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REVIEW ARTICLE

AREAS FOR FURTHER IMPROVEMENT OF LEGISLATIVE REGULATION OF PATIENTS' RIGHTS IN UKRAINE

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ABSTRACT

Introduction: The article reviews issues of legal regulation of patients' rights in Ukraine, analyzes the patient-doctor relationship, proposes the legislative approval of new patients' rights and the need of adoption of a single legislation of these rights.

The aim of this work is to conduct a detailed study of legal regulation of patients' rights in Ukraine and the EU countries, to identify the areas for further improvement of the legislative regulation of patients' rights in Ukraine, ways of harmonization of national legislation with international standards, which regulate patients' rights.

Materials and methods: we analyzed national and international regulation of patients' rights, case law of the European Court of Human Rights (ECHR), national court judgments. We also used historical, comparative-legal methods, and instruments of analytical research and empirical study.

Conclusions: In Ukrainian law many patient rights are not defined, but are applied in medical practice, therefore, they require legal regulation. In particular, they include: the right to convene a consilium; the right to refuse medical interference; the right to terminate treatment, etc. In addition, with the development of medicine, scientific and technological progress, there are some issues, which arise and need to be legally defined, among them: the rights and responsibilities of the patient during transplantation, artificial insemination, medical research, etc. When making health policy, the concept of trust and respect for patients, their autonomy or constructive partnership with them should be taken into account. Doctors need to take a more active part in discussions and debates with patients. Independence of patients in decision making processes must be provided by law, and the rights and obligations of all parties must be clearly reflected in the relevant documents.

KEY WORDS: patients' rights, legal status of patient, liability for the violation of the patient right, doctor-patient relationship, medical error

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INTRODUCTION

Patients' rights are occupying a prominent place in health care, because the patient is the focus of attention in this field, is a key figure in medical-legal relations, to which, to varying degrees, bound all other entities participating in the organization, provision or direct of medical assistance.

Violation of patients' rights is a socially harmful act, impunity of which also affects social security. Domestic law provides a whole range of patients' rights, however, on the one hand, there can be some serious problems with their enforcement, and on the other - in globalization era the new patient rights need to be legally defined. The patients' rights require state guarantees through the formation of an effective public health policy, the establishment of an effective mechanism for their implementation, protection and legal provision. International human rights standards forms the starting point for the development of national health strategies, including in the field of patient rights protection. The EU countries have a wealth of experience in regulating of patients' rights. The patients' rights in EU countries are considered as an important component of the individual level of legal protection and their regulation is a standard for most developed countries, Ukraine must follow this standards too. It is proved that the formation of the domestic legal and regulatory framework for the patient rights should be based on a single concept, the starting point of which is defined: taking into account the provisions of in-

ternational standards in the field of patient rights; observance of the patient rights; ensuring mutual respect and mutual responsibility in the relationships between the doctor and the patient; the implementation of moral and ethical principles in the legal regulation of healthcare; patient-centered approach to the provision of healthcare.

THE AIM

The aim of this work is to identify the areas for further improvement of the legislative regulation of patients' rights in Ukraine, harmonization of national legislation with international legal acts on patients' rights.

MATERIALS AND METHODS

We analyzed national and international regulations for patients' rights, case law of the European Court of Human Rights (ECHR), national court judgments. We were used historical, comparative-legal methods, and instruments of analytical research and empirical study.

REVIEW AND DISCUSSION

The history of mankind is the history of struggling for human rights and freedoms. It is the state of human rights and

freedoms that is the determining indicator of humanity, civilization, the culture of any society and its state. Health is a prerequisite for the existence and proper living of any person and any nation. An unhealthy nation has no chances for development and progress. Health care in Ukraine today largely does not correspond to the principles that characterize it as a system. Some parts of the system are not interlinked ideologically and practically operate on the basis of fulfillment of their own goal - profit, while the specificity of the health care system in a social state, which declared itself Ukraine, is that its main goal is to provide for all segments of the population equal opportunity to increase the duration and improve the quality of life.

Scientists have pointed out that the patient rights as a phenomenon, term and legal structure are derivatives of human rights to the extent that the patient is a person. The patient is the main and special subject in healthcare, who wants to get effective health care from medical professionals, and the latter are obliged to provide such assistance [1; 2]. The patient's phenomenon is fundamental to modern law and medical ethics. The patient rights are inherent only to those who have the appropriate special legal status. According to A. Pishita, the legal status of a patient is the system of rights, freedoms, legal guarantees of their implementation and protection, as well as the duties of the person who is the subject of medical-legal relations, enshrined by the state in the legislative procedure [3, p. 95]. L.Samilyk said: "The patient rights as one of the elements of its legal status are the legal rights of a person and are derived from legally established rules" [4]. The legal status of the patient is a changeable legal phenomenon.

