



Why are European Union health care professionals concerned about European Union law?

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Health Care Professionals and EU Law

Introduction: the EU and health care

Legislation

Litigation

Conclusions



“... the Community shall act within the limits of the powers conferred upon it by this Treaty and the objectives assigned to it therein.”

Article 5 EC



The EU's main task is establishing
an single internal market

“characterised by the abolition, as
between Member States, of all
obstacles to the free movement of
goods, persons, services and capital”

Article 3 EC

Affects health law?



- No need to integrate health care to create internal market
- Separate traditions
- In EU context, health care part of social policy
- Separate administrative and funding arrangements

BUT



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- EU-level or “federal” legislation
- Treaty-based or “constitutional” litigation



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Legislation: Working Time Directive

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The EU "... may adopt, in the fields [of health and safety at work; working conditions], by means of directives, minimum requirements for gradual implementation ..."

Article 137 EC



“... A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed. ...”

Article 249 EC





“... It would be incompatible with the binding effect attributed to a directive by Article [249] EC to exclude, in principle, the possibility that the obligation which it imposes may be invoked by those concerned.”

Case 41/74 *Van Duyn* [1974] ECR 1337



James Johnson, Chair, British
Medical Association:

Directive will place GPs under pressure
not to admit patients to hospital and
may have the result that hospitals will
close

327 British Medical Journal (2003) 184

SO



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- EU-level or “federal” legislation affects European health care professionals directly
- Loss of national control over regulation



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Litigation: cross-border patients

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Diane Blood case





“... restrictions on the freedom to provide services within the Community shall be prohibited ...”

Article 49 EC

Kohl case



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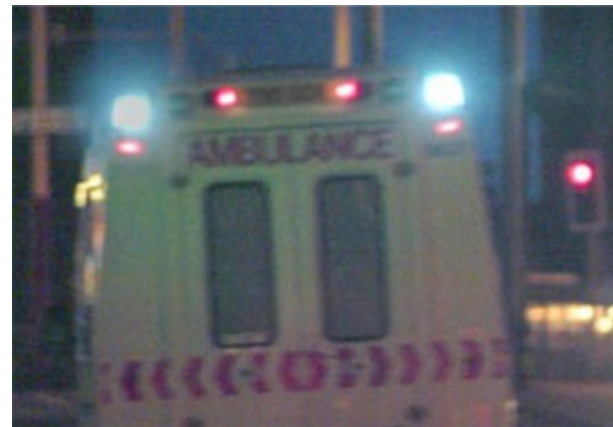
The “... special nature of certain services does not remove them from the ambit of the fundamental principle of freedom of movement ...”

Case C-158/96 *Kohll* [1998] ECR I-1931, para 20

Peerbooms case



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National rules on what treatments available to be “objective and non-discriminatory”

Case C-157/99 *Peerbooms* [2001] ECR I-5473

Yvonne Watts case



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Implications?



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- Mixed views
- Negative responses
- Positive responses



SO



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- EU-level litigation affects European health care professionals indirectly (positively or negatively)
- Loss of national control over regulation



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Implications

- “Extreme” regulatory positions?
- Cooperation at EU level?
- Experimentation with shared problems?
- Values?



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Loss of national regulatory control
implies novel regulatory environment
for European health care professionals

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