you don't want reimbursement,

you still have choice without going through an authorisation system.

The Health Consumer Powerhouse's consumer index each year highlights a large variation between healthcare systems in the European Union. What do you think is the best way to tackle these inequalities?

I don't believe that markets solve inequalities. I also think we need to distinguish between differences and inequalities: the latter can arise from unequal access to certain care possibilities, which might be linked to income, education, age, migration status etc. Solving those problems is not just about the healthcare system but more systemic problems: tackling poverty may have a greater impact on the health of some parts of society than changes in healthcare itself.

As regards the availability of certain treatments, that is often an issue of investment choices and possibilities: poorer countries will find it more difficult to buy expensive equipment and the EU could look at joint procurement policies in such cases. The cost of drugs is also something where the EU could possibly have more influence. Other variations could also be tackled through better planning and co-operation between Member States with EU assistance.

Do you feel it should be a priority of the European Union to establish a more harmonised approach to healthcare?

No, personally I think there are greater priorities for the EU. That said, I think there is a lot that could be done to improve standards and outcomes. Some of that is legislative, for example, dealing with the risk of needlestick injuries where the *Social Partner Agreement* now has force of law, or common measures on the handling of blood and blood-products. Some change is through EU wide Action Plans, such as that on cancer to share

knowledge and good practice and raise clinical excellence.

The cross-border healthcare directive also proposes centres of excellence for orphan diseases, for example, and this could greatly benefit some healthcare systems and patients. While different healthcare systems may be a frustration at times, this does not necessarily mean different outcomes: standards can converge but systems don't have to. There would be outcry in the UK if we had to move towards a personalised insurance system, for example.

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## Interview

Karsten Uno Petersen, Technical Consultant for South Denmark Regional Council



Karsten Uno Petersen was the Committee of the Region's rapporteur for the EU health strategy and Directive on safe, high-quality and efficient cross-border healthcare. He is a member of the South Denmark Regional Council for the Danish Social Democrats.

Do you expect the European Union to reach an agreement that clarifies patients' rights in regards to cross border healthcare? If so, when would you anticipate this happening?

Yes, I do expect an agreement. Mainly because patients need to know their rights concerning cross-border healthcare, but certainly also because we need to formulate and have a political agreement on patients' rights. Today, patients and member states are looking at the case by case rulings from the European Court of Justice to find out how cross-border healthcare is to be tackled. This is not a

suitable model for conducting EU health policy. We need a political decision that will apply generally and which is suitable for all the different healthcare systems we have in the EU. The timeframe is of course interesting, but the most important thing is to reach an agreement on a viable system, which will safeguard patients' rights without threatening the sustainability of national healthcare systems. Whether a political agreement is reached during this presidency or one of the coming presidencies is less important.

[How clear do you feel the current rules are for patients that are looking to have healthcare treatments abroad reimbursed by national healthcare systems?](#)

At the moment, the rules on patients' rights are not clear enough. Therefore, it is necessary with a directive on patients' rights regarding cross-border healthcare in order to clarify the rulings on the subject of the European Court of Justice and to guarantee the rights of European patients. It is important that the elected politicians are the EU law makers and not the European Court of Justice. With the directive, it will become easier for patients to claim their rights. Health is of major concern all over the EU and must be supported by clear rules.

[What do you believe to be the biggest reason for citizens looking for healthcare in other EU countries?](#)

I think there are a number of valid and important reasons why patients are looking for healthcare services in other EU countries. Some may choose a treatment abroad for the simple reason that the closest hospital is located across the border. Others may find that the choice of treatment is greater in another country.

Lastly, I think waiting lists also play an important role. Getting the right treatment as soon as possible is of course important for most patients. Waiting lists may well be the single most important reason, because it is an issue in many member states. The European Commission should analyse more deeply what patients' motivations are for seeking treatment abroad. The impact analysis included in the draft proposal for a directive is not sufficient in this area.

[Which citizens do you feel would benefit most from greater cross border healthcare? Which healthcare systems would be most affected?](#)

Citizens living in EU border regions are likely to be those benefiting the most from cross-border healthcare. They may even

have the closest hospital across the border. Citizens living in border regions also benefit from smaller travel expenses and relatively short journeys.

