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Legal aspects of the health security in the Republic of Bulgaria

Summary

Health security has different dimensions. Health security may refer to the issues of personal health. Within this meaning the priority of the health system is the provision of healthcare for the individual. Health security is relevant to the public health issues and the hazards to the health of large groups of people. This study examines health security in the context of the individual health as well as the legal aspects of the policies for protection of the right to health.

Keywords: health security, public health, right to health

The concept for health security

For many decades the concept for security has been formed with a view to the possible conflict between the individual countries. The defense of security is related with armament and defense of the state borders. The report *New Dimensions of Human Security* [1] published by the United Nations Development Programme (UNDP) in 1994 gives a new point of view for security. Nowadays insecurity occurs rather from the concerns for the everyday life. Security at the workplace, security of income, health security, environmental safety, and crime prevention – these are threats about security that occur for the people all over the world.

The researchers [2] connect the launching of the concept for human security in the public space with the above mentioned report of UNDP. The report presents human security from the viewpoint of the individual security.

The idea for the human security [3] is a concept that occurred after the end of the Cold War. The individual security is required for the national, regional and global security.

From the long list with threats to human security, the report *New Dimensions of Human Security* defines seven key categories of threats: Economic security, Food security, Health security, Environmental security, Personal security, Community security, Political security.

Food, the lack of clean drinking water and the safe environment are the reason for the deaths of million people in the developing countries. Infectious and parasitic diseases, tuberculosis and acute respiratory diseases are also the reason for a huge number of deaths.

In the industrial countries, the main reasons for mortality are the diseases of the circulatory system, which is connected with the style of living and the diet. Oncological diseases also have a leading place and the main cause for them is the contaminated environment.

Mainly the poor layers of the society are exposed to the threats to the health security in the developing and industrial countries. Access to health services depends on the economic condition both of the country and of the individual. Both rich countries and rich people have much better access to health services. Inequalities for access to health services in industrial countries refer mainly to the operation of the security systems. In USA between 1989 and 1992, the number of people without health insurance increased from 35 million to 39 million.

Women also face health insecurity. More than three million women every year die for reasons connected with childbirth. Thus the miracle of life often becomes the nightmare of death only because the society has not provided support to women when they are health and socially vulnerable. Many of these deaths may be prevented if medical care is provided during pregnancy and delivery.

HIV and AIDS also pose serious threat to health security for both genders.

The mentioned report defines two important concepts connected with health security. Health expenditures – these are the expense for treatment, health insurance and family planning. Health services access is presented as the percentage of population that may reach the place of provision of the required health services on foot or with the local means of transport in less than one hour.

Health security is one of the key priorities of EU. The world health security covers wide circle of issues. It includes the readiness and the response to crisis affecting public health, pandemic influenza as well as threats caused (as a result of randomly or deliberately disseminated) chemical, radioactive and nuclear agents as well as from bioterrorism.

The Health Security Committee was established in 2001 for the purpose of developing the European health security policies. The committee has close relations with the competent authorities of the Member States for the improvement of the readiness and the development of particular actions for counteracting the threats to health security [4].

The mentioned documents show the two aspects of health security. The report *New Dimensions of Human Security* reviews the health security in personal aspect. The priority is the provision of healthcare to the individual. The EU documents examine health security in the context of public health and the threats to the health of large groups of people including cross-border threats.

This study examines health security in the context of individual health. The concept for health security is not explicitly established in the legislation of Republic of Bulgaria. The concept is used in a few texts, which have strategic character - the National Health Strategy 2020, the Concept for Better Healthcare. However a number of legal provisions settle the different aspects of health security in the meaning of the report *New Dimensions of Human Security*. These legal acts are subject to this analysis.

Universal Declaration of Human Rights

The human security is the security of the people – physical security, economic security and well-being, the protection of human rights and their key liberties [2]. The fundamental programme document in the area of human rights is the Universal Declaration of Human Rights, adopted by the General Assembly of UN on 10 December 1948.

The key human rights as proclaimed in the Universal Declaration of Human Rights are: The right of liberty (*every person is free*) and rejection of slavery; The right of the person not to be discriminated; the right to justice and fair legal process; Right of property and guaranteeing the property; the human right not to be tortured; the right of freedom of belief and expression of such belief; Right of religion and the right to change religion; Equality of genders; Right to work and right to rest. Article 25 of the Universal Declaration on Human Rights recognizes the

right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.

The declaration has not binding legal force. But in the decision of the Constitutional Court of the Republic of Bulgaria on case 18/1997 is said “The key rights and liberties contained in the Universal Declaration on Human Rights is considered international standard for the national legal systems.” Guaranteeing the right to a standard of living is connected with the ensuring of health and social security for the individual

World Health Organization

The purpose of the World Health Organization (WHO) is that all people enjoy the highest attainable standard of health. The preamble of the Constitution of the WHO¹ gives definition of the concept of health, which is quoted as a fundamental definition. According to the definition of WHO, health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

The right to health (the enjoyment of the highest attainable standard of health) is guaranteed for every human being without distinction of race, religion, political belief, economic or social condition. The defined right to health shall be guaranteed by the state. WHO considers that the governments are responsible for the health status of their people. This obligation requires that the states, through their national legislation, take appropriate measures of health and social character. Based on the idea of WHO, the Law on Health (art. 2) makes that protection of human health a national priority.

