# Patient rights and cross border healthcare

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- National Contact Point
- Croatian Health Insurance Fund (CHIF) is National Contact Point (NCP) on Cross-border Healthcare, established in accordance with EU regulations and Directive 2011/24 / EC and Law on Compulsory Health Insurance. NCP provides information on the rights of insured persons to health care in another Member State on all main aspects of cross-border healthcare.
- In order to enable patients to use their rights to cross-border healthcare, National Contact Point Provides
- contact details of National Contact Points in other Member States
- information about health care providers in Croatia
- available information on standards and guidelines on quality and safety of treatment in Croatia
- information about the accessibility of hospitals for persons with disabilities
- information on patients' rights, complaints procedures and mechanisms for seeking remedies, according to legislation, as well as the legal and administrative options available to settle disputes, including in the event of harm arising from cross-border healthcare
- basic information on reimbursement of costs of cross-border healthcare
- basic information about clear distinction between the rights which patient have by virtue of Directive 2011/24 / EU and the rights arising from Regulation (EC) No. 883/2004
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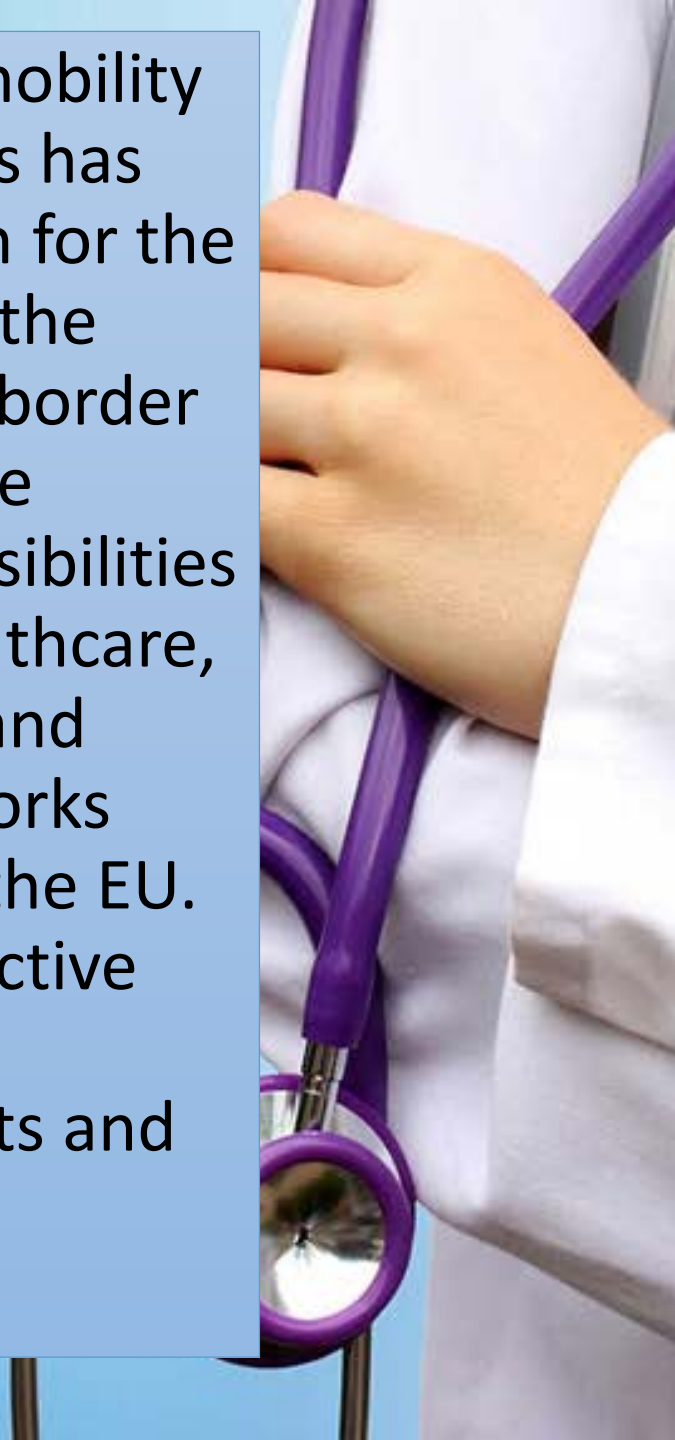
Hrvatski zavod za zdravstveno osiguranje

