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## LEGAL FRAMEWORK OF ACCESSIBLE MEDICAL CARE IN THE CONDITIONS OF SUSTAINABLE DEVELOPMENT GOALS ACHIEVING

The article reveals the features of access to the medical care legal framework in the context of sustainable development goals achieving. Attention is focused on one of the key issues – the search for ways to ensure the effectiveness of lawmaking in the healthcare sector in the context of globalization. The international law and national legislation in the field of medical care in the context of sustainable development goals achieving are analyzed. It is concluded that sustainable development goals are the methodological basis for the legal regulation of social relations in the health sector.

*Key words:* medical care, access to medical care, sustainable development goals, globalization of medical care, medical care law-making.

Providing the population with affordable medical care is an important area of activity for each state to develop human capital and protect the health of citizens. Despite significant progress made in recent years in improving the health and well-being of people, inequalities in access to medical care remain and require the development of effective legal measures to guarantee the right to affordable medical care. Each year, more than 6 million children die before the age of five; only half of the women in developing countries have access to the necessary medical care. Of course, ensuring the availability of medical care requires significant resources, but effective legal regulation of the medical care provision is no less important in solving this problem. Legal aspects of accessibility and quality of medical care have been researched by many authors: A. A. Korolko, T. K. Mironova, N. N. Pankov, I. Ya. Senyuta, S. G. Stetsenko, I. V. Timofeev et al. However, under the current conditions, the importance of research aimed at identifying the features of the rulemaking methodology as a tool to ensure access to medical care is growing. The purpose of this article is to reflect the directions of further improvement of law-making to ensure the availability of medical care and develop recommendations to determine the methodological basis of legal regulation in the field of medical care.

Healthy people are the foundation of an efficient economy. According to statistics for the period 2005–2016, in almost 45 percent of all countries and 90 percent of the least developed countries, there is less than one doctor per 1000 people, and in more than 60 percent of countries per 1000 people, there are less than three nurses or birth attendant [1, 2]. In the Republic of Belarus, almost 58 doctors per 1000 people. There is a decrease in mortality from diseases of the circulatory system, from chronic respiratory diseases. Over the past 8 years, the incidence of tuberculosis and hepatitis B has doubled, while mortality from malignant neoplasms is growing. The average life expectancy is 74.4 years (women – 79.2; men – 69.3). Therefore, the primary tasks of the medical care system in solving which an important role is played by effective legal support are to increase the availability and quality of medical care, expand preventive measures, introduce new reproductive technologies, and ensure the availability of medicines [3].

Following the resolution of the UN General Assembly of September 25, 2015, № 70/1 «Transforming our world: the 2030 Agenda for Sustainable Development» [4] (hereinafter – the 2030 Agenda) the Republic of Belarus, along with 193 states, joined the action plan, which aims to ensure sustainable economic growth, social protection, environmental protection, and security for the entire population.

The 2030 Agenda includes 17 Sustainable Development Goals (hereinafter – SDGs), which cover the economic, social and environmental fields and are not legally binding. Nevertheless, the states are actively working on the creation of program documents and legal acts that will make it possible to achieve the declared SDGs within each country in proportion to the available resources and opportunities in close international cooperation. This approach is logical

because, in the conditions of globalization and regional integration, the medical care system cannot exist separately. The interaction of states in resolving issues of ensuring equal access to medical care is becoming important and necessary in connection with the humanitarian focus of states and the corresponding social orientation of international cooperation to ensure the human rights and freedoms. The migration of the population, the creation of a common economic space, the openness of borders actualizes the development of social cohesion of society and involves the development of legal mechanisms aimed at ensuring the proper level of medical care not only to guarantee the rights of an individual but also ensuring the development of public health and national security. Besides, modern telecommunication facilities and new digital technologies provide not only an intensive exchange of scientific information but also create more acceptable conditions for ensuring equal access of patients to medical care.

The uniqueness of the 2030 Agenda is that it defines the obligation of states, regardless of the level of economic development, to contribute to sustainable development while ensuring the protection of the world's population. The 2030 Agenda establishes that poverty eradication must be inextricably linked to the implementation of strategies that promote economic growth and address some social needs, including in the health sector.

Thus, the third SDG – ensuring a healthy lifestyle and promoting well-being for all at any age, is aimed at improving the health of the population, protecting maternity and childhood, preventing an epidemic of infectious diseases, reducing the incidence of noncommunicable diseases, ensuring broad public awareness of risk factors that affect health status (smoking, alcohol, lack of physical activity, poor nutrition), the formation of the population's responsibility for their health [4, p.17].

