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Medical Expertise in Algerian Social Security Legislation

Hayet LEMLIKCHI
E-mail: hayetoukil5@gmail.com.
Faculty of Law and Political Sience, Mouloud Mammeri University of Tizi-Ouzou (Algeria)

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Abstract:
The Algerian legislature recognises medical expertise as a mechanism for resolving medical disputes. This is achieved through the use of medical arbitration as a preliminary and mandatory procedure for internal dispute resolution, with the exception of disability cases, which are within the purview of the qualified disability committee. In this regard, the primary objective of medical expertise is to facilitate amicable resolution of disputes through straightforward and expeditious procedures. The legislator has stipulated that the results of the expertise are binding on the parties involved, with the exception of cases where the conduct of medical expertise is rendered impossible. The legislator has rendered the results of the aforementioned expertise binding on the parties to the dispute, except in one exceptional case, namely the impossibility of conducting the medical expertise.
Keywords: Medical assessment; medical dispute; Independent medical examiner; Medical expert report; Social Security system

Introduction:

Socially insured individuals are susceptible to social risks in their daily lives and, to a greater extent, in their professional lives. This necessitates that they undergo general or specialised medical examinations to ensure appropriate diagnosis, treatment, and compensation. This process requires the intervention of qualified medical practitioners with expertise in relevant medical specialities to ensure continuous monitoring of the individual's health status.

Furthermore, the aforementioned risks have the potential to compel individuals to discontinue their professional activities, albeit temporarily, and to experience a disruption in their financial resources. Consequently, it became imperative to devise strategies to ensure the provision of income during this period. The Social Security Authority, in this instance, was instrumental in providing the socially insured individual with in-kind and cash payments, compensation for treatment expenses, including medical examinations and medications, and care for him and his family.

However, the medical reports provided by the treating doctor may be contested by the injured individual if they are not satisfied with them. This is because the opinion of the treating doctor may conflict with the opinion of the doctor consulted by the Social Security Authority regarding the insured's entitlement to these payments and compensation.

Consequently, the majority of legislations, including that of Algeria, endeavour to establish mechanisms for the amicable and expeditious resolution of social security disputes,

eschewing the involvement of the judiciary. For instance, in the event of a dispute regarding the health status of the insured individual pertaining to illness, capacity for work, diagnosis, treatment and all other medical prescriptions, the insured person or their beneficiaries may challenge the decisions of the social security authority by requesting recourse to medical expertise.

The medical dispute is subject to medical expertise procedures at the initial stage of its settlement. These are considered a type of specialised medical arbitration, They provide a description and accurate determination of the damages in dispute (Ahamia.S,2003,p.191). This is why the study is important. Medical expertise plays an extremely important role in settling medical disputes, other than those related to disability, in amicable and rapid ways. This prompted us to study the topic and research the procedural controls that govern the conduct of medical expertise. **We also researched the effectiveness of the latter in preserving the rights of the insured.**

The study of the topic necessitates a delineation of the stages and procedures of medical expertise (the first axis), and the extent to which its results are binding on the parties to the dispute (the second axis).

In order to address the multifaceted aspects of the subject and formulate a response to the posed query, an analytical and comparative approach will be adopted. This approach entails the examination of pertinent legal documentation that delineates the procedures to be observed in the event of a dispute arising between the insured party and the social security authority concerning a decision rendered by the latter pertaining to the health status of the socially insured. The extent to which the expertise obtained is mandatory for the disputing parties will be elucidated, in accordance with the provisions stipulated within Law No. 08-08 on disputes in the domain of social security (Law No 08-08, 2008).

The first axis: Entrust the Social Security organization with the performance of medical expertise

A medical controversy arises when the Social Security Authority exercises medical supervision to determine the entitlement of the insured to the payments it provides, whether in kind related to their treatment, or in cash related to the amount of compensation for wages. When the injured insured is presented to the consultant doctor of the social security authorities, and the latter's opinion conflicts with the opinion of the treating doctor, recourse to medical expertise is required, at the request of the insured who rejects the medical decision issued against him, which is considered a medical arbitration, in order to provide an accurate description and determination of the damages.

