Health

Commodification and rationing

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The basis of the health policy of the European Union (EU) is the Treaty of Lisbon, composed of the TEU (Treaty on the EU, known as the Treaty of Maastricht) and the TFEU (Treaty on the Functioning of the EU, which comes from the European Constitutional Treaty rejected by referendum in France and the Netherlands in 2005 and has not been much amended).

Is health a national domain?

Theoretically, the Treaty of Lisbon does not concern healthcare :

* It is not among the exclusive competences;

* It appears under very general aspects in the competences shared with states:

– article 4-2-k: "The competences shared between the Union and the Member States shall apply to (...) common safety concerns in matters of public health, for the aspects defined in the present Treaty";

– article 168 of the TFEU specifies broad objectives, but leaves implementation to the states: "The action of the Union, which complements national policies, focuses on the improvement of public health and the prevention of human diseases and infections and on the sources of danger to physical and mental health (...). The Union's action is carried out in compliance with the responsibilities of the Member States with regard to the definition of their health policy, as well as the organization and provision of health and medical care services. The responsibilities of the Member States include the management of health and medical care, as well as the allocation of the resources assigned to them".

This is why we often hear that health is part of the national domain.

The European Commission said the same thing to the delegation of the European Network against the Privatization and Commercialization of Health and Social Protection, which it received on 14 March, 2013. But there is a strong contradiction: if health is only in the national domain why did the Commission ask us to communicate our precise demands?

Theoretically the EU is "indifferent" to property: the Treaty of Lisbon nowhere asks for privatization or commoditization of health, or indeed of any public service.

And yet 20 years after the Treaty of Maastricht we are witnessing in all sectors and all countries progress towards the privatization and commoditization of all public services. How can we explain this?

The real role of the European Union

In reality the European Union influences policy in health and social protection, more and more directly.

1. The EU has a whole arsenal with which to act: the concept of completion of the internal market in a competitive framework implies that eventually any national difference becomes effaced and privatization becomes general, with the exception of a minimum core. But the resistance in all countries is slowing down the process considerably.

“Competitiveness”, to which I will come back, is also destructive.

The budgetary demands â€” which include health and social protection - contribute powerfully to reducing access to care, rationing it and opening up the “market” to the private sector...

Health policy, like all public services, is framed by the very important European Council meetings, the European Commission (which has the legislative initiative), and by pacts, treaties, directives, regulations, the Europe 2020 strategy...

This is why the Commission has no basis for passing its responsibility onto national governments, nor for these governments to pass the buck on to “Europe”. It is a shared responsibility. For example: two countries (the Czech Republic and the United Kingdom), have refused for their own reasons the European fiscal pact (whose official name is the Treaty on Stability, Coordination and Governance, TSCG), so it is possible.

Let us also note the pressure, if not the blackmail, of financial markets, credit rating agencies, the ECB, the OECD, the World Bank, the IMF... More and more countries are under their tutelage.

2. Some European documents directly related to health:

* According to the Pact for the Euro Plus, “the viability of pensions, health care and social benefits” is to be linked "to the level of indebtedness”.

If I may be allowed to offer some advice, it is to learn by heart the Pact for the Euro Plus. It contains all the anti-social policies that are being implemented, including the reform of the Labour Code that is being discussed in France (ANI).

* The fiscal pact (TSCG) demands that states get back quickly to a deficit of 0.5 per cent of GDP, and to a level of debt of 60 per cent, within twenty years. It thus puts on pressure in the short term and in the long term – twenty years is a generation!

Remark: deficits within the definition of the European Union include those of the state, local authorities and "administrations of social protection”.

* The search for “competitiveness”, which for the EU implies lowering the “cost” of labour and therefore to reduced social security contributions and taxes.

Remarks:
– In France the social contributions which finance social security are part of the salary (the Bismarck system). Since 1992, in the name of the “competitiveness” that is increasingly being invoked as a pretext, all governments are increasing exemptions for employers’ social contributions.

– In countries where social protection is funded by tax (the Beveridge system) tax competition and the decline in budgets leads to the same result: we observe at every meeting of the network that no country, regardless of its principle of funding, is spared.

