

Luxembourg, the 13 September 2018

**Note to Ms Souka et Ms Gaffey**

Concerning the termination of the 1999 Convention with the medical doctors and dentists by 1 September 2018, Union Syndicale Luxembourg has sent a letter (LINK TO USL WEBSITE TO THE WHOLE TEXT) to Ms Souka (DG HR) and Ms Gaffey (PMO) calling them to terminate the Convention with the hospitals (LINK TO USL WEBSITE TO THE CONVENTION TEXT), as well, because of further breaches of law by keeping it in force.

This convention does not only contradict to the European Court of Justice’ jurisprudence as e.g. in the *Ferlini case* (2000) but also to *Directive 2011/24/EU* on the application of patients’ rights in cross-border healthcare.

The technical committee established by Article 4 of the Convention that should have regularly meet since 1999 was only created on 25 January 2018, and its only reunion was characterised, interestingly, by a failure of the hospitals to cooperate. Indeed, they have all been free to set their tariffs applicable to EU civil servants and EIB Staff *in a unilateral way* until now.

There is more. Annex 3 foresees a certain mapping of medical practices with the respective “entités fonctionelles” but *such changes can only be done in common agreement of all signatories*. If we are not mistaken, these subdivisions have indeed been changed over time, and hospitals have again unilaterally set discriminating tariffs for EU Civil Services and EIB Staff in Luxembourg. Consequently the tacit renewal over the last decades of this Convention has undisputedly resulted in undue costs to the staff, RCAM and the caisse de maladie of the EIB, and this with perfect knowledge of PMO.

Article 1(5) of the Convention foresees 15% overcharging which should reflect the so-called “coût de revient net”. Indeed, the *hospitals use already a system of prices reflecting this cost that they apply both for cross-border patients with the European Health Insurance card while being faced with hospitalisation in Luxembourg, and to invoice the hospital costs for CNS patients*. Nothing would thus impede on equal treatment of EU civil servants and EIB staff with patients falling under those systems!

Moreover medical overcharging has an impact on the budget of international institutions (notably the Commission’s and the EIB’s Health Scheme) and thus may also violate Article 496-4 of the Code penal of Luxembourg “sur le *détournement d’un avantage légalement obtenu en réalisant une diminution des ressources du budget d’une institution internationale*”.

On the political field, the EP conclusions to the 2016 discharge of the annual EU budget *questioned the legality of overcharging in Luxembourg and called for taking stock of the total cost of the overcharged amounts and actions against Luxembourg*. The Commission, notably Commissioner Oettinger, has meanwhile also initiated discussions with the Netherlands on the same subject.

Union Syndicale Luxembourg will go fighting for the termination of the above Convention by *30 October 2018.*

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