Health Care Reform 2017: An International Perspective

Atlantic South Atlantic West Coast of Europe - Portugal
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• 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
  — Revocation or limitation of patent? Disputed issue
    • Arguments pro (option A)
    • Arguments against (option B)
    • The judgment of December 2016 of the Supreme Court of Justice:
      — No patent revocation 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