To implement the 2030 Agenda, states have developed national development plans and strategies related to the achievement of the SDGs, since all global goals required formalization in program legal acts and the establishment of a mechanism for their implementation in rules and regulations. Belarus has adopted several state programs related to the achievement of the SDGs, among which the National Strategy for Sustainable Development of Belarus for the period up to 2030 and the Program for Social and Economic Development, as well as sectoral and regional programs, including in the healthcare sector. Besides, an architecture for managing the process of achieving such goals was formed. The National Statistical Committee of the Republic of Belarus ensures coordination of work on the assessment of indicators and monitoring the achievement of the SDGs. A national SDGs reporting platform and a national list of SDGs indicators have been developed [5, 6].

Following the prevailing world practice, by Decree of the President of the Republic of Belarus dated May 25, 2017 No. 181 [7], the institution of a national coordinator for achieving the SDGs was introduced. The Ministry of Health of the Republic of Belarus created the Methodological Council for Monitoring and Evaluation of Sustainable Development [8], which is a consultative,

expert and methodological body which activities are aimed at the scientific and methodological substantiation of the system of national and regional indicators of sustainable development corresponding to the 2030 Agenda, their implementation in the program documents of the social and economic development of the Republic of Belarus [8].

From our point of view, the SDGs are the methodological, conceptual basis of national development strategies, which are designed to ensure consistency in the legal, managerial and regulatory activities of public authorities to achieve sustainable development by countries. Therefore, the achievement of the goals of sustainable development can be a basis for the legal regulation of social relations in the health sector, including the legal provision of access to medical care. Obviously, despite the ambiguity of the term «sustainable development» itself, it has been accepted by the scientific community, official structures, and international organizations as a basic concept that allows, on the one hand, to identify a problem, and on the other, to outline ways to solve it. Indeed, sustainable development refers to such development that satisfies current needs but does not jeopardize the ability of future generations to satisfy their own needs [9, 10].

Since the SDGs are comprehensive and global in nature and universal, measures must achieve them to take into account differences in national realities, opportunities, and levels of development. Therefore, for effective legal support, it is very important and necessary to understand that the rulemaking of public authorities to achieve the SDGs should be based on the metamodern paradigm, the essence of which is the desire to reflect the world in the unity of its diversity. It is important to understand here that the formulation of the rule of law each time requires, along with formal logic, understanding the essence of the unity and diversity of all 17 goals of sustainable development. For example, a reduction in mortality due to cardiovascular diseases requires the adoption of a legal norm for mandatory medical examination of people of working age. In turn, a decrease in the mortality rate of people of working age will entail an increase in the life expectancy of the population (SDGs-3).

A significant factor for the development of methodological approaches in the legal regulation of medical care is, along with the SDGs, the globalization of it. In the scientific literature from the end of the 20th century the term «global medical care» appeared and became widely used [11, p. 742]. Its interpretations are ambiguous both in content and in form. However, in general, one can point out the following trend from an analysis of existing approaches. Globalization and regional integration are stepping up the activities of international and regional organizations to develop solutions for supranational regulation of the healthcare sector. The Republic of Belarus, as a member of the World Health Organization, seeks to create conditions to provide affordable and high-quality medical care at all levels of healthcare and in all places of medical care, with particular attention being paid to the development of the healthcare system

itself and the creation of legal mechanisms to ensure access to the right to medical care [12, Art. 9].

The human right to affordable and quality medical care is one of the most important social human rights established in international law. According to article 25 of the Universal Declaration of Human Rights, everyone has the right to such a standard of living, including food, clothing, housing, medical care, and the necessary social services, which are necessary to maintain the health and well-being of himself and his family. Article 12 of the International Covenant on Economic, Social and Cultural Rights establishes that States parties to the Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Measures to be taken by signatory States to ensure the realization of this right include measures aimed at ensuring the healthy development of the child; prevention and treatment of epidemic, endemic, occupational and other diseases and the fight against them, as well as the creation of conditions that would provide everyone with medical care including in case of illness.

The requirements to ensure the right to health and medical care are enshrined in conventions by the UN General Assembly. According to article 24 of the Convention on the Rights of the Child, States parties recognize the right of the child to use the most advanced services of the health system and the means to treat diseases and restore health, take the necessary measures to reduce infant mortality and child mortality; ensuring the provision of necessary medical care and the protection of the health of all children, giving priority to the development of primary health care; combating disease and malnutrition, including through primary health care, by providing sufficient nutritious food; providing mothers with appropriate prenatal and postnatal health services; development of educational work and services in the field of preventive medical care and family planning.

