

Health Care Reform 2017: An International Perspective

Atlantic South Atlantic West Coast of
Europe - Portugal
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Europe - PT

- Limited competences of the EU in Health Care
 - A matter for national jurisdictions
- The portuguese national health service
 - Health as a basic right guaranteed by the state
 - Co-existence and cooperation with private health service
 - NHS funded by taxes and patient fees
 - The impact of health case on the national budget
 - 2016: € 9,500,000,000 (USD 10,078,545,403)

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- The Financial crisis of 2011
 - Cutting in health care by promoting the use of generic medicines
- The high costs of medicines and the low share of generic drugs
- A new mechanism of dispute resolution between patents and generic companies

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- The approval of generic medicines, the price of sale to the public, and the selection for copayment are independent from IP issues
 - Mandatory arbitration in 30 days as of publication of the application
 - 30 days for defence
 - 60 days for hearing of evidences
 - Appeal to the court of appeals

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- Scope of jurisdiction of the mandatory arbitration tribunal
 - Injunctive relief and penalty payments
 - Revokation or limitation of patentes? Disputed issue
 - Arguments pro (option A)
 - Arguments against (option B)
 - The judgment of December 2016 of the Supreme Court of Justice:
 - No patent revokation by arbitration – patents as registered rights and the exclusive competence of the Intellectual Property Court

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- Nature of the 30-day period to initiate proceedings
 - Relative term – the ruling of the Constitutional Court (12/02/2015)
 - Final term – the rulings of the Court of Appeal of Lisbon
 - The rational of the mandatory arbitration proceeding

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- Conclusion
- The increase of generic in Portugal and the reduction of the health care. But...
 - Generics are not all the same
 - Apparently generics are cheaper on the short-term, but there is not enough evidence to assert that they are cheaper on the medium and long term