1-Objection of the insured person to the medical decision taken against him:

In order for the insured party to submit a request for a medical expertise, a medical decision must first be issued by the Social Security Authority and communicated in accordance with the legally prescribed rules.

1.1- Notification of the medical decision to the insured :

The right of the insured individual to contest the medical decision made regarding their health condition is contingent upon the Social Security Authority providing them with

prior notification of both the medical decision and the option to challenge it (Supreme Court Judgment No.119321,pp.169-174).

The notification of the concerned person constitutes the personal information of the medical decision in accordance with the legally prescribed rules for the commencement of the deadline for the submission of the request for expertise (Ben Sari.Y,2013,p.57), the notification must be accurate in the sense that the concerned person must be personally informed and this must be done in an official manner (Articles 8/2-3 executive decree No 05-171,2005). The failure to prove that the notification was officially confirmed by the Authority's decision renders the right of the insured person to request expertise valid.

Article 20 of Law No. 08-08 stipulates that the Social Security Authority must notify the concerned individual of the medical decision as soon as it is issued. However, it has been noted that Article 18 of Law No. 83-15 on Social Security Disputes imposes a specific time limit for notifying the injured person of this medical decision issued by the consulting physician, the article 18 specified the notification period at eight days form the date of issuance of the opinion of the medical adical advisor of the institution. The legislator no longer imposes any time limit on the Social Security Authority, meaning that the notification of the notice under the new law remains undefined. This is despite the fact that it is an essential and initial procedure through which the time limit for appealing against medical examinations or the description and classification of damages resulting from work accidents or occupational diseases, except in cases of disability, can be determined. It is therefore incumbent upon the legislator to remedy this gap in Law No. 08-08, especially since the absence of time limits gives rise to the possibility of delay by the Social Security Authority in communicating this decision to the insured. This may result in protracted dispute resolution, which will undoubtedly have an impact on the injured insured party.

1.2- Challenging a Social Security Authority Decision:

The insured individual has the right to contest the decision rendered by the Social Security Authority and formally communicated to them by means of an application submitted to the Social Security Authority within 15 days from the date of receipt of the notification of the medical decision taken regarding their health condition after the opinion of the consulting doctor, which is either rejected or accepted, instead of one month. The time limits set for the insured person to submit a request for expertise are considered to be in the public interest and, as such, failure to respect them results in the inadmissibility of the request by the Social Security Authority due to the expiration of the legally specified time limit pursuant to Article 20/1 of Law No. 08-08 on Social Security Disputes.

The socially insured individual is at liberty to submit such a request in either of the following ways: by certified letter with acknowledgement of receipt, or by depositing it with the social security services against a deposit receipt (Article 20/2-3, Law No 08-08, 2008). It is imperative that the subject matter of the objection is specified accurately and clearly, in addition to the name and address of the treating physician. Furthermore, the latter is at liberty to apply for the expertise for the patient (Ben Sari.Y, 2013, p.58). This represents a departure from the provisions of the old Law No. 83-15, wherein the legislator did not stipulate this requirement when requesting medical expertise. In Article 15, the legislator did not stipulate

this condition when requesting medical expertise. It can therefore be concluded that the legislator under Law No. 08-08 has rectified the deficiency and void that previously prevailed, by explicitly stipulating through Article 20/2 that the request for medical expertise must be in writing and attached to the report of the treating physician.

2-Expert appraisal procedure:

The medical expertise of social security beneficiaries is conducted at the level of the social security funds by the medical practitioner consulted by these funds. This practitioner is qualified to conduct a medical examination of the beneficiary or each medical document related to the health condition for which the medical expertise or monitoring is conducted (Articles 4 and 5 executive decree No 05-171, 2005).

