

RELATIONSHIP BETWEEN THE RIGHT TO DIGNITY AND THE RIGHT TO HEALTHCARE

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Abstract

Thus human dignity stands above human rights, is a core of all human rights and freedoms, the human dignity serves as an argument in their interpretation and concretisation. Dignified life is not possible without effective enjoyment of fundamental rights. The right to health care is stressed as one of the fundamental rights, without which the person will not be able to enjoy other rights: economic, political and social rights. It comprises the right to enjoy the best physical and mental health. Analysis of the provisions of international legal acts proves the right to healthcare in the international treaties and declarations has evolved from the health as a fundamental value of the human being to the independent right, the implementation of which involves an increasing number of measures (which become even more targeted) for the implementation of factors that cause major effect on health. The international legal acts provide for the basic provisions and clearly defined measures to be put to life, however it is the national disposition that determines the scope and methods of their implementation. The right to health care is not absolute in itself; efficiency of its implementation depends upon both ability of administrative and institutional systems, which were created by the state, to properly implement the assigned functions and upon the individual, its state of health and lifestyle. So on the grounds of the fundamental value of the human rights, this article describes a basis of the right to health care in terms of quality, discloses its concept, reviews the spheres of health system in which this right is exercised: health care and public health.

Keywords: human dignity, right to health care, health system, health care, public health.

1. Introduction

Law is a product of the culture of the society aimed at protecting material and non-material values of human beings and nature. The modern science recognized that in order to ensure a safe environment for human existence, which may be called both natural and social, one must solve social problems. The protection of human dignity is one of the steps towards this objective. Necessity to protect a human being as an integral physical and spiritual creature is both an interest of a democratic state and the purpose of the law of the state under the rule of law. Therefore human dignity is the top-ranking social value of the European Union, which is defined in Article 1a of the EU Lisbon Treaty: „The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities“. Protection of value/dignity of a person means that the right is created on the grounds of human dignity as the value and this places an obligation on the state to take positive actions: to ensure quality of existence by recognising every person as a subject of law and guaranteeing the minimum standard of living. The international law recognises a physical person as an undisputable value and protection of his rights – one of the objects of modern international law. Beginning of these processes, as properly indicated in majority of sources dealing with human rights, is establishment of international organisations and adoption of universal international documents on the need to protect a human existence and his interests by legal instruments. Modern international community recognises that every member of people’s community enjoys a natural dignity, which constitutes the most important source of all rights. Natural human rights – natural possibilities of an individual, which ensure human dignity in spheres of social life. They constitute the minimum level, a milestone of development and expansion of the other rights, and which constitute values that are beyond debate recognised by international community (Spruogis, 2002, p. 52-53). Explanations relating to the Charter of Fundamental Rights read: “The dignity of the human person is not only a fundamental right in itself but constitutes the real basis of fundamental rights“. We may state that it means synthesis of various values of a human being while he strives for self-expression. Thus human dignity stands above human rights, in other words human rights are concrete legal expression of human dignity. As a core of all human rights and freedoms, the human dignity serves as an argument in their interpretation and concretisation. It also has the principal importance to any activity of the state: indicates a trend for law-making, interpretation of fundamental rights and all legal order. Attention should also be drawn to the fact that recognition of value of a person means recognition of actual natural-social creature as the subject of law both at the international and national levels. However, it is not a single act and society must put forth continuous moral efforts to protect rights of all its members and solve an issue of their implementation (Šlapkauskas, 2002, p. 192). Analysis of implementation of the human right to dignity discloses the fact that in order to ensure a full-fledged life of the person the negative human rights and freedoms are not enough. Therefore in a modern democratic state the fundamental human right comprises not only the rights of the first generation (civic and political), but the rights of the second generation (social and economic) and the third generation (solidarity) as well. The right to health care is one of the fundamental rights, without which the person will not be able to enjoy other rights: economic, political and social rights.