A group of authors role of the patient makes sense only in conjunction with doctors who are the main people responsible for health improvement with a certain system of expectations and behavior on the basis of bilateral rights, responsibilities and relationships [5, p.86]. The phenomenon of understanding the role of the bill was proposed by the American sociologist Talcott Parsons. He argued: "The doctor's control over the patient health state is dominant, because it is the doctor who legitimizes the role of the patient, and this is a system of paternalistic relations, which is directed at the doctor, the patient to a certain moment is passive" [6]. According to S.Dutchak, the relationship in the doctor-patient system are historically based on the patient's trust in the doctor. This position is due to the mythological basis of the world, as well as the doctrine in the Christian world. Historically, the first experience of normative prediction of the legal responsibility of a doctor for harm to a patient appears in the King Hammurabi's Laws (Ancient Babylon). The punishment of a doctor for violating the rights of "equal" patients in case of grave consequences was aimed at securing other patients by depriving the doctor of the possibility to continue his medical practice (Babylon, Ancient Egypt and Greece) [7].

The key aspects of the system of relationship between the doctor and the patient is the medical-preventive process, the agreement conditions of its participants in the provision of medical services. The patient cannot independently

assess his/her health and take care of recovery [6] due to the lack of significant amount of specialized information, experience and own lack of professionalism in the field of medicine.

During the 72 session of the World Health Assembly in Geneva, May 20-28, 2019 it was noted: «Patient harm due to adverse events is one of the leading causes of death and disability globally. An estimated 134 million adverse events occur annually due to unsafe care in hospitals in low- and middle-income countries, contributing to 2.6 million deaths, while 1 in 10 patients is estimated to be harmed while receiving hospital care in high-income countries». Member States meeting at the World Health Assembly committed to recognize patient safety as a key health priority, and to take concerted action to reduce patient harm in healthcare settings" [8]. Studies have shown that the risk of fatal outcome due to medical error or medical malpractice in tens, sometimes hundreds higher than the risk of dying in a car accident [9, p.878].

The system of international legal standards in the field of patient rights includes: 1) global and regional international human rights acts, in particular the Universal Declaration of Human Rights (1948), the European Convention on the Human Rights and Fundamental Freedoms (1950), the European Social charter (1961); 2) international documents on the patient rights and their provision, including Recommendations of the Council of Europe on the rights of the ill and the dying (1976), the Council of Europe Convention on the Protection of Human Rights and Dignity in the Application of the Achievements of Biology and Medicine (1996), Council of Europe Recommendations on the Control of Patient Safety and Prevention of Undesirable Effects in Health Care (2004); 3) acts adopted by international organizations designed to develop health standards, for example, the Lisbon Declaration of the World Medical Association on Patient Rights (1981), the Hawaiian Declaration II (Code of Ethics) of the World Psychiatric Association (1983). The central position of the patient in health care has been stressed in international regulations and set out in several specific treaties, regulations and directives such as the European Social Charter of the Council of Europe and the Declaration on the Promotion of Patients' Rights in Europe of the World Health Organization.

The document "Declaration on the promotion of patients' rights in Europe", by the WHO European Patients' Consultative Meeting (Amsterdam, March 28-30, 1994) [10] played an important role in defining key provisions in patient rights. The list of patient rights in this document reflects the progressive trends of today and corresponds to the development of modern law and health care. The purpose of this document is to guarantee the protection of fundamental human rights and promote the humanization of assistance to all categories of patients, including the most vulnerable, such as children, psychiatric patients, the elderly and severely ill. In essence, this reflects people's desire not only to improve the quality of their received treatment and preventive care, but also to more fully recognize their rights as patients.

The European Charter of Patients' Rights (2002) [11] states patients' rights to information on the diagnosis and prognosis of their own illness; the right to choose a doctor; the right to preserve the confidentiality of medical information; the right to privacy; the right to ensure the rule of informed consent, etc.