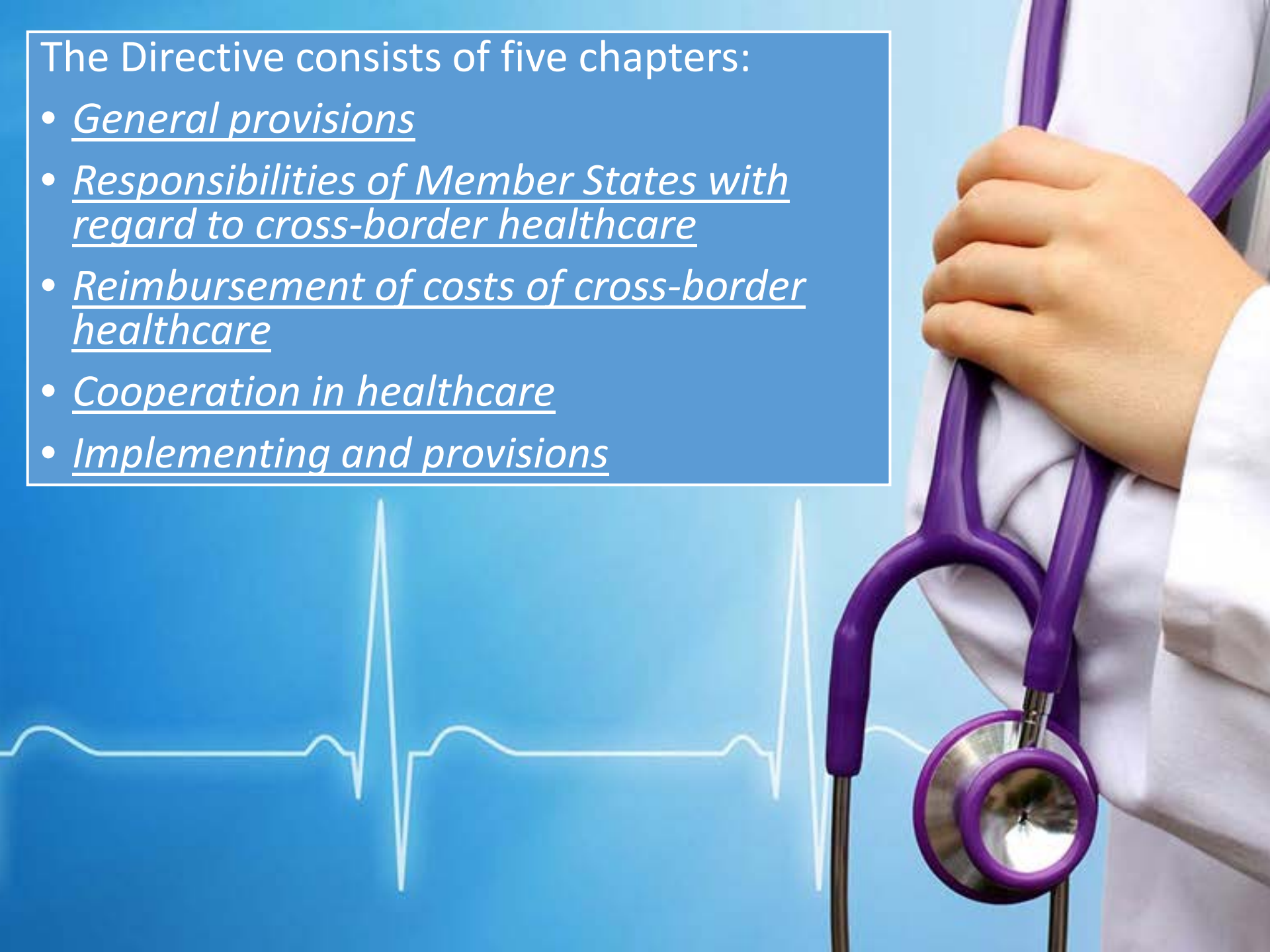
Croatia Health Insuran Fund

- Cross-border healthcare and patient mobility across European Union Member States has been on the agenda of EU Commission for the last decade. Directive **2011/24/EU** on the application of patients' rights in cross-border healthcare went into force in 2013. The Directive mainly addresses the responsibilities of Member States in cross-border healthcare, regulates reimbursement procedure, and coordinates European reference networks and health technology assessment in the EU. In this article, first an overview of Directive 2011/24/EU is addressed with special attention to its relation to patient rights and other EU legislations.