* "The completion of the internal market" is at the heart of the Treaty of Lisbon:
Section 26 of the TFEU: “The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured (...). The Council, on a proposal from the Commission, defines the guidelines (...) Â». It is a shared responsibility.

In 2007 the European Commission defined “Services of general economic interest” (SGEI) in the following way: "The provision and organization of these services are subject to the rules of the internal market and of competition of the EC Treaty, since the corresponding activities are of an economic nature." In a Guide to applying to SGEI the rules of the EU by 2010, the European Commission developed this conception: "Any activity consisting of offering goods and/or services on a given market is an economic activity within the meaning of the competition rules. In this context, the fact that the activity in question is referred to as “social” or that it is exercised by a non-profit making actor (concerning non profit-making actors, see the answer to question 3.1.6) is not in itself sufficient to avoid it being described as an economic activity. Examples of activities considered as economic in past decisions of the Commission and judgments of the Court and Commission are: investment activity carried out by public employment offices; optional insurance schemes operating according to the principle of capitalization, even where they are run by non-profit making organizations; the principle of capitalization covers insurance benefits which depend solely on the level of contributions paid by beneficiaries and on the financial results of the investments made; emergency transport services and patient transport services. (…); medical services provided in a hospital setting or outside this framework." Health services are becoming increasingly involved.

* After the “six-pack” [1], comes the “two-pack” [2] which has just been adopted provides the European Commission with greatly increased means of pressure on all budgets, including social security. This means regulations that are immediately applicable in national legislation, whether the national parliaments are in agreement or not. The budget debates have already begun for 2014 as part of the European semester.

* Among the institutions which are exerting pressure, the IMF (like the rest of the Troika) is asking France: "to increase competition in the services sector" and "to reduce public expenditure at all levels (state, local authorities and social security administrations), to reduce employers’ social contributions, to support wage moderation."

By way of conclusion

* For obvious political reasons rationing of care and commoditization are never explicitly demanded. But a network of constraints leads there. In particular the budget cuts and the completion of the internal market by competition gradually lead to the generalization of privatization and commoditization, with the exception of a basic core, a basket of minimum care (universal service), close to that of the United States.

* It really is a question of rationing: the conception of European employers is of a minimum core funded by tax and the rest by complementary insurance. The mutual societies have evolved considerably since the directive of 1992 and subsequent ones: I recently received an advertisement with the monthly rate ranging from â‚¬20 to â‚¬240 per month. We really are in a situation of inequality, contrary to our system of social security.

* A word about the public-private competition discussed earlier. Firstly, competition distorts public service by giving it the goal of being competitive instead of best serving the general interest; furthermore it is more expensive: for

example in all countries where electricity has been privatized, rates have increased by 30 or 40 per cent. Public-private partnerships are a ruin for public finances. We know the disaster from the point of view of the budget and of quality in the United States

* The health policy of the European Union is synthesized in the White Paper “A strategy for adequate, safe and sustainable pensions" the beginning of which concerns all social protection: “Significant progress in reforming social security (…) has been made in several countries ,most recently in the Czech Republic, Greece, Spain and Italy (…) Nonetheless, more policy action is needed, and is
needed now.

We can see where this has led Greece, which is today calling for international solidarity...

This contribution was made on behalf of the French delegation to the conference of the European Network against the Privatization and Commercialization of Health and Social Protection held in Brussels on March 15, 2013.

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[1] What is known as the “six pack” is a set of five regulations and a directive aiming "to strengthen the economic governance of the EU", which entered into force on December 13, 2011. This package includes among other things financial penalties in the event of public debt or deficits that are deemed excessive and obliges governments to limit their expenditure by decisions taken by qualified majority of the European Council.

[2] The European Parliament adopted on March 12, 2013 two texts strengthening the control of the EU over the budgets of the Member States. The first reinforces the EU’s powers of supervision over countries in serious fiscal imbalance, providing for a country to be placed (after a qualified majority vote of the Member States) under enhanced surveillance and to be summoned to appeal to the eurozone emergency fund. The second regulation allows the European Commission to demand a revision of the draft budget, which must be communicated to it before 15 October, before even being examined by the national Parliament.