Article 25 of the Convention on the Rights of Persons with Disabilities enshrines the recognition by States parties of the right of persons with disabilities to the highest attainable standard of health without discrimination based on disability. States parties should take all appropriate measures to ensure access by persons with disabilities to health care services, providing persons with disabilities with the same range, quality and level of free or low-cost health services and programs as others; prohibiting discrimination against persons with disabilities in the provision of health insurance; preventing discriminatory denial of health care or services in this area due to disability.

In the context of globalization, international legal acts play a key role in the formation of national legislation. Activities undertaken by the UN and its specialized agencies have shaped the global trend towards harmonization of medical care policies. The International Labor Organization and the World Health Organization have adopted several conventions and recommendations aimed at solving the problems of health protection and medical care, which are reflected in national legislation. The World Health Organization has developed a

global strategy for ensuring high-quality and equal access to health care for the population based on the European Health Policy «Health 2020» [13]. Moreover, the role of interstate regional integration is increasing in ensuring equal access to the realization of the right to medical care and the achievement of the SDGs. At the same time, K. P. Morozova notes that there is no single international standard for the content of the right to medical care since international acts proclaiming the right to medical care do not establish clear boundaries of the individual's right and the obligations of states to implement this right [14]. Global SDGs indicators can serve as such an international standard, based on which countries have developed national indicators and committed themselves to their implementation.

In international legal acts of the regional level, ensuring access to the right to medical care is also given due attention. One such act is the European Social Charter. According to the Charter, the participating States recognize as the goal of their policies the creation of conditions ensuring the effective implementation of the following rights and principles: working women during maternity have the right to special protection; everyone has the right to use any means that enable to maintain health in the best possible condition; everyone without sufficient funds has the right to social and medical assistance.

To ensure the effective exercise of the right to protection of health, the participating States undertake to take appropriate measures: firstly, to eliminate, as far as possible, the causes of health problems; secondly, the provision of counseling and educational services aimed at promoting health and promoting personal responsibility for one's health; thirdly, the prevention, as far as possible, of epidemic, endemic and other diseases, as well as accidents. Thus, the provisions of the European Social Charter are also consistent with the SDGs.

Obviously, all the main international documents, setting the minimum necessary level of social guarantees, contain norms which aimed at ensuring equal access to the right to medical care and necessarily include the requirements for member states of relevant international treaties to ensure that citizens can exercise their right to medical care and SDGs achievements.

Thus, the SDGs are consistent with international norms and national legislation, designed to ensure the sustainability of social protection of people, including in the health sector, and therefore can serve as a methodological, conceptual basis for national development strategies that are designed to ensure consistency in the legal, managerial and regulatory activities of bodies state power to achieve sustainable development by countries.

All SDGs following the main approaches laid down in the 2030 Agenda were formalized in program normative legal acts, which entails the need to consolidate the mechanism for their implementation in rules and regulations.

The achievement of the SDGs should be a basis for the legal regulation of social relations in the healthcare sector since the SDGs are comprehensive, global and universally applicable while ensuring that differences in national



realities, opportunities, and levels of development are taken into account, as well as respect for national strategies and priorities.

For an effective legal framework, it is very important and necessary to understand that the rulemaking of public authorities to achieve the SDGs should be based on the metamodern paradigm, the essence of which is to reflect the world in the unity of its diversity.

The formulation of the rule of law each time, along with the formal logic, requires understanding the essence of the unity and diversity of all 17 goals of sustainable development and fixing in the legislation mechanisms for achieving the SDGs indicators.

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### **Правове забезпечення доступності медичної допомоги за умов досягнення цілей стійкого розвитку**

Висвітлені особливості правового забезпечення доступності медичної допомоги в контексті досягнення глобальних цілей стійкого розвитку. Увагу зосереджено на одній із ключових проблем – пошуку шляхів забезпечення ефективної нормотворчості у сфері охорони здоров'я за умов глобалізації. Проаналізовано міжнародно-правові акти і національне законодавство у сфері охорони здоров'я в контексті досягнення цілей стійкого розвитку. Сформульовано висновок про те, що глобальні цілі стійкого розвитку слугують методологічною основою правового регулювання відносин у сфері охорони здоров'я. Завдання досягнення цілей стійкого розвитку повинно бути покладене в основу правового регулювання суспільних відносин у сфері охорони здоров'я, оскільки цілі стійкого розвитку мають комплексний, глобальний та універсальний характер і, до того ж, уможливають урахування розбіжностей у національних реаліях і рівнях розвитку, а також забезпечують повагу до національних стратегій і пріоритетів.

*Ключові слова:* медична допомога, доступність медичної допомоги, цілі стійкого розвитку, глобалізація охорони здоров'я, нормотворчість у сфері охорони здоров'я.

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