2. The Right to Human Dignity as the Right to Quality of Existence

In a modern democratic state the status of the human being as a social creature is inseparable from his legal status, and his rights and duties. Duty of the State – to help a person to efficiently use the rights he enjoys, if a need arises to defend them, as well as to claim and ensure that the person performs the duties that result in such rights. Nobody doubts the importance of healthcare, as it is health that has major effect on existence of the person as a social creature – only the person who is of good health will be able to enjoy his other

rights and properly discharge duties that legalise such rights. According to A.Vaišvila (2009, p. 165), for the person to become able to formulate his social value, he must be safe and sound. This is a prerequisite of formation of his own personal dignity. If one infringes human right to health, the biological power to enjoy his rights through certain duties, i.e. to have a fully fledged social life, becomes reduced. Health releases one from the need to care about a state of body and creates conditions to have a life of good quality, i.e. to implement the said objectives and solve the tasks that are determined by culture of certain time and place (Stoškus, 2013). While in bad health the person is unable to fully participate in social life of the community, in political rule of the State, to create wealth and ensure economic stability, to develop common defence and security – thus, he is unable to guarantee his own economic, political and social rights (Gostin, 2000, p. 7-13). It means that health is the factor that enables the person to be an active member of the society, to undertake duties and to enjoy rights. In many cases this is a precondition that determines possibilities of the person to enjoy his political, civic and other rights and freedoms.

The Universal Declaration of the Human Rights states that “Everyone [...] is entitled to realization [...] of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.” In this legal norm the concept of dignity is combined with other concept – value, which links human dignity with the existence that he is worth of. In theory, a question what life is worth of human dignity is open. If we agree with a precondition that human being is an integral creature, it should be concluded that existence that is worth of the dignity must enable self-realisation of a person. On a programme level this norm expresses a common purpose of the legal order, because dignified life is not possible without effective enjoyment of fundamental rights. Human rights and freedoms ensured by the Constitution are people’s tools of cultural cooperation, creation of material and spiritual values and exchange in them. By gaining the right to the value that he creates the person obtains a possibility to participate in cultural exchange, which makes him useful and suitable for the society. Health is one of the fundamental human values. Without this right all others become meaningless. It is important not to a particular person, but to the society at large. The general level of health of the society predetermines its economic, social and cultural status – society of poor health will not be able to properly manage and develop the industry, to offer social support to the members of community, etc. Therefore the duty of the state to guarantee the quality of existence ensures the implementation of the minimum standard of living. The Federal Constitutional Court of Germany has stated that the State must ensure both to physically and mentally incapable people, who are not able to take care of themselves, at least minimum support for their dignified life (The Concept of Human Dignity in Human Rights Discourse, 2002, p. 189). Purpose of the positive – social, economic and cultural – rights is to ensure normal, dignified life of the person, who finds himself below a certain rate of material and social welfare and education. This rate is determined by the rate of economic, social and cultural development of the particular society rather than political concept. Public authorities have the duty to help its incapable citizens to create the existence, which the human being is worth of, and to ensure its material safety (Vaišvila, 2000, p. 92). Essence of personal and political rights is restriction of State power through a clear definition of minimum personal freedom space, while the social rights have contrary effect – they expand the sphere of activity of the state. Thus treating the person as a dignified one means respecting his major needs, considering him worth to get such needs satisfied, recognising every person as a subject of law. The State becomes obliged to implement a social policy and to help those, who are incapable of gaining subjective rights that are necessary for the dignity-worth existence. Assistance on a national level, which is based on public solidarity, is necessary in order to implement the human dignity: to ensure social concord, to guarantee every person’s right to sufficient rate of subsistence for him and his family, which includes sufficient food, clothing and residence, as well as continuous improvement of living conditions (Grundgesetz - Kommentar, 1998, p. 101). Justice means that priority