2.1- Appointment of the expert physician:

The Social Security Authority is obliged to initiate the expert procedure within eight days of receiving the request from the insured individual to select a primary care physician. In the absence of such a request, the SSA is bound by the opinion of the treating physician. The expert is selected by the insured and the Social Security Authority from a list of expert doctors prepared by the Ministry of Health and the Ministry of Social Security (Executive Decree No 11-364,2001). This selection is made after the Medical Ethics Council has conducted a binding consultation, upon a written proposal by at least three expert doctors (articles 21 and 22, No08-08, 2008). The expert doctor is selected on the one hand, and their purpose and mission are defined on the other. The expert and the Social Security Authority then embody their agreement in a document called the 'Protocol of Agreement' (Filali.A, 19998,p.79).

The new law endowed the attending physician with the authority to articulate their perspective in writing regarding the consultant's determination concerning the expert physicians recommended to the insured. This is a novel matter introduced by the legislator in Law No. 08-08, thus engendering greater credibility and compulsory medical expertise, enabling the insured to intervene in the selection of the expert physician and not be imposed on him, so that the selection of the expert physician is by a tripartite agreement between the insured, the social security authority and the treating physician.

Conversely, the social insurance beneficiary is required to either accept or reject the proposed medical practitioners within eight days of receiving the proposal, failure to do so resulting in the forfeiture of the right to select an expert physician. The beneficiary is then obligated to accept the expert physician automatically appointed by the Social Security Authority (Article 23, Law No 08-08,2008), a departure from the previous legal framework outlined in Article 21/1 of Law No. 83-15. In the event of an absence of consensus regarding the appointment of the expert physician, the Director of Health in the state is authorised to appoint the expert physician from the aforementioned list. The legislator has thus bestowed upon the Social Security Authority significant powers to appoint the expert physician as a sanction for the beneficiary's failure to respond within the stipulated timeframe.

It is important to note that in the case of an absence of consensus regarding the selection of the expert physician, the Social Security Authority is obligated to ensure the automatic and immediate appointment of the expert doctor from the list of medical experts,

provided that the aforementioned doctor is not from the list rejected by the insured, his treating doctor (Article 97, Executive Decree No 92-276, 1992) or even the doctor consulting the social security authorities, and provided further that the doctor is not affiliated with the organisation where the injured insured works. This standpoint is supported by the French Court of Cassation, which ruled that an expert physician who had previously treated the insured party prior to their appointment as an expert may not be considered suitable for the role (Ben Sari.Y, 2013, p.60). However, the social security authority is prohibited from automatically appointing the expert doctor without first conducting the preliminary procedures, as the agreement on the appointment of the expert constitutes a fundamental procedure (Decision No 188822, 15 Februry 2000).

The legislator did not specify the criteria and conditions on the basis of which the expert doctor is selected, despite the importance of the subject matter. Consequently, the legislator in Article 21 of Law No. 08-08 had to focus on the medical competence of the expert. Furthermore, the expert must refrain from conducting the medical expertise if he believes that the matters are beyond his competence or foreign to the medical techniques in his possession, or if he himself is the treating physician or a relative of the insured patient. In such cases, a report of deficiency shall be drawn up, which is something that Law No. 08-08 on social security disputes overlooked (Kouhil.A, 2018, p.214).

2.2- Medical experience:

Following the conclusion of the appointment phase for the medical expert, whether selected collectively by the disputing parties or automatically by the social security organisation, the Fund designates the expert by letter included with the notice of arrival. In practice, it is the insured person who initiates contact with the expert to submit the medical report or file (Khadir.M, Hannouz.M,2003,p.164). Thereafter, the medical expert performs his duties, which consist of summoning the injured insured person, The summons must be clear, and the medical expert must precisely specify the date and time of the medical examination, which shall take place at the expert's clinic or at the worker’s home if he is unable to move or travel due to illness for examination and medical assessment within eight days, in order to formulate and deliver an expert opinion constituting the expert decision. This opinion is based on a set of elements and data made available to the expert by the social security body. Specifically, the opinion of the attending physician and the opinion of the medical adviser are relevant data. The expert must also provide a summary of the subject of the disputeThis provision was introduced by the legislator under Law No. 08-08, as it did not appear in the text of Article 22 of the former Law No. 83-15. Accordingly, the legislator, in the new law, made an effort to enable the medical expert to perform his duties to the fullest by providing him with the medical issues in dispute, so that he could address all points of contention without exceeding his mandate, with the specific tasks of the expert, In this regard, the role of the medical expert consists of the social security institution, through its consulting physician, posing questions that require answers from the medical expert (Abbassa.D, 2010-2011, p.25), that cannot be performed until the results of the assessment are complete, accurate and unambiguous. The injured person is obliged to attend because unjustified absence will result in the loss of their right to the assessment.

