Case 99-416 DC

C. C., nÂ°99-416 DC, 23 July 1999

Country: France
Region: Europe
Year: 1999
Court: Conseil constitutionnel [Constitutional Council]
Health Topics: Health systems and financing, Poverty
Human Rights: Right to health, Right to liberty and security of person, Right to privacy, Right to social security

Facts

The constitutionality of law nÂ° 99-641 of July 23, 1999 Loi portant crÃ©ation d'une couverture maladie universelle (Act Creating Universal Health Coverage), was challenged in the Conseil Constitutionnel. The Act was structured as follows:

Article 1 created universal health insurance, guaranteeing everyone care under a health insurance scheme. Low income earners were given the right to free protection and exemption from advanced fees.
Article 3 provided that where persons had no other health insurance, they would be provided with universal health insurance. Whether the public scheme was free or incurred a fee depended on the income of the relevant person.
Article 20 provided that those whose income fell below a certain annually adjusted level were granted additional health insurance coverage for a comprehensive range of additional health expenses.
Article 27 provided for the establishment of a public institution which would provide financial compensation to healthcare providers caring for people whose income fell below the income ceiling.

It was alleged that article 3 and 20 violated the right to equality, by distinguishing between those just above and below the cutoff, and only granting free healthcare and supplementary coverage to those below the cutoff.

It was also alleged that the law violated the principle of equality by providingÂ that insurers in the universal coverage system would be reimbursed the full cost of coverage, whereas private insurers would only be entitled to 375 francs per quarter per person.

Finally, it was alleged that the law'sÂ funding mechanism created an unequal distribution of public burden, and thusÂ violated the principle of equality and/or Article 13 of the Declaration of the Rights of Man and the Citizen (providing that all citizens shall contribute equally to public services).

Decision and Reasoning

Articles 3 and 20 of the Act did not violate the right to equality (Declaration of the Rights of Man and the Citizen, Article 1) by creating an inequality between those that fell just below and just above the income cut off for health insurance fees and supplementary assistance.

The Council considered that the legislature had the power under Article 34 of the Constitution of 1946 to determine the mechanisms for guaranteeing the health of the public as required by paragraph 11 of the Preamble to the Constitution. When dealing with existing disparities regarding access to health care, it was acceptable for the legislature to differentiate between different social-economic groups as long as it did not lead to deprivation of any groupâ€™s constitutional rights. The principle of equality did not require the legislature to address all disparities when addressing any one disparity. Additionally, because the fees imposed upon those falling above the income cut off were progressive, they did not create a sharp delineation from those below the cut off.

In order to ensure that those with minimal resources would be able to access a certain standard of care, the legislature also chose to make supplementary coverage available to those falling below a certain income threshold. It was not up to the Constitutional Council to determine whether assuring a basic level of care to the most vulnerable could have been achieved by other means. Because the threshold was used to

determine access to supplementary, as opposed to baseline, coverage, it did not violate the right to equality by preventing access to healthcare as guaranteed by paragraph 11 of the Preamble to the Constitution.

The Council also rejected the argument that the different levels of reimbursement provided to public and private insurers violated the principle of equality by creating unfair competition between these organizations without a good public interest justification. Although the compensation provided for coverage of those falling below the income cutoff that was different to the compensation for coverage of those who did not, this was a result of the differences in the situations of the different organizations and the communities they catered to. Whereas those insurance companies in the private system had the right to participate and the freedom to withdraw at any time, those providing universal health coverage were obliged to provide cover to their beneficiaries as part of a public service mission. Therefore, a different regime of compensation was justified. Such differences were necessary to guarantee comprehensive health protection for the most vulnerable members of society.

The Council also held that the law's funding mechanism did not violate the principle of equality and/or Article 13 of the Declaration of the Rights of Man and the Citizen. The Court considered that the financing of universal health coverage was indeed to the detriment of complementary social protection organizations, because these organizations were taxed in order to support complementary medical coverage for the beneficiaries of universal medical coverage, constituting a double imposition of tax. In contrast, European organizations of complementary coverage in the French market were not subject to this tax. However, the Council emphasized that the principle of equal contribution allowed for higher fees to be charged to those with greater means in order to subsidize services to those who could not afford them. Such higher fees would not violate the principle of equality. When the legislature established a tax, it was up to them to determine the tax base and the rate with respect to constitutional principles and rules.Â To ensure respect for the principle of equality, however, it was necessary to base oneâ€™s evaluation on objective and rational criteria.

In imposing a sales tax on organizations of complementary social protection, the legislature decided to require such organizations to participate in the financing of universal medical coverage, a decision based on objective and rational criteria. In defining the tax base and in fixing the rate at 1.75%, the legislature had not created a taxation inequality. It was able to exempt health insurance organizations because of their place in the social protection system, because of the public service mission they were charged with and because of the specific constraints they faced.

A number of other specific laws relating to taxation were considered and it was found the law complied with them. Further, a number of other issues relating to the constitutionality of the law but not relating to health were also considered.

Decision Excerpts

Â«Â 9. ConsidÃ©rant, par ailleurs, que le lÃ©gislateur s'est fixÃ© pour objectif, selon les termes de l'article L. 380-1 prÃ©citÃ©, d'offrir une couverture de base aux personnes n'ayant " droit Ã aucun autre titre aux prestations en nature d'un rÃ©gime d'assurance maladie et maternitÃ© " ; que le principe d'Ã©galitÃ© ne saurait imposer au lÃ©gislateur, lorsqu'il s'efforce, comme en l'espÃ¨ce, de rÃ©duire les disparitÃ©s de traitement en matiÃ¨re de protection sociale, de remÃ©dier concomitamment Ã l'ensemble des disparitÃ©s existantes ; que la diffÃ©rence de traitement dÃ©noncÃ©e par les requÃ©rants entre les nouveaux bÃ©nÃ©ficiaires de la couverture maladie universe et les personnes qui, dÃ©jÃ assujetties Ã un rÃ©gime d'assurance maladie, restent obligÃ©es, Ã revenu Ã©quival de verser des cotisations, est inhÃ©rente aux modalitÃ©s selon lesquelles s'est progressivement dÃ©veloppÃ©e l'assurance maladie en France ainsi qu'Ã la diversitÃ© corrÃ©lative des rÃ©gimes, que la loi dÃ©fÃ©rÃ©e ne reme en causeÂ ;Â Â»

Â«Â 14. qu'en effet, les organismes d'assurance maladie ont l'obligation de prendre en charge, dans le cadre de leur mission de service public et pour le compte de l'Ã‰tat, la couverture complÃ©mentaire des bÃ©nÃ©ficiaires de la couverture maladie universelle qui leur en font la demande ; qu'en revanche, les organismes de protection sociale complÃ©mentaire ont la simple facultÃ© de participer Ã ce dispositif et la libertÃ© de s'en retirer ; que la diffÃ©rence de traitement critiquÃ©e est en rapport direct avec l'objet de la loi, lequel consiste Ã garantir l'accÃ¨s Ã une protection complÃ©mentaire en matiÃ¨re de santÃ© aux personnes dont les ressources sont les plus faibles ;Â Â»