The above international acts contain standards that Ukraine must adhere to in the process of establishing norms and their implementation. An analysis of the domestic regulatory framework in the field under study will lead to the conclusion that the implementation and regulation of the patients' rights in Ukraine is disorderly, has a stratified character, which is due to a large number of legislative and subordinate acts (about 50). These regulations often include a set of general and special instructions that do not fully correspond to international standards either terminologically or content wise. One of the main factors contributing the lack of a single legislative regulation and unequal enforcement practice in this area is that Ukraine has not ratified the European Charter of Patients' Rights [7, p 54-55].

In 2011, under the framework of the Council of Europe Action Plan for Ukraine for 2011-2014 (approved by the Committee of Ministers of the Council of Europe on June 23, 2011) [12], the Ministry of Health of Ukraine with the participation of the All-Ukrainian Council for the Protection of Patients' Rights and Safety prepared a draft of National Plan of Action on patient safety. The purpose of the document is to improve the health of Ukrainian citizens by developing policies aimed at enhancing patient safety, preventing medical errors and reducing expenditures related to the inappropriate performance of the duties of managing patient safety and preventing incidents in the field of health care. However, the final version of the National Action Plan on Patient Safety has not been approved for today.

On January 1, 2012, the Law of Ukraine "Fundamentals of Ukrainian Legislation on Health Care" was supplemented by Article 24-1 "Protection of Patients' Rights" [13], according to which the legal, economic, and organizational foundations for the protection of the rights and legitimate interests of patients will be determined by a special law. But currently there are no such a special law in our state. The patients' rights require state guarantees through the formation of an effective public health policy, the establishment of an effective mechanism for their implementation, protection and legal provision. It is necessary to adopt a special law "On the Legal Status of Patients in Ukraine" as the basis for legal regulation of the status of a person when applying for or obtaining health care services.

However, according to international experience, if such norms are included in a single legal document, this helps more both the health care consumers to know their rights and those who are obliged to control and check them. So, there are different legislative technologies for summarizing patients' rights to a separate law, and they determine what this law will be: an administrative, civil or criminal one. Civil law provides the right to choose the horizontal

contractual relationship between the patient and those who provide medical services. Countries such as the Netherlands and Lithuania has already used this model when drafting their patients' rights laws. Similar relationships between the patient and those who provide medical services exist in a system that regulates and controls the provision of general medical care services in France. In abovementioned countries patients with complains against doctors apply to a civil court. The government of countries such as Finland, Iceland and Denmark use an administrative law to protect patients' rights. In France, the legal rules governing the relationship between the patient and those who provide health care (provider) depends on the type of provider (doctor or health facility) [14].

In many countries of the European Union there is a charter of patients' rights. In countries such as France, Ireland, Portugal and the United Kingdom, it was adopted at the national level and sent to all health facilities. In the Czech Republic and Slovakia the charter has been designed and proposed by the healthcare institutions.

According to M. Watad and R. Grevtsova, "it is important that during the attempts to resolve various relationships related to human health, they have not forgot about the patient, the very person for whom these relations arise". An important instrument for ensuring this is the international medical law, which has a human-centric orientation [15, p. 460].

The patient rights in Ukraine are enshrined in a number of normative acts, in particular, in the Constitution of Ukraine, the Civil Code of Ukraine, the Laws of Ukraine "Fundamentals of the Ukrainian legislation on health care", "On consumer rights protection", etc. Scientists distinguish five groups of patient rights: 1) constitutional rights; 2) general rights of patients; 3) special rights of patients depending on the type of provided health care; 4) special rights of patients depending on the direction of medical activity; 5) special rights of various occupational and social categories of patients [16, p.179].

In particular, the second group "General Patients' Rights" covers the rights of all patients regardless of the type of health care, the doctor specialization, the direction of medical activity, professional, social or other characteristics of patients. The general patients' rights are more completely regulated by the norms of the Law of Ukraine "Fundamentals of the Ukrainian legislation on health care" [13] and the Civil Code of Ukraine [17]. The following rights of patients should be included in this group: 1) the right to qualified health care (Article 284 of the Central Committee, clause "d", part 1, Article 6 of the Fundamentals); 2) the right to choose a doctor, a medical institution, methods of treatment (Part 2 of Article 284 of the Civil Code, paragraph "d", part 1, Article 6, Article 38 of the Fundamentals); 3) the right to accurate and complete information about the state of health (Article 285 of the Central Committee, clause "e", part 1, Article 6, Article 39 of the Fundamentals); 4) the right to a secret about his/her health, the fact of applying for medical assistance, a diagnosis, as well as information obtained during a medical examination (Article 286 of the

Central Committee, Articles 39-1, 40 Fundamentals); 5) the right to informed consent for medical intervention or refusal of medical intervention (Article 289 of the Central Committee, Articles 42, 43 Fundamentals); 6) the right to be provided with medicine (in particular, immunobiological drugs) and prosthetic products (Article 54 of the Fundamentals); 7) the right to refuse treatment (Part 4 of Article 284 of the Civil Code); 8) the right to appeal against unlawful decisions and actions of employees, institutions and health care bodies (Article 6 of the Fundamentals).