The expert conducts a thorough and comprehensive examination to assess the insured's state of health, whether physical or mental, according to the subject matter of the expertise. Following the completion of the requisite expertise, the individual is obligated to respond to the elements of the questions posed in the decision to appoint him. Subsequently, he/she is required to compile his/her report, thereby ensuring the expertise is justified and reasoned, thereby removing any confusion or ambiguity. It is imperative to note that the results obtained from this process are considered binding on the parties involved and serve to resolve the dispute. Furthermore, these results also determine the compensation deemed appropriate or the percentage of disability.

The expert is required to submit their report to the Social Security Authority within 15 days of receiving the medical file, as outlined in Article 26 of Law No. 08-08. A notable aspect of the revised legislation is that it explicitly stipulates the designated timeframe, a feature absent in Law No. 83-15. In that instance, the duration of the expert's assessment extended over several months, a consequence of both the expert's numerous concerns and their apparent indifference to the well-being of the insured individual. This protracted period potentially resulted in a deterioration in the health condition of the insured individual, further compounded by the complexity of the medical evaluation (Smati.E, 2009, pp.98-99).

A salient feature of the revised legislation is the stipulation by the legislator that the insured's right to obtain medical expertise is relinquished in the event of non-compliance with the legally stipulated timeframe. This non-compliance may be attributed to the insured's failure to specify that the designated medical expert is unwilling to undertake the requisite medical expertise, or to the procrastination on the part of the expert, resulting in the completion of the task exceeding the stipulated period of 15 days. In the event of refusal to conduct the medical expertise, or in the event of delay, it would have been appropriate to provide for the possibility of replacing him/her. This is especially important since the conduct of medical expertise is mandatory in settling the dispute amicably. Furthermore, when the doctor exceeds the limits of the task assigned and fails to justify the results reached, his/her expertise is subject to challenge before the competent courts.

2.3- Inform the insured of the results of the expertise:

In accordance with Article 27 of Law No. 08-08, the legislator incorporated this obligation through the newly enacted legislation with the aim of eradicating procrastination and delays in communicating the results of medical expertise to the insured within 10 days following the receipt of the report. This development was undertaken to address the abuses that had been observed under the previous law, wherein medical expertise was not communicated to its owners within the stipulated timeframe, and occasionally not at all. This had the effect of burdening the insured in finalising medical dispute procedures (Smati.E, 2009, p.101).

2.4- Coverage of medical expertise costs:

In this context, it is imperative to draw a distinction between two scenarios: In the event that the insured individual's request is deemed to be well-founded, the Social Security Authority is obligated to cover the expenses incurred for expert doctors' fees, in accordance with the tariffs and prices stipulated by the Authority (Executive Decree No 85-283, 1985).

Conversely, if the expert doctor determines that the insured individual's request lacks merit, the insured individual shall be responsible for the costs incurred for the services of the expert doctors (Article 29/1, Law 08-08, 2008).

The Social Security Authority has been determined to provide financial assistance to the insured individual, their dependants, or their companion, in instances where travel outside their place of residence is necessary for medical examinations or assessments conducted by a qualified state disability committee. This provision is extended to facilitate participation in health activities, under circumstances where the individual's municipality is unable to provide adequate treatment. It is noteworthy that the Social Security Authority's financial coverage may extend even in cases where treatment is provided within the insured individual's own municipality, provided that certain regulatory criteria are met (Article 9, Law No 83-11, 1983).

