



The fact that an association provides paid services to the pharmaceutical industry is not enough to revoke its declaration of public interest

Judgment of the National High Court, of 6 of March of 2013, which annuls the decision of the Ministry of Health to revoke the declaration of public interest of a scientific association

The “Spanish Breast Cancer Research Group” (GEICAM) was formed in April 2002. According to its bylaws, such association had the purpose to perform scientific research in oncology, and breast cancer in particular. For the implementation of such objective it organized, among other activities, courses, conferences, publications, prizes and scholarships among its associates, physicians dedicated to oncology. Likewise, GEICAM obtained from the Administration the so-called “declaration of public interest” which entails, apart from a social recognition of its work, the possibility to take advantage of different tax benefits. In 2010 the Administration revoked such declaration and GEICAM appealed before the courts, which now cancel such revocation.

Position of the Administration

The Administration considered that GEICAM, contrary to the law and to the provisions of its bylaws, does not fulfill any general interest objectives. In the first place, because the direct beneficiaries of the services of GEICAM are the associates themselves and not a generic group of persons who might benefit from such general interest objectives. In the second place, because GEICAM also provides services of a scientific nature to the pharmaceutical industry, from which it receives numerous monetary contributions. In the opinion of the Administration, these circumstances show that GEICAM develops an economic activity of a private nature, and not of general interest.

Funds intended for the general interest

The National High Court considers, in the first place, that at no point does the regulation provide that the associations declared of public interest may not render paid services. Therefore, a decision based on this reason -not foreseen by such regulation-, cannot lead by itself to the revocation of the declaration of public interest granted to the association.

In the second place, such Court understands that although the income obtained from GEICAM comes from the pharmaceutical industry and is used to cover the costs incurred in activities carried out by the physicians who are associates of GEICAM, such circumstance cannot lead to the conclusion that such income is not used to the benefit of the general interests sought by GEICAM. All these activities improve the training and professional excellence of the associates of GEICAM, which for sure results in benefits for the society in general, thanks to the undeniable progress that such scientific community achieves in the fight against breast cancer, precisely as a result of the activity and the resources used by GEICAM.

The Court concludes that, in any case, in order to revoke the declaration of public interest the circumstances should have been changed to such an extent that such benefit would have been lost, which should have been proven mainly by the Administration. And there is no record that the activity or the functioning of GEICAM have changed since its creation.