

Press release

The Conseil d'Etat confirms the strike off the register decisions of four veterinary companies by the French Order of Veterinarians

In four decisions dated July 10th, 2023, the Conseil d'Etat rejected the appeals lodged by Centre hospitalier vétérinaire NordVet and Clinique vétérinaire Saint Roch (AniCura group), Oncovet (Evidensia group) and Univetis (MonVeto group), against the decisions to strike off the register taken on appeal by the Conseil national de l'Ordre des vétérinaires (French Order of Veterinarians). These decisions are now final.

The Conseil d'Etat has ruled that the Ordre des Vétérinaires may refuse to register a company on the roll if its bylaws do not comply with the legislative and regulatory provisions governing the practice of the veterinary profession, including the conditions imposed by law on the practice of animal medicine and surgery within the framework of a company, or if these bylaws, or, where applicable, agreements between the partners or commitments entered into by the company with third parties, are likely to lead the veterinarians practicing within them to disregard the rules of the profession, in particular by undermining their professional independence. This is the case when the company's bylaws and any shareholders' agreements, even though they formally stipulate that the associate veterinarians hold the majority of the capital and voting rights, contain stipulations that render ineffective the guarantees provided by 1° of II of article L 241-17 of the French Rural and Maritime Fishing Code (CRPM). The Conseil d'Etat states that these provisions are compatible with Article 15 of the European Services Directive of December 12th, 2006.

NordVet, Saint Roch, Oncovet

With regard to the Centre hospitalier vétérinaire NordVet and Clinique vétérinaire Saint Roch (AniCura group) and Oncovet (IVC Evidensia group) cases, although the bylaws and shareholders' agreement include stipulations formally incorporating the requirement to hold "*more than half of the share capital and voting rights, directly or through companies registered with the Order, by persons legally exercising the profession of veterinary surgeon within the company*", the combination of certain provisions renders the guarantees provided by law ineffective if the veterinary surgeon partners, despite holding the majority of voting rights, are unable to effectively control the company.

These provisions include : a unilateral promise to sell made to the benefit of the minority shareholder investor, under which he alone may take the initiative at any time to purchase the majority of the company's share capital ; decisions taken at a shareholders' meeting by a qualified majority, which implies the approval of the minority shareholder ; and a commitment by the veterinary shareholders to vote in favor at the shareholders' meeting of any proposal to allocate distributable sums, subject to certain reservations.

The Conseil d'Etat maintains that the Conseil National de l'Ordre des Vétérinaires correctly applied the provisions of 1° of II of article L 241-17 of the CRPM. The removal of Centre hospitalier vétérinaire NordVet, Clinique vétérinaire Saint Roch and Oncovet from the Order's roll is confirmed on the basis of this argument alone.

The Conseil d'Etat did not follow the reasoning of the Conseil national de l'Ordre des vétérinaires on the question of conflicts of interest, considering that the Conseil national had not seriously contradicted the investment companies when they maintained that they only provided "support services" for veterinary

practice companies, and also considering that the activities of companies that manufacture and market animal feed, the supply of which is an activity ancillary to the practice of animal medicine and surgery, as referred to a) and b) of 2° of II of article L 241-17 of the CRPM, are not such as to prohibit an investment company from holding a stake in a veterinary practice company, insofar as no direct or indirect legal link has been demonstrated.

The Conseil d'Etat ruled that AniCura and IVC Evidensia could hold shares in the veterinary practices concerned by its decisions.

Univetis

With regard to Univetis (MonVeto group), the Conseil d'Etat points out that, in order to be entered on the roll of the Ordre des Vétérinaires, a private practice company whose purpose is the joint practice of animal medicine and surgery must demonstrate that more than half of its share capital and voting rights are held, directly or through the intermediary of companies registered with the Ordre, by persons legally practicing the profession of veterinary surgeon within the company.

The Conseil d'Etat states that this provision is not incompatible with Article 15 of the European Services Directive of December 12th 2006, for overriding reasons of general interest. Indeed, the purpose and effect of this provision is to reduce the risk of a company adopting economic strategies driven essentially by the objective of profitability, likely to undermine the objective of protecting public and animal health, and to ensure that the company and all the veterinarians working within it effectively respect the ethical obligations governing the practice of the veterinary profession, in particular the prohibition on practicing the profession as a business.

As the three veterinarians who indirectly hold more than half of the company's share capital do not practice animal medicine or surgery within Univetis, the Conseil National de l'Ordre, in deregistering the company, accurately applied the provisions of 1° of II of article L 241-17 of the French Rural and Maritime Fishing Code.

In addition, and on the basis of the same reasoning, the Conseil d'Etat, hearing an appeal against a decision of the Ordre's discipline Chamber, established the principle that while the CRPM " *does not expressly limit the number of professional domiciles that a liberal veterinary practice company may declare, it cannot allow the partners of such a company, whose object (...) is the joint practice, by its members, of the profession of veterinary surgeon within the professional domicile declared by their company, to delegate on a permanent basis, in disregard of the provisions of article R 242-66 of the same code, the management of a professional domicile to a salaried veterinary surgeon or to a liberal collaborator. It follows from all these provisions that a liberal practicing company must justify that at least one of its partners works, at least part-time, in each of its professional residences* ".

Future action

The Conseil d'Etat has instructed the Minister of Agriculture and Food Sovereignty to enforce the four administrative decisions mentioned above.

The Conseil d'Etat having confirmed the decisions, the Ordre des Vétérinaires will promptly notify the four veterinary practices of their deregistration, which becomes effective eight days after receipt of the notification. The ban on veterinary practice applies to veterinary practices. It does not apply to veterinarians practicing within the company, unless they consider that they cannot practice under cover of a struck-off veterinary practice company under penalty of contravening their Code of Deontology.

The aim of the steps taken by the Ordre des Vétérinaires over the past five years is not to close down veterinary practices or establishments, but to ensure that all veterinarians, both individuals and legal entities, registered with the Ordre respect the laws and regulations applicable in France to the regulated profession of veterinarian.