The second axis: The mandatory results of medical expertise between the rule and the exception

It is evident that the legislator has taken measures to circumvent the parties involved in the dispute from resorting directly to the judiciary. The decision has been made that the results obtained by the expert doctor subsequent to the completion of the medical examination and documented in his report shall be considered binding for both the insured and their beneficiaries, as well as the Social Security Authority. It is evident that the medical expertise procedure constitutes a mandatory step in the amicable resolution of disputes. The primary objective of this procedure is to circumvent the need for litigation, which is known to entail protracted and intricate processes. However, it is imperative to note that the compulsory nature of the expertise does not preclude recourse to the judiciary in certain cases.

1-Obligation of the parties to the conflict to draw conclusions from experience:

In consideration of the significance and worth of medical expertise, Article 19/2 of Law No. 08-08 stipulates the obligation, incumbent upon both the insured and the social security authority, to adhere to its conclusions in a definitive manner, as outlined in the following passage: The findings of the medical examination are to be regarded as definitive and conclusive on all parties involved. It is evident that the expert opinion provided by the designated medical practitioner is considered definitive and incontestable by all involved parties. This holds particularly true in instances of disputes pertaining to the extent of disability, whether total or partial, arising from a work-related accident or occupational disease. Additionally, the acceptance and review of disability within the context of social insurance falls under the purview of the qualified state disability committee, thereby precluding the need for recourse to medical expertise procedures. This principle is explicitly articulated in Article 19/1 of the prevailing legislation.

Consequently, the social security legislation has rendered medical expertise arbitral and compulsory in medical disputes other than those pertaining to disability. Moreover, the findings of the expert assessment are considered final and binding on both parties to the dispute, namely the social insured and the social security authority. Judicial review of these findings is only possible in exceptional circumstances, namely where it is impossible to

conduct an amicable assessment of the concerned individual, as recognised by the legislator in Law No. 08-08 relating to social security disputes.

Article 24 of Law No. 83-15 stipulates that the results of the medical expertise provided by the designated medical practitioner must be consistent with the decision to be taken by the Social Security Authority (Supreme Court Judgment No 463285,2008, pp.447-450). However, the recently enacted Law No. 08-08 does not explicitly stipulate this principle, but rather, it is implicitly delineated through Article 19/2, which states: The findings of the medical examination are to be regarded as definitive for all parties concerned, as well as for the stipulations set out in Article 27 of the aforementioned legislation. The Social Security Authority is bound by the stipulated regulations which obligate it to communicate the results of the medical expertise report to the interested party within ten (10) days of receiving it. The present study draws conclusions from two articles that demonstrate the new law did not repeal Article 24, but rather implicitly refers to it. The conclusion is supported by the fact that it is illogical for the notification issued by the Social Security Authority and sent to the insured to be contrary to the results of the medical expertise (Smati.E, 2009, pp.105-106). However, the legislator had to include this provision in Law No. 08-08 in an explicit manner, in order to eliminate the ambiguity and confusion that prevailed. Furthermore, the study finds that most of the judgements issued by the social courts confirm that the Social Security Authority must take a decision in accordance with the results of the medical expertise carried out by the expert.

2-The determination of the cases of recourse to expertise does not prevent access to justice:

As previously indicated, the basis for the internal settlement of medical disputes is medical expertise, with the exception of cases of disability, given the expediency with which it is settled, especially since it concerns the state of health of the social security beneficiary. The governance of such disputes is dictated by Law No. 08-08 on social security disputes, which confers upon any interested party the prerogative to submit the matter to the relevant social court in a single instance, namely when the execution of an amicable medical assessment of the concerned individual becomes unfeasible, in accordance with Article 19 of Law No. 08-08. With the exception of this particular case, both parties are ultimately bound by the results of the medical examination. The expert's decision is regarded as definitive on the matter of the dispute, and when the medical dispute is presented to the court for adjudication on social matters without recourse to the medical expert, this is regarded as a fundamental mandatory procedure, resulting in the case not being accepted in its current form.

