



**COUNCIL OF  
THE EUROPEAN UNION**

Brussels, 17 October 2008

14451/08

---

**Interinstitutional File:  
2008/142 (COD)**

---

**LIMITE**

**DOCUMENT PARTIALLY  
ACCESSIBLE TO THE PUBLIC**

**JUR 437  
SAN 228  
SOC 616  
MI 377  
CODEC 1351**

**OPINION OF THE LEGAL SERVICE\***

---

to : Working Party on Public Health

---

No. Cion prop. : Doc. 11307/08 SAN 136 SOC 389 MI 234 CODEC 904

---

Subject : Proposal for a Directive of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare  
- Private care

---

1. The Council Legal Service was asked to intervene in the Working Party on Public Health at its meeting on 14 October 2008, on whether or not Member States may refuse, on the basis of the case law of the Court of Justice, the reimbursement of health care provided in another Member State on the basis that the service was provided by a private establishment. The present opinion reproduces and further develops the oral intervention made by the Legal Service in this respect.

---

\* This document contains legal advice protected under Article 4(2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, and not released by the Council of the European Union to the public. The Council reserves all its rights in law as regards any unauthorised publication.

**DELETED FROM THIS POINT UNTIL THE END OF THE DOCUMENT (page 3)**

---