The consequences of a directive on cross-border healthcare will be significant for all member states, and it is important to stress that a directive should not threaten our national healthcare systems. However, those affected the most are likely to be smaller member states as well as border regions. Within a new directive there must be a certain focus on EU border regions.

[Do you think that an increase in cross border healthcare can lead to unequal access to healthcare across the EU?](#)

There is a risk that healthcare treatments will become traded goods on the free market, and that cross-border healthcare therefore will lead to unequal access to the healthcare systems in the EU. Healthcare cannot be on the free market in the same sense as goods and services, since the healthcare systems in many member states are based on collective and social criteria to ensure equal access for all citizens.

Some groups of the population will not be able to pay the costs of treatment in advance, and others, such as single parents

or elderly, might not be able to go abroad for treatment. Also, we must pay attention to factors such as lack of information about cross-border healthcare, language barriers or the fact that some patients might be unable to travel due to their health, which can also lead to unequal access to healthcare. All vulnerable patients must be assured that the directive will not reduce their access to adequate and timely healthcare.

European patients should benefit from a new directive, regardless of income, language capabilities or ability to travel long distances.

[Current EU proposals require prior authorisation for the reimbursement of hospital costs incurred in another EU member state, but not for non-hospital costs. How relevant do you feel this distinction is and how important is it to maintain prior authorisation?](#)

It is crucial that the directive includes the possibility of unconditional rights for member states to make a system of prior authorisation for all treatments. EU proposals and European Court of Justice rulings make it clear that only certain kinds of treatments can be reimbursed by the patients' national healthcare system.

Numerous treatments are offered to patients – both from private and public healthcare providers. Today citizens are paying for treatment up-front and can then apply for reimbursement afterwards, but there is no clear system for citizens to know if the particular treatment they are seeking is covered or not by their national insurance system. One way of ensuring that the treatment abroad will be reimbursed – or even covered directly without any up-front payment – is through a general system of prior authorisation.

Some say that a system of prior authorisation is only a method for the member states to control and protect the national health care systems. It is true that economic consequences can be far reaching and some monitoring of inflow and outflow of patients is necessary, but I also want to underline that a general system of prior authorisation will protect the patients from unexpected costs and generally contribute to the equal treatment and access to healthcare for all citizens.

From this aspect, the distinction between hospital and non-hospital costs is a problem, since the definition varies from one member state to another. Therefore, it should be up to each member state to determine which services they consider to

be hospital treatment and thereby require prior authorisation.

[The Health Consumer Powerhouse's consumer index each year highlights a large variation between healthcare systems in the European Union. What do you think is the best way to tackle these inequalities?](#)

The EU is committed to take action in order to help member states close the gap between the European healthcare systems. Several policy options are relevant in order to reduce these inequalities. Reducing economic and social inequalities, supporting health promotion activities and developing health measures are some of the options.

However, it will be difficult to reach a situation where all healthcare systems become equal. Nevertheless, we should strive to have good healthcare systems in all members states, as we know citizens generally prefer to be treated as close to their homes as possible. This also means that we should reduce the inequalities between healthcare systems within the EU and to make sure that all member states gradually will get near the top EU benchmark.

A common understanding of how to improve healthcare systems, sharing best

practices, exchange programme, financial support through EU programmes (i.e. structural funds) are all valuable ways of reducing these inequalities.

Do you feel it should be a priority of the European Union to establish a more harmonised approach to healthcare?

It is important to stress that the responsibility of the healthcare systems lies within the member states and not the EU, and therefore a new directive should not go towards harmonisation. Health is and

should remain a national issue, which is best managed at local or regional level close to the citizens. Furthermore, most patients still need to be treated as close to their home as possible.

However, we do need a framework for patient mobility and patient rights in order to ensure the rights of the EU citizens who cannot receive the treatment they need in their home country. But it should still be possible to maintain national initiatives and rules regarding patients and their rights.

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## Interview

Pascal Garel, Chief Executive of the European Hospital and Healthcare Federation (HOPE)



Pascal Garel has been chief executive of the European Hospital and Healthcare Federation (HOPE) since 2004. He has over ten years

experience in hospital management and he has previously held posts in the French Hospital Federation and the French Ministry of Health. He is an associated lecturer at the French National School of Public Health and at the University Paris

Dauphine. HOPE is a European non-profit association, created in 1966, that represents national hospital and healthcare services and aims at promoting improvements in the health of citizens throughout the Member States of the European Union.