should be given to the interests of a weaker party, therefore in certain cases modern democratic states infringe the equality for the sake of solidarity, stability of social life (unemployment, problems with health, etc.) and the stronger party faces “harm” through higher taxes or other burdens. Social justice means that dignity of every person should be respected in light of every person’s needs – in law this is expressed in defence and protection of rights of every person (Baublys, 2004, p. 41). Today the most important are the human rights of second and third tier, first of all these are the right to employment, residence, environment that is favourable to existence. They become especially important in the process when society turns more industrialised, when production becomes more automated and the economic activity of the person – more global, which poses a global threat to quality of human residence as a pre-requisite of implementation of human rights (Vaišvila, Mesonis, 2000, p. 9). The latter is related to the development of the person as a member of the society. The 1990 UNDP Report on Human Social Development stressed that human being of any level of development must be granted a possibility of choosing among three major things: long and healthy life, gaining knowledge and resources that are necessary in order to attain a normal standard of existence. It might be called the status of welfare, to which the protection of status of human health is of obvious importance. Further to classification by A. Maslow (1989, p. 343) – this is protection of physical interests to the scope that they create conditions for the person to strive for satisfaction of subsequent needs and interests. It is related, first of all, with ensuring the existence of the person, especially when the person is incapable of doing it himself, for example, from the early stage of development – embryo or foetus. Second, it is related to improvement of state of public health. Constitution of the World Health Organization defines the “Concept of health” and indicates that health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, therefore by the sphere of health one intends to cover all spheres of life of a person. Resolution 2002/31 The right of everyone to the enjoyment of the highest attainable standard of physical and mental health of the UN Commission on Human Rights of 2002 proves that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right and that such a right derives from the inherent dignity of the human person. Moreover, the Commission urges States to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources for this purpose, with a view to achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health by all appropriate means, including particularly the adoption of legislative measures.

3. Concept of the Right to Health Care in International Documents

In the current doctrine of law trend dominates that human rights may not be treated in narrow national aspect. They are universal not only in the process of their declaration but in course of their implementation as well (Birmontienė et al., 2001, p. 274). The international legal regulation today makes great impact upon the doctrine of human rights and provisions of the constitutional law of different states. The right of a person to health care evolved in the treaties and declarations from a conservative consolidation of health as the major human value (1946 Constitution of the World Health Organization) and refusal to specify it as an individual right (1948 Universal Declaration of Human Rights) to the independent right, which is implemented by constantly increasing number of various specific measures of broader that comprise more factors of significant importance to the state of health. On the European level, the European Social Charter (1961, revised in 1996) and the International Covenant on Social, Economic and Cultural Rights (1966) entrench the right to health care as an independent universal human right, which is implemented by particular actions. Moreover, discussion about individual responsibility of a person for the health (by establishing his obligations) is still cautious and the right concentrates on the duty of the state to ensure

health care services, goods and resources, alongside by stressing that the state is not able to guarantee the full coverage of healthcare. In view of special status of various social groups – role of a woman in society and still existing discrimination (1979 Convention on the Elimination of all Forms of Discrimination against Women), special status of a child (1989 UN Convention on the Rights of the Child) – in respect of the latter the right to health care is included in the group of other civic, personal, social and economic rights. In the course of development of the right to health care, scientific progress and implementation and concretization of provisions of the aforementioned international legal documents, one does not strive to consolidate the very right. Contrary – one strives to ensure its implementation, equal opportunities for people to get a service of health care and to define rights and status of patients (1997 Convention on Human Rights and Biomedicine). In order to disclose the content of the human right to health care it is useful to revise provisions of two major documents, which are International Charter on Economic, Social and Cultural and the European Social Charter.