Nevertheless, with reference to the old Law No. 83-15, it is evident that the legislator specified several cases in which a lawsuit may be brought before the judiciary under Article 26. These include the following: improper expertise procedures; violation and non-conformity of the decision of the Social Security Authority with the results of the medical expertise; inaccurate and ambiguous expertise; and the impossibility of conducting medical expertise and the need to renew and supplement it. In contrast, the new law, as outlined in Law No. 08-08, does not include such specific cases. Case law has been disregarded by the aforementioned cases, and the results of the medical expertise have been rendered binding and

final for both parties to the dispute. In no case can recourse be had to the judiciary except in a single exceptional case, which is the impossibility of conducting an amicable medical expertise on the concerned person. This is contrary to legal logic and affects the right of the individual to resort to the judiciary to settle the dispute. However, anyone who claims a right has the right to bring an action before the courts in order to obtain or protect it, as recognized by the Algerian legislature in Article 165, paragraph 2, of Presidential Decree No. 20-442 of December 30, 2020, promulgating the constitutional amendment approved by the referendum of November 1, 2020, Official Gazette No. 82, published on December 30, 2020.

It is not possible to imagine in practice that the medical expertise that was conducted on the insured is sound in every case in order to say that it is binding and final. This is because it may be flawed, such as if the Social Security Authority appoints the expert doctor without the knowledge or consent of the insured, or if the completed expertise is inaccurate, incomplete or ambiguous, which prevents the accurate determination of the health condition of the insured. This makes recourse to the judiciary justified, which calls for the need to remedy this deficiency by including other exceptions to Article 19 of Law. It is evident that the numerical sequence of the law in question is consistent with that of the preceding legislation, namely Law No. 83-15, as evidenced by the numerical correspondence of 08-08.

In accordance with the provisions stipulated within Law No. 08-08, in instances where the conducting of a medical examination is rendered unfeasible, the dispute in question shall be subject to judicial proceedings. Consequently, the individual concerned in this particular instance is entitled to submit a request for judicial examination. The Code of Civil and Administrative Procedure (Law No 08-09,2008), set out in Law No. 08-09, delineates the court with jurisdiction over disputes pertaining to medical examinations. According to Article 500/06 of the aforementioned legislation: The social section possesses exclusive competence in the following articles: 'social security and pension disputes'. In addition, Article 37 of the aforementioned law stipulates that: The doctrine of territorial jurisdiction stipulates that the authority of the judicial system is vested in the jurisdiction of the domicile of the defendant. Given that the Social Security Fund is frequently the defendant in such cases, legal action pertaining to these disputes is initiated before the social section of the court (the court that adjudicates in social matters), whose jurisdiction is the domicile of the Social Security Fund as the defendant's domicile. With regard to the time limits for filing a lawsuit before the social section, the legislator did not specify any time limits in Law No. 08-08. This means that the text of Article 19/3 of Law No. 08-08 left the field open, as the court competent in the field of social security can be notified to conduct a judicial expertise in the event that it is impossible to conduct a medical expertise on those concerned without specifying any time limit. The same general conditions for the acceptance of lawsuits are required for the acceptance of the lawsuit.

In line with the principle of double jurisdiction, the insured person or social security institution is entitled to appeal against judgments issued by courts of first instance in social matters before the judicial councils. The time limits are set at one month from the date of official notification of the judgment to the same person, and two months if the notification was made in the country of origin or the country of selection, if any. It is important to bear in

mind that the time limit for appealing against judgments by default only applies after the expiry of the time limit for opposition (See article 236/2-3, LawNo.08-09), It is important to note that judgements rendered prior to the decision on the merits may only be appealed to the Supreme Court within two months from the date of official notification of the contested judgement, provided that they were rendered in person, and within three months if the official notification of the actual domicile or judgement was made in the country where it was notified. It is imperative to note that the appeal shall not be lodged after the expiry of the time limit prescribed by the opponent (345 and 355 of the Code of Civil and Administrative Procedure).

Conclusion:

As demonstrated above, it can be concluded that disputes pertaining to the medical condition of social security beneficiaries are resolved within the framework of special procedures for medical expertise. These procedures are regarded as the primary and final step in the amicable resolution of medical disputes not related to the state of disability. The expertise procedure is a mandatory, formal and essential procedure. Consequently, the socially insured person (patient) in medical disputes other than disability cases cannot resort to the judiciary directly without fulfilling this condition. This condition is considered a public order that cannot be agreed to violate or not observe its provisions.

