
UNCONVENTIONAL MEDICINE AND THE EUROPEAN PARLIAMENT

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On 29 May 1997, the European Parliament voted with a narrow majority of the members present (152 in favour, 125 against and 28 abstentions) the report of the commission for environment and health on the status of unconventional medicine within the European Union. This vote was the culmination of a several year long process, started upon my initiative with the backing of a few colleagues, the objective being of setting up a European legislation granting a legal status to unconventional medical disciplines and securing the free circulation of therapists within the Union of the 15 member States of the European Union.

The final result is far from being up to the standard of this objective; the weight of the medical lobby has indeed been sufficient to greatly restrict the political stand of the parliament.

Recently, an amendment lodged by Spanish, French and Belgium socialist deputies, removing from the text of the resolution any request related to a community legislation was adopted just in time. This amendment, backed by the most conservative edge of the assembly, was in fact the final expression of the strategy of obstruction used by the medical field to prevent changes.

In this respect, it is interesting to note that out of the 22 physician members of parliament none of them voted in favour of the paragraph 1 of the resolution asking the European Commission to “engage in a process of recognition of unconventional medicine”. It must be known that indeed the European treaty gives the Commission (a sort of European government operating jointly and permanently with the Council of ministers) the monopoly of initiative in matters of legislation, the parliament acting, simultaneously with the Council of ministers, only in reaction to the texts proposed by means of amendments.

The interest of a resolution voted upon the initiative of the parliament, as in the case of unconventional medicine, lies therefore in the fact that it constitutes a political signal and an invitation to act within the framework of the Commission.

Today, everything pleads in favour of an ambitious initiative on the European level, the present situation being anyway legally unbearable and politically unstable with regard to the public opinion and the advancement of the European Union.

1 An inconsistent community legislation

In matters of health care, two totally opposite concepts co-exist today within the European Union. The **first one** considers that **only the medical profession** (physicians) may exercise health care, treat patients, with the exception of certain professions which are permitted to carry out specific medical or paramedical acts, either under their own responsibility, or under the one of a physician (nurses, dentists, physical therapists, midwives, pharmacists).

Apart from these specific cases, there is illegal medical practice. This vision is the one which imposed itself in southern countries, including France, Belgium (However, Belgium, under the impetus of the former minister of Health, changed its attitude recently) and Luxembourg.

This being said, the *de facto* existence of the practice of unconventional medical disciplines in these same countries, as well as the increasing request from patients, led to certain tolerances, even certain variable-geometry openings:

- In **Spain**, the decree of 12 April 1992 authorises the settlement in the national territory of foreign centres to provide training at the university level with the possibility of official recognition of the diplomas;
- In **France**, acupuncture has been recognised by the Academy of medicine since 1950 and can be practised legally by medical doctors; moreover, homeopathic medications are refunded by the social security as medical prescriptions.
- The **second one**, dominant in the northern European countries, but more specifically in the Netherlands, Great Britain, Ireland (and, more restrictedly, in Germany) and Scandinavian countries, has the reverse approach: any person so wishing may practise health care but certain acts are strictly reserved to physicians who, moreover, have the authority and are a reference in the organisation of medical attendance and health policies.
- Thus, in the **United Kingdom** and in **Ireland**, further to customary law, any non-qualified person, i.e. who is not a physician, may practise a therapy as long as he/she does not claim the title of doctor in medicine. However, this situation, positive inasmuch as there is no policy of repression and patients enjoy complete freedom as to the choice of their therapist, has nevertheless the huge drawback, in the absence of legal recognition of training and titles, to protect neither the serious and competent physicians nor the patients faced with poorly qualified people or possible quack healers. This default has been remedied in the United Kingdom since 1993 for osteopaths and since 1994 for chiropractors: the "Osteopaths Act" and the "Chiropractors Act" provide the registration of practitioners, the set up of a Council and a protection of the title.
- In **the Netherlands**, a law related to the Professions of the individual health Care Sector (BIG wet= Beroepen in de Individuele Gezondheidszorg) was adopted in November 1993. In principle, it authorises medical practice to anyone. However, the law enumerates reserved acts, i.e. carried out only by authorised practitioners. Moreover, the law includes a criminal provision to the freedom of medical practice: to harm the health of an individual is punishable with a penalty. The law declares namely that "many persons have had for a long time the feeling that the prohibition of illegal medical practice is an anachronistic situation. Patients who are of age must be able to turn to regular or alternative medicine and select the therapist from whom they expect the most positive result. This freedom should be restricted only in the patient's interest".
- In **Germany**, the freedom of treatment has existed since 1873 and the profession of Heilpraktiker (health practitioner) has been recognised since 1939; even if no specific training is required, an examination of basic medical knowledge is requested, as well as the registration within the registry of the profession (The Heilpraktiker may, if he holds an approval (Erlaubnis) practise unconventional disciplines). Moreover, both homeopathic and anthroposophic medications are included into the national pharmacopoeia (with a specific commission created in 1978 where representatives of the discipline concerned hold their sessions.

- Finally, in **Denmark** and in **Sweden**, non-physicians and paramedics may practise unconventional medicine within certain limits fixed by the respective laws of 14 May 1970 and n° 409 of 1960. Besides, chiropraxis is legally recognised as a profession of health care in Denmark (law n° 415 of 06.06.1991), in Sweden (law n° 1988/89:96) and in Finland.
- Very recently (April 1999), **Belgium** adopted a new legislation, broadly inspired from the EP report, which turns out to be the most advanced in Europe today, recognising and regulating unconventional practices in the fields of homeopathy, acupuncture, osteopathy and chiropraxis.

This diversity of national approaches and legislations is not easily compatible with the free circulation of European citizens initiated by the Treaty and which, sooner or later, must be achieved in full.