Paragraph 1 of Article 12 of the International Covenant on Economic, Social and Cultural Rights reads: „The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health“. Thus, first is the time when the international document established that every person is recognised as enjoying the right to the highest standard of health. Having recognised by the Covenant the right to health care as the universal human right an obligation was placed on the states to take necessary measures aimed at ensuring for their citizens the highest attainable level of physical and mental health. According to the professor S. Gevers (2004, p. 29), the preconditions are, on one hand, protection from external threats, such as unsafe drinking water or diet, measures ensuring healthy working environment and living conditions, as well as learning of healthy life. On the other hand, it means that the members must ensure available of services of health care of sufficient quality to all citizens according to the needs and status of the most vulnerable groups. The UN Economic and Social Council states that the concept “highest standard of health” takes account of biological and social as well as economic prerequisites of an individual, and the resources of the state. There are many issues that may not be solved only in respect of relations of the state and private persons: first of all – good health may not be ensured by the state, and the state is not able to guarantee the protection in all known cases of threat to human health. Such aspects as genetic factors, individual health disorders and unhealthy or risky lifestyle may be important and make impact upon the health of a person. For this reason the right to health care must be understood as the right to resources, goods, services and conditions that are necessary in order to ensure the best attainable health standard. It means that the right to health care may not be understood as the right to be healthy. The right to health care comprises both freedoms and rights. The freedoms are also the right to control person’s own health and body, including sexual and reproductive freedom, and the right to be free from disturbance, for example the right to freedom from torture, prohibition of treatment and experiments without a consent of the person. These are the steps to be taken by the states that strive for implementation of the right to health care, as defined in Paragraph 2 of Article 12: provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child (item a); improvement of all aspects of environment and industrial hygiene (item b); prevention, treatment and control of epidemic, endemic, occupational and other diseases (item c); creation of conditions which would assure to all medical service and medical attention in the event of sickness (item d). In this case, in our opinion, the main spheres are defined, the ensuring/implementation of which would guarantee the highest attainable standard of person’s health as described in the first paragraph of this article. Prof. Steven D. Jamar (1994, p. 13) indicates that the second paragraph of Article 12 is unusual, but not necessarily unique, because treaties on human rights to the extent covered therein indicate that they strive to establishment of relatively specific areas which need to be improvement while striving for health rather than indicate the general content of the

right, the main purpose of the right and training steps of what should be done. Attention should be drawn to the fact that despite a difference between the right and measures (action list), the list helps to establish obligations of executor of the duty, who is the state, and holder of the rights, who is the individual. An individual cannot properly claim, "I have a right to health so make me healthy;" but that person can assert: "I have a right to health so do the things necessary to enable me to have health".

On the European level it is also the European Social Charter that grants to the people the right to health care as well. As noted by professor Roscam Abbing (2005, p. 183), the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter – the most important instruments of human rights adopted by the European Council – relate to each other in respect of health. Other documents that are important to particular sector include the Convention on Human Rights and Biomedicine adopted the Council of Europe (1997) and European Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1997). However the European Social Charter is usually considered to be a core measure related to the right of every person "to enjoy the highest standard of physical and mental health". Paragraph 11 of Part I of the European Social Charter establishes: "Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable". According to professor S. Fluss (1995, p. 193), Article 11 of the European Social Charter provides a more precise definition of the right to health, which states that everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable, that anyone without adequate resources has the right to social and medical assistance, and that every contracting party must remove as far as possible the causes of ill-health; provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health, as well as prevent as far as possible epidemic, endemic and other diseases. Still, according to professor Steven D. Jamar (1994, p. 16), the European Social Charter provides for a narrow attitude not to the protection of the right to health. It only calls for "respective measures" "for the protection of health". Despite the fact that, as indicated by the professor, the European Social Charter strengthens an opinion that the right to health care is more than a right to medical treatment, including the spheres related to numerous causes of poor state of health. This Charter also consolidates measures of prevention and training rather than solely a reaction to medicinal or other health problems. These provisions of the Charter are specified in more details in Article 11 of the latter, which provides that with a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed *inter alia*:

1. to remove as far as possible the causes of ill-health;
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

Upon review of the international legal instruments, measures implementation of the right to health care that are entrenched therein may be divided into two major groups according to the sphere of health system, namely:

