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PRESS RELEASE

[Legal decision]

Health - requiring public authorities to amend public policy on combating healthcare blackspots does not fall within the jurisdiction of the Conseil d'Etat

Following a referral by the *Union Fédérale des Consommateurs - Que Choisir*, the Conseil d'État has ruled that the measures requested by the organisation to remedy the unequal distribution of self-employed doctors across the country would require a change in public policy choices regarding the pricing of medical practice and the freedom of doctors to set up practice, which does not fall within the jurisdiction of the administrative courts. **The organisation considered it necessary to adopt a set of rules that were much more restrictive than those currently applicable, which would require Parliament to amend the law and determine new contractual arrangements between the *Union Nationale des Caisses d'Assurance Maladie* (French union of health insurance funds) and doctors' trade unions.**

The *Union Fédérale des Consommateurs - Que Choisir* brought the matter before the Conseil d'État with a view to obtaining an order obliging the Government to take a number of measures which, in its view, are the only ones capable of ensuring equal access to self-employed doctors, both GPs and specialists, across the country.

In France, self-employed doctors may decide to enter into an agreement with the social security system, which ensures that their patients are reimbursed under the national health insurance scheme. Doctors who practice in 'Sector 1' commit to charging only the official social security rates, with excess fees permitted only in limited circumstances. Doctors in 'Sector 2' are allowed to set their own fees (*honoraires libres*), subject to certain conditions. However, if they opt into the controlled tariff practice option (OPTAM), their ability to charge excess fees is restricted. Reimbursement rates for patients differ according to the different situations.

The organisation called for amendments to the social security agreement so that, with limited exceptions, doctors would no longer be allowed to establish practices in areas that already enjoyed significantly higher-than-average medical resources; that *honoraires libres* should no longer be permitted for doctors setting up in private practice (i.e., Sector 2 without OPTAM); and that public subsidies for doctors already in practice should be withdrawn if they failed to comply with social security rates outside the OPTAM framework.

The Conseil d'État noted that, taken as a whole, the measures requested by *Union Fédérale des Consommateurs - Que Choisir* called for a change of direction in public policy, in terms of the pricing of medical practice and the freedom of doctors to set up practice. They would also involve amending the law on conditions governing the establishment of self-employed doctors and, as regards their remuneration, the definition of new contractual arrangements between the *Union Nationale des Caisses d'Assurance Maladie* and trade unions representing doctors.

However, it is not the role of the Conseil d'État to take the place of public authorities by ordering them to adopt new public policy guidelines. On these grounds, the petition lodged by the *Union Fédérale des Consommateurs - Que Choisir* was dismissed.