The Directive consists of five chapters:

- *General provisions*
- *Responsibilities of Member States with regard to cross-border healthcare*
- *Reimbursement of costs of cross-border healthcare*
- *Cooperation in healthcare*
- *Implementing and provisions*




Treatment pathways
Content and scope of medical records
Long-term care and media reporting
Patient choice and public reporting of quality
Medical prescribing
Continuing quality health professionals
Cross-border care

# Healthcare systems

**Provider**
- **public**
- **private**

**Financing**
- **public**
- **private**

**Access**
- **Beveridge**
- **Bismarck**

# Cross-border healthcare

*What does cross-border healthcare mean?*

The possibility for a person insured in a Member State to be treated in another Member State and to be reimbursed.

*What are the interests involved?*

- patients' interests
- States' interests

- **Patient Rights in EU Legislation**

- Reasons for the underutilisation of this tool of citizen empowerment can be detected in a significant information gap and lack of awareness by patients of the Directive itself, as well as of instruments such as the National Contact Points (NCPs)
- Other critical aspects to be refined are reimbursement schemes and prior authorization procedures, which differ by MS and may deter patients who seek care abroad. Further, the latest Commission report analysing MS's data on cross-border healthcare for the year 2015 indicates that Europeans tend to be wary of language barriers and the cost of care abroad.

# PATIENT MOBILITY DIRECTIVE: ONE STEP FORWARD OR TWO STEPS BACK FOR CROSS-BORDER HEALTHCARE?

- The crucial issue this case law touches upon is whether such healthcare treatment should be paid for by the state of protection, and under what conditions. The approach of the Court has placed the emphasis on giving patients additional possibilities of cover compared to the already existing regulations on the coordination of social security systems that have regulated the field for decades

- It seems that the Patient Mobility Directive does not apply to cases where a person obtains (health)care while residing outside the state of affiliation.

- It seems that the Patient Mobility Directive is applicable to cases where a person obtains healthcare while staying temporarily outside the state of affiliation, since no explicit distinction is made by the provision of the Patient Mobility Directive between planned and unplanned healthcare.

- the Patient Mobility Directive establishes a set of duties imposed upon the state of treatment. The state of treatment is not allowed to discriminate between domestic and foreign patients.
- However, it may limit access to healthcare on its territory on the basis of overriding reasons of general interest, to prevent an increase on domestic waiting lists because of an infl ow of foreign patients. The measures in question must be necessary, proportionate, must not constitute arbitrary discrimination and must be publicised in advance. In terms of tariffs:

- In terms of reimbursement social security rules, the Patient Mobility Directive adds certain patient entitlements in obtaining socially covered healthcare outside the state of social protection when compared to the preceding legal framework (co-ordination regulations and the case law directly applying the Treaty's free movement rules).

- The Directive also improves (for patients) the overall framework for obtaining crossborder healthcare in certain areas, like the recognition of prescriptions

There are certain areas in which the Patient Mobility Directive may prove to be counterproductive when compared to the co-ordination regulations and case law, in the sense that it reduces the entitlements of patients to obtain socially covered healthcare outside the state of social protection. a) The fi rst area in which the Directive offers less than the preceding framework to patients concerns the range of healthcare covered. The Member States are given more leeway to defi ne (restrict) the range of healthcare treatments they cover, when compare to the co-ordination rules and case law.

# Case study: Croatia
# Overview problems

- Croatia is an interesting example to illustrate the oncerning the transposition and implementation of the Patient Mobility Directive.
- it is a relatively small country in terms of territory and population, with a per capita GDP significantly lower than the EU average, a fact that makes it vulnerable to problems in maintaining expensive human and material capacities to treat certain medical conditions, which is one of the problems the Directive deals with.
- Since the Patient Mobility Directive reimbursement rules deal with the obligations of the state of affiliation (the competent state) to cover the healthcare of its patients obtained abroad, the focus is placed on the Croatian rules covering patients socially insured in Croatia obtaining healthcare outside the country.

- The system of social coverage of healthcare obtained abroad is currently regulated in Croatia through several legal instruments. The first ones are bilateral agreements on social security co-ordination concluded between Croatia and individual EU Member States. Bilateral agreements take precedence over national statutes once ratified. Croatia has concluded bilateral agreements, including those assumed from the former Yugoslavia, with 17 Member States of the European Union. These are: Austria, Belgium, Bulgaria, the Czech Republic, Denmark, France, Germany, Hungary, Italy, Luxembourg, the Netherlands, Poland, Romania, Slovakia, Slovenia, Sweden and the United Kingdom.