Do you expect the European Union to reach an agreement that clarifies patients' rights in regards to cross border healthcare? If so, when would you anticipate this happening?

The first step will be most certainly the adoption on 8 June by the Council following the work of the Spanish Presidency. But it is difficult to know how

long it will take for the Council and the Parliament to reach an agreement. Their positions are indeed rather different on several major issues.

How clear do you feel the current rules are for patients that are looking to have healthcare treatments abroad reimbursed by national healthcare systems?

The rules were clear before the 1998 rulings of the European Court of Justice. They are not anymore.

What do you believe to be the biggest reason for citizens looking for healthcare in other EU countries?

Looking at numbers, as far as they are available, the main reason is financial. Most people travelling abroad do it because the care is not available or is poorly reimbursed in their home country.

Which citizens do you feel would benefit most from greater cross border healthcare? Which healthcare systems would be most affected?

The more educated and wealthier citizens will indeed benefit most from cross-border healthcare. This happens already within their country, the more educated you are the more you benefit from healthcare

services. People living along a border might also benefit more, as long as there are healthcare providers on the other side of the border.

An apparent paradox is that countries receiving patients will be more affected: as human resources will be increasingly rare getting more foreign patients will mean less for the locals.

Do you think that an increase in cross border healthcare can lead to unequal access to healthcare across the EU?

Yes, if it is not well planned it will only increase the present inequalities.

Current EU proposals require prior authorisation for the reimbursement of hospital costs incurred in another EU member state, but not for non-hospital costs. How relevant do you feel this distinction is and how important is it to maintain prior authorisation?

This distinction is extremely difficult to put into practice and will become even more so. Surgery for example is increasingly done in outpatient care.

But to be able to do surgery in outpatients, it is not only the healthcare that is concerned but all of society and in

particular the social sector. The main issue healthcare services are facing, but which is ignored by the Commission, is continuity of care. Prior authorisation for hospital but also for complex non-hospital care should be perceived as a safety issue.

The Health Consumer Powerhouse's consumer index each year highlights a large variation between healthcare systems in the European Union. What do you think is the best way to tackle these inequalities?

This index is not giving an accurate picture of the existing variations. The most important variations are on health results and not on healthcare. Healthcare services cannot be isolated from the overall health

picture. And health variations can only partly be reduced by healthcare services. Variations between countries are as important as within countries. In the past you could have said that by increasing wealth of the country you would increase health, it is not so sure today with ageing and risk behaviours.

Do you feel it should be a priority of the European Union to establish a more harmonised approach to healthcare?

No, the EU has more urgent priorities as well as mid-term priority. As social protection, and healthcare, is publicly financed, harmonised fiscal policies should come first.

## Publications

*Polybrief*: Cross-Border Healthcare  
by Stockholm Network

<http://tinyurl.com/Gesundheit52>

The Stockholm Network has launched a new policy briefing note, which explores health technology assessment (HTA) in Europe and the moves currently being explored by the European Union towards greater collaboration. As well as providing background to the growth of HTA in Europe, the *Polybrief* also outlines the main arguments for and against EU cooperation.

Ultimately, the *Polybrief* concludes that the EU needs to be more realistic about what it wants to achieve and how far it can realistically go. Specifically, it argues that individual appraisals should remain an activity at the national level and that the impetus and scope of those assessments should remain with the national authority.

Stockholm Network *Polybriefs* provide concise summaries of pressing issues and policy debate throughout Europe.

The Cost of Cancer  
by Policy Exchange

<http://tinyurl.com/Gesundheit50>

The United Kingdom currently has a cancer death rate that is 6% higher than the European average. In this research note, Policy Exchange argues that if the survival rates for cancer were improved in England commensurate with the best in Europe, on a cumulative basis by 2020, 71,500 lives could be saved and total costs could be reduced by £10 billion.

The report shows that late diagnosis, poor survival rates for older people and those in deprived communities, and relatively poor take up of new treatments and technologies are the most likely causes behind the UK's comparatively high mortality rate.

It concludes by offering key recommendations including a call for the Department of Health to identify and adopt the best practice in cancer services from high-performing European countries, focusing resources where largest reductions in mortality can be achieved and focusing on cancer prevention strategies.