The special rights of patients, in particular, in the field of transplantation of human organs and tissues, defined in Ukrainian Law "On Transplantation of Human Anatomical Materials", include the rights of living donors, a man who donate organs or tissue that are significantly expanded. In particular, it is right to: free health screening, directly related to the donation of anatomical materials; free medical aid in case of illness or health complications due to the donation of anatomical materials; advantage in obtaining anatomical materials in the event that there is a need of transplantation, etc. (Article 22) [18].

However, S.Bulecja points out that many patients' rights are not defined in the legislation of Ukraine, but are applied in medical practice, therefore, they require a legal regulation. In particular, they should include: the right to convene a consilium; the right to refuse medical interference; the right to terminate treatment. In addition, with the development of medicine, scientific and technological progress, there are some questions that need to be defined in legislation, among them the rights and responsibilities of the patient during transplantation, artificial insemination, medical examinations, etc [19.p.13].

The patients should be involved in the planning of treatment, on making changes and additions to the medical records relating to his health. The medical treatment of a patient should fully satisfy with his health requirements, should be conducted only for therapeutic or diagnostic purposes and not used as punishment or in the interests of others.

Furthermore, it is necessary to resolve the problem of regulating the rights and obligations of the patient and the doctor at the legislative level, including ensuring that the person is informed about the consequences of the exercise of such rights. Thus, in the EU countries, the relationship between a doctor and a patient has a civil law nature, because it is based on a civil contract between them. The realization of the right to health is based on the following principles: 1) the doctor and the patient are "partners" in achieving the goal (recovery of the patient), their relations are based on mutual trust; 2) high requirements to the professional level of the doctor, constant improvement of his professional qualities, high moral principles, 3) the right of the patient to choose a doctor, treatment methods, refusal of treatment, etc.; 4) the civil law (private law) nature of relations between the patient and the doctor; 5) the patient is obliged to adhere to all recommendations of the doctor [19, p.15].

The patient has the right to keep a secret about his/her health, the fact of applying for medical assistance, a diag-

nosis, and any other information that has become known to a medical practitioner or other person in connection with the performance of official duties, in the process of providing health care, to preserve the medical secret after the death of a person. For example, the jurisprudence of the European Community countries (in particular, Germany) proceeds from the fact that all data on the illness, family and intimate life of the deceased person are still the subject of medical secret in order to protect his good name and his relatives' reputation.

Due to the need to preserve human identity, to ensure respect for human dignity and the availability of a "bioethical dimension" of issues to be resolved by the legislator or the court, the impact of bioethics on the right to health is increasing. Some researchers focus on "bioethisation" of legislation and the rights of foreign countries in certain areas, for example, in the field of criminal law, and its necessity for Ukraine [20, p. 140-145].

One of the most acute problems is the consent of the patient to participate in a medical research (medical biologic experiment). On the one hand, there is a need to revise certain standards of research aimed at preventing abuse of consent, especially by consent of vulnerable persons (capable or incapable adults, minors). On the other hand, strict regulation of research, the trend of which has been observed lately, may lead to a restriction of research, despite the great role they play in meeting the needs of society in health care services. According to Y. Dangati, now it is necessary to establish a balance between the protection of the rights of the subjects and the ability to freely conduct research [21, p. 489].

At the same time there is a problem of medical error which is urgent not only for Ukraine. The high level of medical errors of formally high-qualified medical personnel is associated with the attestation system' bribability. At the same time, the qualification category does not mean that the doctor will be responsible. In Ukraine, there is no mechanism for prosecuting a specialist for incompetent provision of health care and medical treatment [22]. According to R. Hrevtsova, creating a system for reporting medical errors and monitoring them should be one of the priorities of health care reform in Ukraine [23]. The proposal of S. Dutchak is to supplement the Criminal Code of Ukraine with a norm that would include liability for the violation of patient rights by a medical or pharmaceutical personnel knowingly that could pose a threat to the life, health or reputation of a patient seems quite appropriate [7, p. 136].