- These agreements are mutual, meaning that provisions which are applicable to Croatian (socially covered) patients accessing healthcare abroad are generally also applicable to foreign (socially covered) patients accessing healthcare in Croatia. The agreements can be divided into those which cover only the nationals of countries which are parties to the agreements in question, their family members

The main criterion for determining the competent state is the law of the place of work or lex loci laboris. The legal source that generally regulates the social security coverage of healthcare in Croatia is the Compulsory Health Insurance Act of 2008 .This act determines the personal scope of the application of the Croatian social security healthcare system, the range of covered healthcare in general, and the cover of health treatments obtained outside Croatia

- Every resident of Croatia (but also foreigners granted permanent stay, except in cases in which international agreements determine otherwise; an exception also exists concerning children under 18 years of age, who are considered to be insured) is obliged to obtain social insurance with the Health Insurance Institute of Croatia (HIIC)
- These grounds include conducting a professional activity, putting Croatia somewhere in between the professional and occupational systems of social security.
- The range of covered healthcare is prescribed using broad notions and various criteria, which include types of medical condition (illnesses), types of and types of medical procedure
- statutory instrument regulating healthcare abroad has been adopted by the HIIC
- . The instrument must be applied in line with the relevant statutes and international agreements

- These provisions deal with  opportunities for Croatian (socially covered) patients to access healthcare outside Croatia and for it to be paid for by the HIIC.
- Problems with the Patient Mobility Directive The first area in which the transposition of the Patient Mobility Directive in Croatia may run into problems concerns determining the range of healthcare covered, namely when accessing planned healthcare abroad.

‚Croatia does not define the range of covered healthcare locally, but instead leaves it to the medical profession to define which medical treatments are recognised by medical science and are thus covered by the broad national defi nitions of the healthcare covered.

Therefore, it is dubious how Croatia will interpret its obligations concerning the range of healthcare abroad it will have to cover under the Patient Mobility Directive, a lack of clarity which does not help Croatian patients obtain socially covered healthcare outside Croatia

- Finally, Croatia will have to implement the parts of the Directive which concern the duties of the state of treatment for patients coming from other Member States to obtain healthcare in Croatia. This is especially the case with the Directive's rules on prohibiting price discrimination (currently, for patients who come from countries with which no bilateral agreement has been concluded, Croatian providers may apply different prices than for persons socially insured in Croatia),providing information on providers, patients' rights, contact points, complaints procedures, mechanisms for seeking remedies and professional liability insurance.

- The Croatian example emphasises some of the problems stemming from the Patient Mobility Directive's provisions on the reimbursement of healthcare obtained outside one's state of social protection. These problems deal with the range of reimbursed healthcare obtained abroad, prior authorisation necessary for the patients to obtain that reimbursement and the possibilities for national authorities to limit the application of reimbursement rules in certain instances. On the other hand, Croatia's legal framework will strengthen some patients' entitlements, provided the Directive is correctly transposed into the national setting

- Finally, although the Directive's effects in terms of patients' entitlements to social cover remain ambivalent, there are some additional gains from its adoption. These gains concern a step in the direction of resolving the structural problems of national healthcare systems by means of cooperation and the Union supporting Member States' healthcare policies. In terms of these developments, the Directive provides a push in the direction of a more active EU role in the area of healthcare. It seems this Union role will, to a large extent, be present within the realm of help and guidance in complementing national healthcare policies, since Member States retain the freedom to defi ne and organise their social security healthcare systems.

