

ECJ ruling on the legal classification of telemedicine services

Telemedicine without borders?

The European Court of Justice (ECJ) has clarified the legal classification of telemedicine within the European internal market for the first time in its judgement C-115/24 of 11 September 2025. The ruling establishes that telemedicine services are subject to the country-of-origin principle, whereas traditional face-to-face medical treatment is governed by the law of the Member State where the treatment is provided. This creates legal certainty for cross-border digital healthcare services, particularly in hybrid care models.

Background

A dentist established in Austria collaborated with a German provider of aligner (splint) therapies. The dentist performed clinical examinations on site and took impressions of the dentition.

Further treatment steps including analysis, treatment planning and digital patient support were provided cross-border via digital platforms.

The provider prepared the treatment plan exclusively in digital form, manufactured the aligners based of the dentist's records and dispatched them to the patient by post.

Action

The Austrian Dental Chamber brought legal action. It considered this cross-border cooperation model to be in breach of national legislation governing the dental profession. The Chamber argued that dentists practising in Austria must not participate in dental activities carried out in Austria by foreign companies that do not have the required authorisations under Austrian law. The dispute was ultimately referred to the European Court of Justice. In the context of the Patient Mobility Directive (2011/24/EU). The ECJ was asked to clarify the applicable legal framework.

From the perspective of the Austrian Dental Chamber, dentists established in Austria are not permitted to cooperate with foreign companies in the treatment of patients. The Chamber sought clarification on whether the term "healthcare in the case of telemedicine" covers only those healthcare services that are provided by a provider in a Member State other than the patient's Member State of (insurance) affiliation exclusively at a distance and exclusively via information and communication technologies—i.e., without the simultaneous physical presence of the provider and the recipient at the same location—or whether mixed models are also



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covered, combining telemedicine services with healthcare services provided in the patient's Member State of affiliation, with the patient physically present.

If such mixed models were to fall within the scope of telemedicine, the ECJ was asked to clarify whether the telemedicine services must constitute the predominant part of the overall service, and if so, the criteria based on which this "predominance" must be assessed.

Question of law

The core of the first referred question was the definition of "healthcare in the case of telemedicine" as set out in Article 3(d) of the Patient Mobility Directive. The Austrian Supreme Court sought clarification on whether the dentist was in fact participating in activities in dentistry carried out in Austria by foreign companies.

The key issue was therefore whether complex medical treatments combining digital elements with physical treatment steps carried out in the patient's home Member State should also be classified as telemedicine healthcare services.

The judgement

The Court of Justice of the European Union answered this question in the negative and, for the first time, provided a definition of telemedicine: "[...] the concept of cross-border healthcare provided in the case of telemedicine [...] corresponds solely to healthcare provided [...] to a patient by a healthcare provider established in a Member State other than that patient's Member State of affiliation, at a distance and therefore without that patient and that provider being simultaneously physically present in the same location, exclusively via information and communication technologies.

This interpretation is based in particular on the fact that Article 3(d) of the Patient Mobility Directive expressly defines the Member State of treatment as the Member State in which healthcare is provided. In the case of telemedicine, the service is deemed to be provided in the Member State where the healthcare provider is established.

Telemedicine therefore presupposes that the healthcare provider delivers the service exclusively remotely, without any personal encounter with the patient. Any partial physical examinations or consultations carried out on site mean that the overall treatment is no longer being classified as telemedicine.

The Court thus focuses not on the technical support of a service, but on its completely virtual nature. Furthermore, the ECJ emphasised that this definition is not limited to reimbursement issues within the meaning of Article 7 of the Patient Mobility Directive but rather applies to all areas of application of the Directive.

This judgement establishes a uniform interpretation throughout the European Union.

Applicable law

The ECJ held that, for genuine telemedicine—i.e., purely digital services—the law of the Member State in which the provider is established applies.

Therefore, cross-border telemedicine services are subject to the legal provisions of the Member State in which the healthcare provider is established, and not to those of the patient's place of residence. This constitutes a clear affirmation of the country-of-origin principle.

Hybrid models

Regarding mixed or hybrid treatment models, the Court clarified that it is not decisive whether one component predominates over the other. Rather, individual elements of the service may be assessed separately if they can be clearly distinguished in substantive terms. In such hybrid models, the physical on-site activities, such as examinations carried out by local practitioners, may fall under the law

of the relevant Member State of treatment. Meanwhile, the digitally provided remote treatment delivered by a foreign provider is subject to the law of that provider's Member State of establishment. This separate assessment is possible even where a single, unified treatment contract exists.

In the present case, this meant that the orthodontic treatment was to be regarded as a complex form of treatment because it comprised several healthcare services that shared the same therapeutic objective, but which were not integrated closely enough to constitute a single, indivisible overall service.

Consequently, the Austrian dentist was required to comply with Austrian professional law, while the digital treatment planning and remote supervision provided by the German company had to be assessed under German law. Therefore, a telemedicine service within the meaning of EU law therefore existed only in respect of the fully digital component of the treatment.

Professional Qualifications Directive not applicable

The question of the applicability of the Professional Qualifications Directive (2005/36/EC) is closely linked to the country-of-origin principle. Generally, where professionals from a regulated profession provide services temporarily in another EU Member State, they must comply with the professional rules of the host Member State pursuant to Article 5 of this Directive. These provisions serve to protect patients.

However, the ECJ has now clarified that Article 5(2) applies only where the service provider physically travels to the host Member State to pursue the profession there on a temporary and occasional basis.

Purely virtual service offerings do not meet this criterion. A service provider does not "move" to another Member State where only the service itself, and not the service provider, crosses the border.

Similarly, a healthcare provider does not "enter" the territory of another Member State where, under a contractual arrangement, medical services are delivered there "via" a local partner who is in direct contact with the patient. According to the Court, such an interpretation would be "detached from reality".

By adopting this interpretation, the Court has made it clear that Member States cannot indirectly erect barriers to cross-border telemedicine through professional regulatory law.

Implications

This judgement provides a higher degree of legal certainty for digital healthcare services within the internal market. By clearly endorsing the country-of-origin principle, telemedicine providers can now offer their services across borders with far greater freedom and without the risk of being subject to foreign national professional regulations.

In particular, innovative forms of cooperation between foreign telemedicine providers and local partner practitioners can now be established more easily.

For the healthcare sector, the ruling provides a tangible stimulus: digital care models can be scaled more efficiently within the EU. For patients, this improves access to specialised services offered in other Member States.

At the same time, national rules of the game continue to apply. Domestic providers remain subject to the specific restrictions of their home markets, such as Germany's comparatively strict regulations on telemedicine. Consequently, Member States with more liberal telemedicine frameworks may now become even more attractive locations for digital health companies.

Conclusion

Judgement C-115/24 is widely regarded as a milestone for European healthcare.

- It strengthens telemedicine and facilitates cross-border digital treatment models
- while requiring providers to establish clear structures and robust compliance procedures, particularly in hybrid treatment settings.
- For dentists and physicians, this means greater opportunities through digital services, but also greater responsibility with regard to legally separating treatment components.

Sources: ECJ judgement C 115/24 of 11 September 2025; taylorwessing.com; cms-blog

Summary

- Telemedicine applies only to services that are provided purely digitally and across borders.
- Dual application of law:
  - Telemedical services are governed by the law of the provider's country of establishment.
  - Face-to-face medical services are governed by the law of the Member State in which the treatment is provided.
- Hybrid models must be broken down into their individual components. The predominance of digital elements does not automatically define the overall treatment as telemedicine.



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