- measures such as attempt to ensure the necessary medical aid and health care to all children, first of all by developing the first aid, supply with necessary drugs, treatment of epidemic, endemic, vocational and other diseases, as well as vaccination against main infections, creation of conditions to all of them to receive medical services and medical supervision in case of illness, by paying special attention to the service rendered to women during their pregnancy, childbirth and postnatal period and, if necessary, providing free-of-charge services of related health care;

- measures such as reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child first of all by developing sanitary; improvement of all aspects of environment and industrial hygiene thus encouraging safe and sufficient supply of food, proper diet, sufficient supply of safe water and main sanitation; prevention, treatment and control of epidemic, endemic, occupational and other diseases, including vaccination against major infections by implementing preventive measures and control over local endemic diseases, executing proper supervision over the popular diseases and injuries, as well as preventing as far as possible the accidents; education related to the most popular problems of health and means of their prevention and control, consultancy and supply with education material propagating healthy lifestyle and encouraging individual liability for the own health; information to all groups of society, especially parents and children, about health and nutrition of a child, advantages of breast-feeding, hygiene, sanitary of child environment and prevention of accidents; as well as creation of opportunity to them to be trained and use the gained knowledge; develop education and services in the sphere of health care, parents' consultancy and family planning - all these are to be attributed to the public health.

Despite the fact that the right to health care is entrenched in numerous international instruments, professor S. Gevers (2004, p. 29-31) declares that the most important decisions on a system of health care are still made on the national level. International legal acts may indicate core provisions, clearly identify measures that ought to be implemented, however, it is the national decision of particular country as to the scale and method of their execution and allocation of available resources of healthcare.

Attention should be drawn to the fact that the right to health may be implemented only as the right to health care, rather than the absolute right to good health. State may create all necessary conditions to the person to take care of health and treatment in case of illness, but it may not force a person to choose a healthy lifestyle. Besides, as already mentioned, on the other hand, irrespective of healthy lifestyle an ill person has no right to demand from the state to ensure a full-fledged health, return it to the former status. However, the right to health care as a social right has a positive aspect under which it places an obligation on the state to take necessary measures for prevention and treatment of illness and alongside obligates the state to create necessary structures and services which would ensure the health care and rehabilitation to the people enjoying respective right (Molinari, 1998, p. 41 - 60). Therefore it is natural that the state is first of all liable for creation of a system which would both help the person in case of illness and create conditions for healthy lifestyle. When effective measures and system are created, the person will become able to efficiently enjoy the right to health care that he is entitled to.

The right to health care (also called the right to health, the right to health care, the right to take care of health, the right to be a patient (Nys, Van Wijmen, 2002, p. 1- 4)) is a universal human right, therefore, as already mentioned, the state is demanded to take measures to ensure that its citizens can enjoy the highest attainable standards of physical and mental health. On one hand, it demands protection against external threats such as unsafe drinking water or diet, measures ensuring safe working environment and healthy living conditions, development of health. On the other hand – the state must ensure availability of health care services of respective quality to people by creating conditions for meeting the needs of the most vulnerable groups (Gevers, 2004, p. 29 – 34). Many people expect active participation and assistance of the state in the sphere of health care, they treat the right to health care as fundamental. Social research of status of human rights in Lithuania in 2001-2002 proved that 32.1 % of respondents identified the right to health care as one of the major rights of a person (<http://apps.who.int/gho/data/node.country.country-LTU>). Thus implementation of the right to health care also depends upon attempts of the individual himself, and upon the state, ability of administrative and institutional systems created by the latter to properly execute the assignment.

