

# Conflicts of interest in France: feeble reform

**A**s the court case concerning France's Mediator<sup>o</sup> scandal proceeds, officials from the French drug regulatory agency have been indicted for "unlawful taking of interests" and "unlawful participation of a public servant in a previously controlled company [Servier]" (1). Yet, in 2013, the French government still seems incapable of tightening the rules that govern its health agencies, as reflected in its new charter for healthcare-related expert reports (2).

**Inadequate legislation.** The French health safety law passed in December 2011 was undermined by the fact that it stipulated that the charter for healthcare-related expert reports would be established by simple decree. The decree was to govern "the conditions for the selection of experts (...), management of conflicts of interest (...), and exceptional cases in which work undertaken by experts with conflicts of interest may be taken into account" (Article L. 1452-2 of the Public Health Law).

Rather than clarifying the situation, the charter published in May 2013, which applies to all French health agencies, confirms, in practice, that experts with conflicts of interest may participate in the preparation of expert reports (2).

**An ineffectual charter.** The charter states that "when a conflict of interest which,

by its nature or intensity, is unlikely to undermine the independence or impartiality of the expert vis-à-vis the expert report in question, the agency may allow the expert to participate in the preparation of the expert report (...)" (2). Worse yet, it states that "in exceptional circumstances, an expert or experts with conflicts of interest may contribute their expertise (...)" (2). Several members of parliament who were actively involved in the health safety law consider that this charter represents a step backwards (3). *Formindep*, a not-for-profit organisation which promotes independent continuing education and medical information, has appealed to the French Council of State to have the decree annulled (4).

**The need to protect expert reports from conflicts of interest.** It is well established that healthcare professionals' judgement is influenced by their links to the healthcare industry, and that patients' interests suffer as a result. Patients, healthcare professionals and citizens at large must be able to base their decisions on expert reports established by professionals without conflicts of interest. And the time these professionals (especially academics) spend on this vital task must be taken into account in their career development. Experts with conflicts of interest must only be allowed to express an opinion: they should not participate in

debates and even less so in the decision-making process.

The current charter does nothing to eliminate conflicts of interest. Even worse, by failing to develop publicly funded clinical research and by encouraging public-private partnerships, the French government is pushing researchers into the arms of drug companies, thus leaving health agencies vulnerable to conflicts of interest and creating a risk of legal challenges.

In 2013, it is clear that public health, rational healthcare and patients' interests are still not top priorities for French decision-makers.

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## Selected references from Prescrire's literature search

1- Piel S "Cinq nouvelles mises en examen dans le dossier du Mediator<sup>o</sup>" *Le Monde* 22 July 2013: 1 page.

2- "Décret n° 2013-413 du 21 mai 2013 portant approbation de la charte de l'expertise sanitaire prévue à l'article L. 1452-2 du code de la santé publique" *Journal Officiel* 23 May 2013: 8405.

3- Lemorton C and Robinet A "Rapport d'information sur la mise en oeuvre de la loi du 29 décembre 2011 relative au renforcement de la sécurité sanitaire du médicament et des produits de santé" Assemblée nationale, 17 July 2013: 119 pages.

4- Formindep "Les conflits d'intérêts des experts des autorités sanitaires restent permis" 22 August 2013: 1 page.



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