The unique characteristics of the laws pertaining to social security necessitated their continuous amendment to enhance their efficacy and align with developments across various domains of political, economic, and social life. The legislator deemed it necessary to amend Law No. 83-15 in order to keep pace with current developments. However, following the change in Algerian regime and the adoption of a market economy by Algeria, as well as the failure of this law to achieve the objectives set for it by its authors, the legislator chose to cancel the law and issue a new law to settle social security disputes (No. 08-08 of 23 February 2008). The purpose of this new law was to attempt to fill all the gaps and shortcomings that were in the old law. Notwithstanding the fact that the legislator has addressed certain deficiencies through the introduction of amendments, it is evident that he has also repealed several pivotal legal instruments that were enshrined in Law No. 83-15. Consequently, the onus falls upon the legislator to effect numerous crucial amendments, the objective of which is to eradicate all legal concerns. It is acknowledged that the new text is not entirely free from shortcomings that necessitate further research and consideration to identify efficacious solutions. The following points seek to address these issues:

- The absence of a provision requiring the Social Security Authority to notify the insured person of the medical decision issued against them within a specified time limit, in contrast to the case in the repealed Law No. 83-15, raises the possibility that the Authority may delay in communicating this decision to the insured person, which may result in a protracted resolution of the dispute and will undoubtedly have an impact on the injured insured person. It is this author's opinion that the legislator was required to amend the law and enshrine the repealed text in the new law, as it constitutes legal protection for the insured person on the one hand, and the Fund does not abuse or delay in communicating medical decisions on the other.

- The legislator should have granted a reasonable and sufficient time limit for the Social Security Authority to contact the insured in order to conduct the medical expertise, especially since the insured often protests that he was not summoned and demands the application of the findings of the treating physician. It is evident that the temporal limitation imposed on the medical expertise, which is confined to a mere eight days, may prove to be inadequate in ensuring the attendance of the insured individual for the purpose of conducting the aforementioned expertise.
- The legislator's restriction of the insured's ability to approach the judiciary in cases involving the impossibility of conducting a medical expertise is both unacceptable and not in accordance with legal principles. This is due to the fact that medical expertise procedures may not be conducted in accordance with the forms stipulated by law, thereby effectively denying the insured the right to seek judicial redress.
- The absence of an explicit provision compelling the Social Security Authority to take a decision in accordance with the results of the medical expertise is insufficient to oblige this authority to take such a decision. It is therefore necessary to explicitly stipulate this in Law No. 08-08.
- The recent enactment of Law No. 08-08 has bestowed upon the Social Security Authority the prerogative to autonomously select an expert physician in instances of discord between the Authority and the insured individual. This prerogative is regarded as an encroachment upon the rights of the insured, as the Authority assumes dual roles as both adversary and judge. Consequently, there is a compelling necessity to amend this legislation and re-establish the previously repealed provision that stipulated the selection of the physician by the State Health Directorate in cases of discord.
- It appears that the legislator has not specified the criteria and conditions on the basis of which the category of experts is selected, as evidenced by a study of the process of appointment of expert doctors. In Article 21 of Law No. 08-08, the legislator focused on the requirement of medical specialisation for the expert. It is evident that this article needs to be amended to stipulate that 'an expert doctor specialised in the nature of the insured person's illness' should be appointed.
- The cancellation of the provision requiring the expert to justify the expertise reached, and the absence of a provision addressing the case of his refusal to conduct the medical expertise or his procrastination in completing his task and exceeding the 15-day deadline, are unacceptable, especially since the conduct of medical expertise is mandatory in the amicable settlement of the dispute.

It is hoped that the aforementioned gaps, as well as others that have been mentioned in the body of the article, will be avoided when amending Law No. 08-08 on disputes in the field of social security, in order to resolve all existing disputes in this regard. It can thus be concluded that, despite the fact that the medical expertise in question represents a fundamental stage in the process, its contribution to the expeditious and efficient resolution of disputes is significant.

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