# Croatian Healthcare System: Overview

**4.3M** insured persons

**2.300+** GP offices

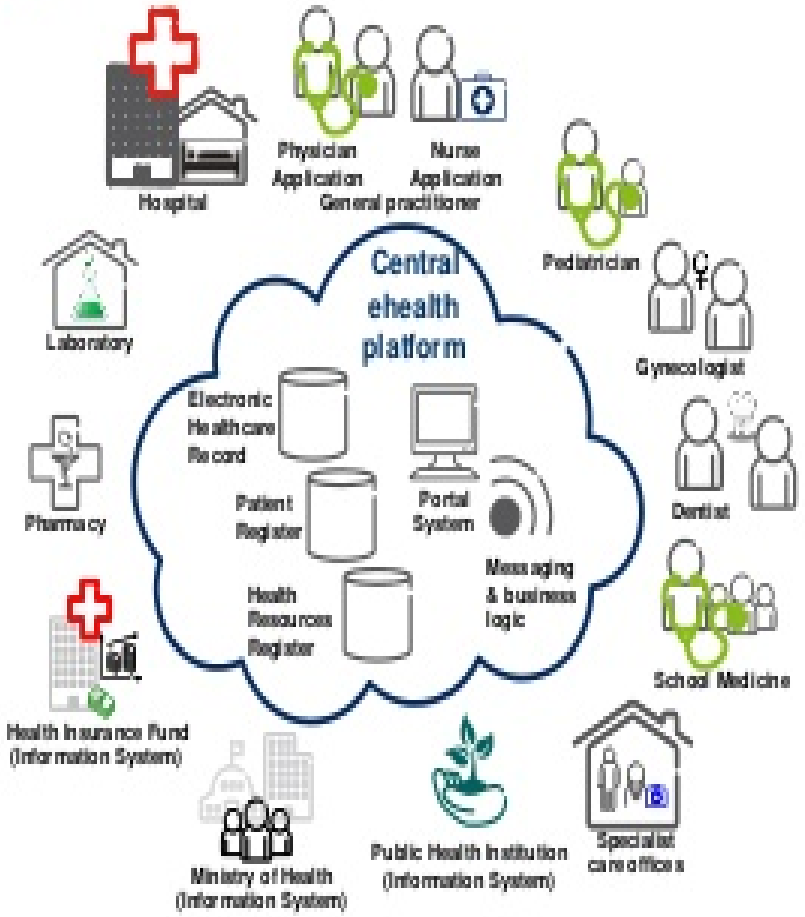
**1.300+** pharmacies

**1.000+** specialist health care offices

**65** hospitals

**1** state insurance

1 Central eHealth platform



# Key obstacles and how to overcome them

- Challenges of being a new EU Member State (MS) → Participation in Joint Actions and other EU-level initiatives
- Lack of standardized national clinical terminologies, clinical pathways and procedures → Implementation of EU recognized standards for healthcare interoperability, and Best-practice adoption
- Rising costs of healthcare service provision → Investmen in eHealth infrastructure and connected / interoperable services

# eHealth Services Provision

## EU LEVEL

- Support EU cross-border healthcare: ePrescription & Patient Summary (CEF)
- Participate in EU-level initiatives and projects (epSOS->EXPAND->JAseHN)
- Align with EU level standards (eHN, Assess-CT, EURO-CAS)

## NATIONAL LEVEL

- Connect all eHealth services under single infrastructure and connect with national eServices hub until 2020
- Achieve 100% ePrescription/eDispensation and work towards full EHR national coverage
- Establishment of eHealth data exchange standardization procedures, rules and policies (e.g. *ProRec.HR*, under *EuroRec*)
- Establishment of the CroDRG (Croatian DRG System)
- Establishment of a national ePathways system for clinical decision making

# Appendix I: Croatian Legislative on Data Protection

- Law on Health Protection (Official Gazette 150/08, 71/10 – 22/14)
- Compulsory Health Insurance Act (Official Gazette 150/08)
- Health Insurance Act (Official Gazette 150/08, 94/09, 153/09, 71/10, 139/10, 49/10, 22/12, 57/12, 123/12)
- **Law on the Protection of Patient Rights** (Official Gazette no. 169/04, 37/08)
- **Law on the Protection of Personal Data** (Official Gazette 103/03, 118/06, 41/08, 130/11, 106/12
- Law on Data Secrecy (Official Gazette 79/07, 86/12)
- **Regulation on the Method of Keeping, Preservation, Collection and Disposal of Medical Documentation of Patients in the Central Health Care Information System of the Republic of Croatia** (Official Gazette 82/10)
- **Regulation on the Use and Protection of Data Contained in the Medical Documentation of Patients in the Central Health Care Information System of the Republic of Croatia** (Official Gazette 14/10)
- **Regulation on the Method of Keeping of Personal Health Care Files in Electronic Form** (Official Gazette 82/10)
- **Regulation on the Data Secrecy and the Right to Information Access in Croatian Health Insurance Fund** (internal act), June 2015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