The constitutional bases of health security

The current Constitution of the Republic of Bulgaria has entered into force on 13.07.1991. In the preamble of the Constitution, the right of the person, his dignity and security are considered a paramount principle.

The right to health is not explicitly settled in the Constitution. The reason about that may be is the lack of traditions in the use of the combination of words «right to health» in the Bulgarian legal language. The lack of explicit formulation of «the right to health» in the Constitution and in the valid law however does not mean that it does not exist in the Bulgarian law. The particular dimensions of the right to health are contained in a number of legal norms, which review the human health as a supreme social value [5].

The right of protection of the health of the citizens

¹ The Constitution of WHO is applicable in Bulgaria since 09.06.1948.

The right of protection of the health of the citizens is laid down in art. 52, para. 3 of the Constitution of the Republic of Bulgaria. The Law on Health stipulates that the protection of health of the citizens is guaranteed by the state. Upon implementation of the state health policy apply principles such as: equality upon use of health services; provision of accessible and high quality medical care with priority for children, pregnant and mothers of children and adults with physical disabilities and mental disorders; prevention and mitigation of the risk for the health of the citizens from the unfavourable impact of the factors of the environment.

Protection of motherhood and children

Pursuant to art. 14, para. 2 of the Constitution of Republic of Bulgaria, motherhood and children are under the protection of the state and the society. Mothers enjoy special protection from the state, which ensures to them paid leave before and after child-birth, free assistance by midwives, labour relieve and other social benefits.

The declared constitutional rights, resp. obligations of the state, are realized through the legal options guaranteed in the Law on Health. For the provision of risk-free maternity, every woman has the right to access to medical activities intended to provision of optimal health status of the woman and the foetus from the moment of occurrence of pregnancy until the baby becomes 42 days old. The provision of access for all future mothers to the health system is guaranteed through provision of free assistance from midwives for all women without health insurance.

Children are entitled to special attention and care on the part of the country for the purpose of establishment of conditions for ensuring healthy living environment and normal physical and mental development. Children are entitled to special prophylactic medical and dental care for the purpose of early diagnostics of health problem and prevention and further worsening of the health of children.

Right to free of charge use of medical services.

Art. 52, para. 1 (2) of the Constitution of Republic of Bulgaria stipulates that to the citizens is guaranteed the right to free medical care under specific conditions. The term «free medical care» is quite unpretentious. The said medical care is free from the viewpoint of the patients but the rendered medical care is financed by another source – the Republican, municipal budgets, the budget for social insurance, etc. and not personally by the patient.

The Law on Health Insurance governs the right to access to medical care for health insured persons. Outside the scope of the compulsory health insurance, the person have the right, under certain conditions and order, to use free medical services connected with stationary mental care, provision of blood and blood products, organ transplantation, tissues and cells, drugs for specific disease (mental, oncological, HIV/ AIDS), medical transport.

All persons, without any restrictions, are entitled to prompt and free medical care in emergencies. Organization and financing of the system for medical care in emergencies is compulsory for the state.

Safety in healthcare

For the purpose of guaranteeing the health security of citizens according to art. 52, para. 5 of the Constitution of Republic of Bulgaria, the state has the obligation to carry out control on all health institutions as well as on the production of the medicinal products, biologic products and medical equipment and the trade with them. Medical activity of each medical institution is subject to control. Manufacture and trade in medicinal products and medical devices is also subject to state regulation and administrative control. The purpose of the special law is to ensure the marketing of medicinal products and medical devices, which does not pose threat to the health and life of patients.

The right to healthy and favourable environment

The right to health and favourable environment in compliance with the established standards and regulations is laid down in art. 55 of the Constitution of the Republic of Bulgaria.

The constitutional right to health and favourable environment is guaranteed with the defined by the Law on Health obligations of the state and all commercial subjects upon performance their activities for ensuring the protection of the living environment from the harmful impact on the human health of the biological, chemical, physical and social factors. Upon performance of their activities all subject shall abide by the established state health requirements. Special law settles the rules for protection of human health from the impact of ionizing radiation.

Right to healthy and safe conditions at work

Employees are entitled to health and safe conditions at work pursuant to art. 48, para. 5 of the Constitution of the Republic of Bulgaria. "Health and safety at work» means such labour conditions, which do not incur occupational diseases or occupational accidents and create preconditions for full physical, mental and social welfare of workers. The work conditions are subject to control by the state authorities.

Right to health insurance

The right to health insurance guaranteed accessible medical care is settled by art. 52, para. 1 (1) of the Constitution of the Republic of Bulgaria. The constitutional law to health insurance of the citizens includes their right to be included in the special insurance system established by the state (I. S.). The right to health insurance guarantees obtaining the required medical care in case of disease, injury, pregnancy and delivery. Health insurance in Republic of Bulgarian is compulsory and voluntary. The compulsory health insurance provides a basic package of health activities, which are financed by the budget of the National Health Insurance Fund.

Conclusion

Good health is an instrument to achieve human security. It is of essential significance because the protection, the care for human life underlies the human security. Diseases, injuries and death, which may be prevented, are critical threats to human security. Health is objective physical condition of the organism as well as subjective psychosocial well-being and confidence in the future. Good health is an instrument to guarantee human dignity and human security. Achievement of good health is a result of the personal responsibility of people, the state health policy, the functioning of the health system, the financing of medical services. The conflict between the limited financial resources and the increasing health demands poses to the society and the law the need to seek those normative regulations, which will guarantee to the patients access to medical services and protection of their health security.

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