

## **FREE MOVEMENT OF HEALTHCARE SERVICES IN THE EUROPEAN UNION**

### **RESUMÉ:**

Cross-border healthcare services, more specifically, patient mobility meaning provision of health care to a patient in a Member State other than that in which such a patient participates in the healthcare security system, can be both unplanned and planned. Patient mobility has become a striking phenomenon having impact on national healthcare systems. While Article 168 (7) TFEU guarantees exclusive competence of Member States in the area of organization and financing of national healthcare systems, they must also exercise their power within the limits of EU legislation, including the rules on freedom to provide services. Thus, despite very limited competence of the EU in the area of healthcare, national systems have not remained free from the influence of EU law. The Court of Justice of the EU played a crucial role in shaping the legal nature of healthcare services in the light of EU law, as it has developed a parallel system of cross-border healthcare rules based on the principle of freedom to provide services directly on the basis of Article 56 TFEU (formerly Article 49 TEC). Such parallel case law rules were governing cross-border healthcare services next to Regulation 883/04 (formerly Regulation 1408/71). In 2011, the main conclusions of the Court of Justice drawn in a number of its decisions have been codified in Directive 2011/24/ EU on the application of patients' rights in cross-border healthcare, which provides a general framework for the free movement of healthcare services in the EU. As a result, Directive 2011/24/EU together with Regulation 883/04 lays down rules for financing cross-border healthcare from national public health insurance systems. The Directive in question also sets primacy of Regulation 883/04 over the Directive, in case it is more beneficial for the patients.

The aim of this thesis is to outline and analyze selected legal aspects of cross-border healthcare in the European Union with a particular focus on patient mobility. The thesis is divided into three parts and several chapters. The first part contains an analysis of legal nature of health services in the light of EU law and related competences of the EU in the area of healthcare. Part two concerns legal rules governing patient mobility (both planned and unplanned) in the EU and their development, as well as selected key decisions of the Court of Justice regarding cross-

border healthcare in the EU. The subsequent chapters focus on the analysis of Directive 2011/24/EU of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare and its relationship with other EU legislation. The third part is devoted to the implementation of the Directive in the Czech Republic, and several statistical data concerning patient mobility in relation to the Czech Republic are briefly presented.

Hence, the main aim of this thesis is to provide a comprehensive overview and analysis of legislation, case law and other legal aspects related to patient mobility primarily from the perspective of EU law. The thesis also identifies contentious issues related to the discussed legal rules and suggests arguments for their possible interpretation.

**KEY WORDS:**

Cross-border healthcare in the EU; free movement of healthcare services in the EU, patient mobility in the EU