Indeed, the European treaty provides explicitly in its Articles 52 to 66 (section III) the freedom of circulation and the freedom of settlement for practitioners.

How to justify that a health practitioner, officially recognised in a member State, may be taken to court for illegal medical practice in another one? How to justify that patients resorting to an unconventional therapy should see themselves deprived from the treatment they chose when staying in a neighbouring country? There is a strong discrepancy harming both the interest of serious and competent practitioners and the one of patients.

Besides, it is just as inconsistent to note that a specific community legislation has existed since 1992 for homeopathic medications while homeopathy is not recognised as a full medical discipline.

2 A continuously growing request

Today, the various enquiries carried out in the European Union show an increasing interest of the population in different therapies called alternative or additional therapies: according to the country, 20 to 50% of people resort to them. Curiously enough, this craze is not slowed down by the status of unlawfulness they have in certain member States. Contrary to what some of them allege, the risk for patients is much higher in a regime of unlawfulness since there is no legal protection, neither of the title claimed by a practitioner, nor a legal guarantee of his competencies, leaving the door open to possible quack healers. Similarly, qualified and serious practitioners are permanently insecure faced with unfair competition from people with little or no qualification since all of them are outlaws...

Therefore, to legislate would mean to minimise the risk.

The argument which is often put forward according to which therapies involved are not sufficiently tested and therefore threaten the health of patients is not valid. On the one hand, none of these therapies, if they are applied correctly, involve any important risk, which is not the case for allopathy; on the other hand, one cannot see why the experience gained in the most liberal countries should not benefit everyone.

The method consisting in looking into the various neighbouring countries is fundamental; if a therapy is recognised under one form or another (marketing of medications, teaching organisation, recognition of the title and practice) in a member State of the Union or in a country having scientific means of modern investigation, it should be granted at least a favourable presumption.

It must be noted that a petition requesting the adoption of a community legislation based upon the principle of free therapeutic choice and sent to the president of the European parliament collected over 230.000 signatures, essentially from the most repressive countries, i.e. France, Belgium, Italy and Spain.

It is obvious that it will be increasingly difficult to remain deaf to such a demand and to go on listening to a medical establishment insisting on its prerogatives and on certainties denied every day by facts.

3 The EP's report

The strong points of the report submitted to the European parliament were as follows:

- 1 The European Union must take the path of a legal recognition of the various unconventional disciplines most often used from the European standpoint;
- 2 No judgement is given on the validity of therapies but there is a favourable presumption for the ones benefiting from some form of legal recognition in one member State or the other and/or widely used on the international level;
- 3 The priority concern of ensuring the quality of the care implies:
 - high level training;
 - the recognition of a status for practitioners (protection of the title);
 - the inclusion of medications into the European pharmacopoeia;
 - a process of adaptation for presently non-recognised practitioners;
 - a clear definition of the field of competence of each of them;
 - the progressive inclusion of the various disciplines within the social security system (a green book should propose a reform in-depth).
- 4 The recognition process is very important; it implies the set up:
 - of a round-table commission in charge of evaluating the efficacy of unconventional therapeutic methods;
 - of a commission of evaluation including, for each member State, qualified practitioners of unconventional medical disciplines, scientists, representatives of pharmaceutical producers and herbalists, associations of consumers and associations of users of unconventional medical disciplines competent in the field, as well as representatives of the Commission; this commission gives its agreement on quality criteria, as well as norms of efficiency and innocuity upon which the monographs published in the supplement of European pharmacopoeia will be based;
 - of a commission of equivalence including qualified practitioners and teachers of the concerned unconventional medical disciplines, in which each member State would be represented, and in charge of studying, case by case, the situation of presently active persons and their diplomas as well as their possible progress so that they may accede to the same status.

4 Follow-up and perspectives for the future

The vote of 29 May 1997 was disappointing inasmuch as most of the concrete proposals set out here-above were rejected; nevertheless, it is true that a certain number of accomplishments are indisputable.

Indeed, the European parliament took a clear stand:

- on the fact that different approaches in health matters should not be considered as being mutually exclusive;
- in favour of a complete freedom of the physicians' therapeutic choice; any physician must be able to use all his resources and knowledge to treat and resort to the therapy of his choice;
- on the fact that the "freedom of establishment of practitioners is not being respected"; the parliament asserts that there is no question of restricting practitioners' rights presently recognised in a member State in the name of a European harmonisation;
- each discipline should be able to organise the profession from the European standpoint (code of ethics, registration and training criteria).

Practically, all the principles at the basis of a process of recognition, the way they were proposed, have been adopted.

However, as explained above, concrete proposals made to the Commission and the Council turn out to be limited.

Indeed, the European parliament

- calls upon the Commission, if the results of the study enable it, to launch a process of recognition of unconventional medicine and to take the necessary steps to encourage the set up of appropriate commissions;
- calls upon the Commission to carry out a complete study on the security, efficiency, field of application and complementary or alternative character of unconventional medicine and set up a comparison of the national legislations to which practitioners are submitted.
- asks the Council to encourage the development of research programmes in the field of unconventional medicine, taking into account the individual and holistic approach, the preventive role and the specific characteristics of each type of medicine and undertakes to do the same.

What to think two years later? The publication of the works done within the framework of the programme COST B4 has essentially met the requirements of the parliament in 2) above. Moreover, further to the parliament's favourable vote, item 3) at least in the intention, has been integrated into the 5th outline programme (1998-2002) of European Research and Development, which opens a considerable gap inside a wall of objection which has turned out to be indestructible for the past 15 years.

Now the Commission must set up what seems to me unavoidable, i.e. round-table commissions related to each unconventional medicine and in charge of defining both the pertinent methods of evaluation, the scope of responsibility and the reserved practices.