4. Concept of the Right to Health Care in the jurisprudence of Lithuania

Implementation of the right to health care at least in future will basically depend upon the national authorities. It is important that in the course of adoption of political decisions that are important to availability of health care services (for example funding of health care, scope of systems getting the public finance, types of services rendered under such systems, distribution of internal resources, including decisions of priorities, administration of sequence, etc.) the state follows the right to get health care services despite of huge economic and political powers which impede major principles of solidarity and equality (Gevers, 2004, p. 32). Paragraph 1 of Article 53 of the Constitution of the Republic of Lithuania reads: “the State shall take care of people’s health and shall guarantee medical aid and services for the human being in the event of sickness. The procedure for providing medical aid to citizens free of charge at State medical establishments shall be established by law.” Professor T. Birmontienė (2007, p. 324 - 324) states that the official doctrine formulated by the Constitutional Court has major impact upon the legal system of Lithuania and the law on health as well. According to the professor, the right to health care which is protected by the Constitution, is included as a right in the catalogue of the constitutional rights and is basically one of the most important ones. The right to health care, both as the duty of the state to take care of public health and as an individual right, is entrenched in Paragraph 1 of Article 53 of the Constitution. The fact that the right to health care is included in the catalogue of constitutional rights as a social right and is defined first of all as social rather than individual rights – and this aspect is subject to dispute by the petitioners – results in a situation where, in view of the acts of the Constitutional Court, this right is perceived as a constitutional obligation of the state to take care of health of the entire society – as the social right instead of the individual (patient’s) right. Meanwhile K. Lapinskas, the former president of the Constitutional Court of Lithuania, states that in the Constitution of Lithuania the right to health care is protected not only as an individual rights of a person to health care, but as a collective right, i.e. public interest, which justifies limitation of some other rights and/or freedoms, for example freedom of speech, freedom of information or ownership rights (<http://www.lrkt.lt/APranesimai.html>).

In the course of analysis of the jurisprudence of the Constitutional Court of the Republic of Lithuania, it becomes obvious that the right to health care as entrenched in the Constitution of the Republic of Lithuania is a function of the state. The Constitutional Court of the Republic of Lithuania has held more than once that taking care of people’s health and guaranteeing medical aid and services in the event of sickness are to be treated as a state function. The administering and supervisions of health activities are one of the elements of the aforementioned function (Constitutional Court Ruling of 14 January, 2002). When construing these provisions of the Constitution, the Constitutional Court has held that the health of human being and of society is *one of the most important values of society*. In the context of the constitutional justice case at issue the Constitutional Court noted that the state has the duty to protect human beings from threats to health (to reduce dangers to health and in certain cases, as far as possible, to prevent them), to improve ability of a person and society to overcome dangers to health, and to ensure availability of medical services in case of illness. Moreover, it has been noted that the right to healthy environment is a necessary condition of dignified life and enjoyment of many other constitutional rights (Constitutional Court Ruling of 2 September, 2009). The Constitutional Court has also held that the provision of Paragraph 1 of Article 53 of the Constitution reading that the state takes care of public health results in the statement that protection of people’s health is a *constitutionally important objective, a public interest* (Constitutional Court Ruling of 2 September, 2009).

While implementing the provision of Paragraph 1 of Article 53 of the Constitution and “recognising that the health of the population is the greatest social and economic value of society and <...> seeking to ensure the inborn human right to enjoy the best possible health, as well as the right to have healthy

environment, acceptable, accessible and adequate health care” [preamble part 2], the Seimas of the Republic of Lithuania adopted the Law on Health System (Official Gazette. 1994, No. 63-1231). Pursuant to the provisions of Articles 7 - 15 of the law on Health System, the health system comprises: health care, public health and pharmaceutical activity. These spheres of health system are intended for implementation of the objective which is set for the state – take care of people’s health and respectively implement the right of a person to health care. Health care is basically aimed at treatment of persons (patients), their rehabilitation and nursing (Chapter II of the Law on Health System), pharmaceutical activity comprises production and distribution of drugs (Paragraph 14 of Article 2 of the Law on Pharmacy of the Republic of Lithuania, *Official Gazette*. 2006, No. 78-3056) and public health concentrates on preventive activity aimed at strengthening health of community, disease prevention and control, and creation of safe environment. As already mentioned, it should anyway be stated that health system is basically divided into two types: health care and public health, as pharmaceutical activity in its essence is a constituent part of health care, as treatment could be hardly effected without medicines, and the latter is aimed at ensuring effective health care.