The practice of the European Court of Human Rights, which has recently touched upon a fairly wide range of bioethical issues (reproductive rights, the use of assisted reproductive technologies, assisted suicide, consent) has played an important role in finding of legislative solutions to the problems posed by the right to health care. for medical intervention, etc.) [24], and also led to the spread of positive state obligations in healthcare, raising the issue of health care guarantees, government responsibility for patients' death, etc. [25, c. 15].

An analysis of practice of European Court of Human Rights indicates that the most widespread violations of patient rights are as follows: 1. **Medical personnel are not able to provide the patient with information about the state of his health in an accessible form** (*K.H. and Others v. Slovakia*), (Communication No. 32881/04 (2009)); (*Roche v. United Kingdom*) (Communication No 32555/96), (2005). 2. **Medical personnel ignore patients' wishes associated with the treatment** (*Storck v. Germany*) (Communication No 61603/00), (2005), (*Aerts v. Belgium*), (Application No. 25357/94), (1998), (*R. R. v. Poland*), (Communication No 27617/04), (2011), (*Aerts v. Belgium*), (Application No. 25357/94), (1998), (*R. R. v. Poland*), (Communication No 27617/04), (2011). 3. **Doctors either do not receive the informed consent of patients before performing medical procedures, or do not provide patients with information in an amount sufficient to make an informed decision** (*Glass v. United Kingdom*) (2004); (*V.C. v. Slovakia*), (Communication No 18968/07) (2011)]; (*N.B. v. Slovakia*), (Communication No 29518/10), (2012); (*Y.F. v. Turkey*), (Communication No 24209/94), (2003)]; (*Pretty v. United Kingdom*) (2002)]. 4. **Persons sentenced to imprisonment are not provided with emergency medical care** (*Hurta-do v. Switzerland*), 17549/90 (1994); (*Keenan v. United Kingdom*), 27229/95 (2001), (*Nevmerzhiitsky v. Ukraine*), 54825/00 (2005)]; (*Musial v. Poland*), 28300/06 (2009), (*Rupa v. Romania*), 58478/00 (2008). 5. **Patients with mental disorders are hospitalized in specialized institutions without clear procedure or standards** (*X v. United Kingdom*) (1981); (*Gajcsi v. Hungary*) (Application No. 34503/03), (2006); (*H.L. v. United Kingdom*), (Application No.45508/99), (2004), (*Storck v. Germany*), (Application No. 61603/00), (2005), (*DeDonder and De Clippel v. Belgium*), (Application No. 8595/06), (2011).

Contrary to the practice of the ECHR, the national practice of litigation concerning the rights of patients is still in the process of developing because the number of such cases are few. According to V. Franchuk, approximately 600 cases of alleged medical malpractice cases are registered annually in Ukraine. Only less than one percent of them are brought to the court [26].

The ECHR has continued to note persistent non-compliance with the patient's rights in custody by Ukrainian authorities (*Salakhov and Islyamova v. Ukraine*) (application No. 28005/08, decision (2013), *Vitkovskiy v. Ukraine* (application no. 24938/06, decision (2013), *Akopyan v. Ukraine* (Application no. 12317/06) (2014). The lack of the necessary and timely treatment is seen as torture by the ECHR (*Lunyov v. Ukraine*) (Statement No. 4725/13) (2016).

Among the patient's rights, special attention should be paid to the right to safety. At the international level the patient's right to safety is recognized as one of the most important rights of the patient and is defined as "the right to freedom from harm caused by poor healthcare systems, negligence and medical errors" (European Charter of Patients' Rights, 2002). Yu. Kozachenko reasonably offers: "Unfortunately, the patient right to safety is not regulated by domestic legislation. Patient's safety should be one of the

priorities of domestic medical institutions; it is necessary to legislate the concept of "patient safety" and establish clear aspects covered by the concept "patient right to safety" [16]. It is necessary to support the need to establish the concept of "patient safety" at the legislative level and to establish the contents of patient's right to safety.

S.Dutchak point out: "Today, the criminal law protection of patient's rights in Ukraine is ineffective. Most of the violations of the patient's rights remain latent or un-investigated. And this is not only due to the mistrust that guilty doctors can be prosecuted, because of complicated procedures for proving the guilt of medical workers, but also due to improper criminal formulation and detailization of the nature of the patient's rights violations, which makes the offenders non-punishable" [7].

