

KARAPETIAN A.R. REFORM OF THE HEALTHCARE SYSTEM IN UKRAINE AND LEGAL PROTECTION IN THE MEDICAL SPHERE: HAS THE PROTECTION OF PATIENTS AND MEDICAL WORKERS ACTUALLY IMPROVED?

KARAPETIAN Akop Rubenovich - PhD, Advocate

ORCID: 0009-0008-6934-7164

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The article examines the impact of healthcare reform in Ukraine on the level of legal protection of patients and medical workers. The analysis focuses not only on changes in the organization and financing of the healthcare system, but also on how these changes affect the practical realization of rights in the medical sphere. Attention is given to constitutional guarantees, sectoral regulation, and the role of court practice in ensuring effective protection.

The study highlights the difference between formal recognition of rights and their actual implementation. It is argued that the existence of legal norms does not automatically ensure effective protection without proper enforcement mechanisms. Issues of access to justice, enforcement of court decisions, and responsibility in the medical sphere are considered.

Special attention is paid to wartime conditions, which complicate access to healthcare and influence the functioning of legal mechanisms. The role of the state and its obligation to maintain access to essential medical services is emphasized.

The post-war recovery period is analyzed as a stage that involves not only rebuilding infrastructure but also reconsidering legal approaches. Questions of continuity of rights, fair distribution of resources, and accountability of public authorities are addressed.

It is concluded that, despite certain improvements in formal guarantees, the effectiveness of legal protection in the healthcare sector remains limited. Further development should focus on aligning legal regulation with practical needs and real conditions.

Keywords: right to health, legal protection, medical law, patients, medical workers, judicial protection, enforcement of decisions, wartime conditions, post-war recovery, constitutional guarantees.

Formulation of the Problem

The reform of the healthcare system in Ukraine is often discussed in terms of financing models, institutional changes, and service delivery. At the same time, the legal dimension of these transformations is not always examined with the same level of attention. In practice, however, it is precisely the quality of legal protection that determines whether reforms lead to real improvements for individuals.

The constitutional basis of the right to healthcare remains stable. However, the way this right is realized has changed significantly in recent years. These changes are not only the result of internal reforms but are also influenced by external factors, including the ongoing war and broader social transformations.

From my point of view, the key issue is not whether the legal framework has been updated, but whether these updates have led to stronger and more reliable protection in real situations. In many cases, legal norms appear sufficient when viewed in isolation, yet their practical application raises a number of concerns.

Another aspect that deserves attention is the increasing role of international legal standards. The development of healthcare regulation in Ukraine is no longer purely internal. It

is shaped by external expectations, comparative experience, and evolving approaches to human rights protection. This creates both opportunities and additional demands for the legal system.

The purpose of this article is to assess how healthcare reform has affected the level of legal protection for patients and medical workers, and to identify those areas where further development is necessary.

Analysis of Doctrinal Studies

The issue of legal protection in the healthcare sector has been addressed in Ukrainian legal scholarship from several angles.

A number of studies emphasize the importance of constitutional principles. Research on the supremacy of constitutional norms [1] shows that sectoral regulation, including healthcare law, must be interpreted in line with constitutional guarantees. This approach provides a stable foundation but does not resolve all practical issues.

Other works focus on the reform of healthcare systems in different jurisdictions and in Ukraine in particular [8; 9]. These studies demonstrate that reforms tend to affect not only organizational structures but also the legal position of individuals. At the same time, they suggest that changes in regulation do not automatically lead to stronger protection.

The development of medical law as a distinct field has also been explored in earlier works [10; 11]. These studies outline the basic rights and duties of patients and medical workers. However, they were largely developed in a different context, before the current масштабні changes.

Research related to court practice is also relevant. The question of enforcement of court decisions [6] and the idea of full restoration of rights [5] provide a useful perspective for assessing whether legal protection is effective in practice.

More recent works examine the impact of crisis situations, including the pandemic [4] and the war [2]. These studies show that legal systems are often tested in extreme conditions, and that existing mechanisms may not always function as expected.

In my view, while these studies offer valuable insights, there is still a lack of a combined

analysis that would directly address how reforms have influenced legal protection in the healthcare sector as a whole.

Presenting the Main Material

Healthcare reform in Ukraine has introduced significant changes in the way medical services are organized and financed. These changes have also affected the legal position of both patients and medical workers, although not always in a straightforward way.

On the one hand, certain formal guarantees have been strengthened. Patients have clearer rights, including the possibility to choose a doctor and to receive information about medical services. There is also greater transparency in relations between healthcare institutions and public authorities. In my opinion, these developments can be seen as a step toward better alignment with European approaches.

At the same time, new challenges have emerged. Legal regulation does not always keep pace with practical changes. This leads to situations where rights exist on paper but are difficult to enforce in practice. For example, the question of responsibility in medical practice remains complex and, in some cases, uncertain.

The effectiveness of legal protection for patients largely depends on access to remedies. It is not enough to declare rights; there must be realistic ways to defend them. Court protection plays a central role here. However, the value of judicial decisions depends on their actual enforcement, which remains a known issue [6].

The situation of medical workers also deserves careful attention. The reform has increased expectations regarding the quality of medical services and professional responsibility. At the same time, the level of legal protection for medical workers has not always developed at the same pace. This creates a certain imbalance, especially in conditions of increased workload.