Therefore, in the Republic of Lithuania, in view of the right to health care as entrenched in the international legal acts and the Constitution of the Republic of Lithuania, the national health system must be developed so that it comprises the measures necessary for execution of the right to health care and creates conditions to the people to enjoy the highest attainable standard of physical and mental health. An obligation is imposed on the State to take active measures to help the person to implement the right that he enjoys – this is predetermined by the very nature of the right, the social one. Attention should be drawn to the definition the “*right to healthcare*” properly discloses the content of this right. When one calls the right to healthcare as the “right to healthcare”, an obligation is presumed to guarantee to the person a certain state of health irrespective of, for example, his inherited diseases, lifestyle, habits that affect his health, and when one perceives the right to healthcare solely as the rights of a patient, only the rights of ill person, i.e. the person who addresses the healthcare institutions for assistance, would be covered. In his jurisprudence the Constitutional Court of the Republic of Lithuania uses the definition “*right to healthcare*”, as well. This right covers not only the duty of the State to ensure available health care services of good quality, but also to offer the person the safe living, work and leisure conditions, to encourage people to choose lifestyle that is favourable to their health, to efficiently fight infections in their outbreak, etc. Duties of the State that are consolidated in the content of the right to healthcare may be divided in two spheres of healthcare – personal healthcare and public healthcare. Personal healthcare is aimed at creation of mechanisms that ensure assistance in case the person gets ill. Public healthcare is preventive activity, i.e. the State creates conditions for the person to live in healthy environment. It covers activity from development of health-oriented lifestyle to ensuring the living, work and leisure environment that is safe to health. It is presumed that the State, while failing to guarantee such measures and solely creating conditions for treatment in case of illness, will properly implement only a part of its obligations covered by the content of the right to healthcare and, in this way, will fail to properly guarantee the right to human dignity. Moreover, it will use both material and human resources in the inefficient manner, because elimination of the reasons of the disease is cheaper than its treatment and healthy man and society are the pre-requisites for development of common welfare of the State.

5. Conclusions

1. the right to human dignity as the right to the quality of existence means a double duty of the state: 1) to recognize every person the subject of the right and in this human dignity is recognized as the foundation of

the human rights that are necessary for self-realization, 2) to ensure the quality of life - it is guaranteed as a prerequisite of enjoying the rights according to the level of legal capacity, to implement social policy, to support the persons, who are not able to acquire the subjective rights that are necessary for the existence worth of dignity. The second generation of human rights (economic, social, cultural) ensures the dignified conditions of life and the right to health care is one their guarantees.

2. The right to health care is implemented by the state by means of organisation of measures of health care and public health. When implementing the health care and public health and organizing activity of the authorities, the state must ensure that tasks and objectives that are set in every sphere are attained in order to guarantee the general and integral efficiency of every sphere of health system.

3. The right to health care, as a social right, is implemented at the legal capacity level, and does not directly require the individual to perform their legalized responsibilities. This implies that it is a relative – although responsible for the implementation of this right, the state does not guarantee a person absolute health, it only must comply with its obligations, found within the content of the law. The right to health care is not absolute: efficiency of its implementation depends upon both the state, ability of its established administrative and institutional systems to properly implement the assigned functions, and the lifestyle of the person.

4. Public health is a function carried out by the state (including society itself, individuals), and the goal of which is – extending the life of members of society and enhancing their health. It is implemented via organization preservative measures, aimed to the population's health status monitoring, development of a healthy, safe environment, and the fight against infectious diseases. Lithuanian national documents consolidate the public healthcare, which does not include such measures as provision of healthcare services to socially vulnerable people, efficiency of healthcare supervision, availability and quality assessment.

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