According to the Unified State Register of Judgments from 2009 in Ukraine, under the Article 141 of the Criminal Code of Ukraine, which provides liability for the violation of patient's rights, have not been handed down any sentences. According to Article 140 of the Criminal Code of Ukraine (improper performance of professional duty by a member of medical profession) - 44 sentences. Analysis of court practice on Article 140 of the Criminal Code of Ukraine in the past 10 years permits the following conclusions: 1) the majority of sentences are imposed in part 1 of Art. 140 of the Criminal Code of Ukraine; 2) several sentences were issued under Part 2 of Art. 140 of the Criminal Code of Ukraine, but the guilty persons were released from serving the sentence, including in cases of death of minors; 3) the proportion of acquittals sentences under art. 140 of the Criminal Code of Ukraine is very insignificant (4, 5%).

The penalties provided in Article 140 of the Criminal Code of Ukraine is too lenient particularly in cases where such serious consequences for the patient as his death occurs. (For example, the verdict in the case No. 456/310/18 of April 24, 2019, before the court of Lviv region under part 1 of Article 140 of the Criminal Code of Ukraine) [27].

During this period, only a few sentences were pronounced under Part 2 of Art. 140 of the Criminal Code of Ukraine, but the guilty persons were released from serving the sentence. Thus, in the Case No. 1-73-09, heard in 2009 in the Volyn region, the person was found guilty of improper performance of his professional duties due to careless attitudes towards them that caused the death of a minor and she was convicted and sentenced to three years of imprisonment with the deprivation of the right to hold the position of a nurse in health care facilities for a term of three years. Under Article 75 and 76 persons was released from serving principal penalty [28]. In another case No. 214/6891/17 dated January 8, 2019, the person who has been convicted of a criminal offence, under Part 2 of Art. 140 of the Criminal Code of Ukraine, consequence of which was death of a minor and she was appointed to a primary penalty of 2 years imprisonment. Under Art. 75 of the Criminal Code of Ukraine the court decided to exempt the person from release a person from serving her primary penalty [29].

The protection of patients' rights should be implemented, in particular, by compensation for moral harm, which is paid regardless of age, health, property status. The court, when awarding compensation, must assess the depth of moral suffering, taking into account the factual circumstances in which the pecuniary damage was committed and the individual characteristics of the victim. However, it is advisable to determine the upper and lower limits, taking into account the severity of the emotional distress. Interesting in this respect is ruling of the Supreme Court of 08 May 2019 № 233/3464/17 according to the protocol of the medical examination, which has been formulated with significant deficiencies recognized ground for reimbursement by medical institution for moral injury in the amount of 100000 UAH per each of the plaintiffs [30].

According to V. Tatsiy, N. Gutorova, V. Pashkov, formation of a state policy on ensuring the rights of citizens to health and life, taking into account the various consequences of such a policy, cannot be narrowed down only to the proclamation of such rights, but also requires planning and development of relevant state programs [31]. An important element of the patient rights promotion system is standardization of health care, the ultimate goal of which is its quality and safety.

CONCLUSIONS

1. Adaptation of the Ukrainian legislation to the the European Union legislation is an important direction of reforming the domestic legislation in the field of ensuring the patient rights and bring it in line with international standards. Taking into account foreign experience in the field of patient's rights provision, it is necessary to adopt a special law "On the Legal Status of Patients in Ukraine" as the basis for legal regulation of the status of a person when applying for or obtaining health care services.
2. When making health policy, the concept of trust and respect for patients, their autonomy or constructive partnership with them should be taken into account. Doctors need to take a more active part in discussions and debates with patients. Independence of patients in decision making processes must be provided by law.
3. In Ukraine's legislation wide range of patient's rights are not defined, but are applied in medical practice, therefore, they require legal regulation. In particular, they are: the right to convene a consilium; the right to refuse medical interference; the right to terminate treatment. In addition, with the development of medicine, scientific and technological progress, there are questions that need to be defined in the legislation, among them the rights and responsibilities of the patient during transplantation, artificial insemination, medical research, etc. It is necessary the need to establish the concept of "patient safety" at the legislative level and to establish the contents of patient right to safety.
4. Contrary to the practice of the ECHR, the national practice of litigation concerning the rights of patients is still developing because the number of such cases are few. The

ECHR has continued to note persistent non-compliance with the patient's rights in custody by Ukrainian authorities. The lack of the necessary and timely treatment is seen as torture by the ECHR.

5. It is necessary to resolve the problem of regulating the rights and obligations of the patient and the doctor at the legislative level, including ensuring that the person is informed about the consequences of the exercise of such rights.

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