I would also note that specific groups require additional attention. Issues related to equality, access, and cultural sensitivity remain relevant. This is particularly important in a diverse society, where healthcare needs may differ.

The wartime context has further complicated the situation. Access to healthcare services has become uneven. In some regions, it depends less on legal guarantees and more on security

and available resources. Medical workers often operate under significant pressure, and patients may face serious obstacles in receiving care.

In such conditions, the role of the state becomes more visible. Even with limited resources, there is an expectation that basic healthcare services will be maintained. This raises questions about the scope of state obligations and how they should be interpreted in difficult circumstances.

The transition from wartime conditions to post-war recovery introduces a different set of challenges. At this stage, attention gradually shifts from immediate response to long-term rebuilding. However, this process is not only about infrastructure. It also involves reconsidering how the healthcare system should function in the future.

One of the first issues that arises is the restoration of healthcare facilities and services. Decisions about rebuilding are not purely technical. They involve legal considerations, including the distribution of resources, prioritization of regions, and ensuring equal access.

Another important aspect is the continuity of rights. Individuals who have been affected by the war may continue to face difficulties even after active hostilities end. Access to treatment, rehabilitation, and compensation often depends on transitional legal mechanisms. In practice, this may lead to uneven protection.

In my view, post-war recovery also creates an opportunity to address problems that existed before the war but were not fully resolved. Simply restoring the previous system may not be sufficient. In some cases, it may even repeat earlier weaknesses. This suggests the need for a more careful approach to legal reform.

The issue of accountability also becomes more visible in this context. Decisions taken during the war, including those related to healthcare, may require later assessment. This is not only a matter of responsibility but also a way to ensure trust in public institutions.

Another layer is connected with external support. Post-war recovery often involves international assistance. This requires clear legal frameworks to ensure transparency, coordination, and proper use of resources.

Local authorities play a significant role in this process. They are often responsible for implementing recovery measures on the ground.

At the same time, their capacity varies, which may lead to differences in access to healthcare across regions.

Overall, the recovery phase highlights that legal protection in healthcare should not be limited to restoring previous conditions. It should also aim at creating a more stable and balanced system, capable of responding to future challenges.

An evaluation of legal protection in the healthcare sector in Ukraine cannot be considered complete without a careful analysis of the existing legislative framework. In my view, the key difficulty lies not in the absence of legal regulation, but in its fragmentation, inconsistency, and limited effectiveness in practice.

At the constitutional level, the right to healthcare is guaranteed by the Constitution of Ukraine [13], which establishes both the right of individuals to medical care and the obligation of the state to ensure accessible healthcare services. However, this provision often remains declarative in nature, as its practical implementation depends on sector-specific legislation that is not always sufficiently coherent.

The central legislative act regulating healthcare relations is the Fundamentals of Legislation of Ukraine on Health Care [14]. Despite numerous amendments, this act still reflects an outdated regulatory approach. I consider that it does not fully correspond to the current model of healthcare, particularly regarding contractual relations, patient autonomy, and mechanisms of legal liability.

The introduction of the Law of Ukraine On State Financial Guarantees of Medical Care to the Population [15] marked a significant shift toward a new system of healthcare financing. Nevertheless, this law primarily focuses on financial and organizational aspects and does not provide a comprehensive framework for the protection of the rights of patients and medical workers.

Patient rights are dispersed across various legal acts and lack systematic consolidation. This creates difficulties in their practical realization and enforcement. In my opinion, the absence of a unified legislative act dedicated specifically to patient rights weakens the overall level of legal protection.

The legal status of medical workers also remains insufficiently defined. While general

labour legislation applies, it does not take into account the specific nature of medical activity, which involves increased risks and professional responsibility. As a result, medical workers may face legal uncertainty, especially in situations involving adverse medical outcomes.

Particular attention should be paid to the issue of liability. The provisions of the Civil Code of Ukraine [16] and the Criminal Code of Ukraine [17] apply to medical relations in a general manner. However, the lack of clear criteria for distinguishing between medical error and justified professional risk creates ambiguity. This may lead to inconsistent judicial practice and undermine both the protection of patients and the legal security of medical workers.

I would also emphasize that the enforcement of judicial decisions in healthcare-related cases remains problematic. Even when courts recognize violations of rights, the actual restoration of these rights is not always achieved. This significantly reduces the effectiveness of legal protection mechanisms.

In the context of wartime and post-war recovery, these issues become even more pronounced. Existing legislation was not designed for such extraordinary conditions, and its adaptation remains incomplete. In my view, this requires a reconsideration of legislative approaches, taking into account the need to ensure continuity of care, equal access to medical services, and adequate protection for medical personnel working under increased risk.

Overall, the current legislative framework demonstrates a certain level of development, but it lacks coherence and practical effectiveness. Strengthening legal protection in the healthcare sector requires not only amendments to existing laws but also a more systematic and consistent approach to their implementation.

Conclusions

The analysis shows that healthcare reform in Ukraine has led to certain improvements in formal legal guarantees, particularly for patients. At the same time, the effectiveness of legal protection in practice remains limited. This is due to difficulties in implementation, gaps in regulation, and the impact of external factors. The legal protection of medical workers has not always

kept pace with the increasing demands placed upon them. This is especially noticeable in situations of heightened risk. In my opinion, further development of the healthcare system should focus not only on organizational changes but also on strengthening legal mechanisms. This includes improving access to remedies, ensuring enforcement of decisions, and creating better conditions for both patients and medical workers. The question of whether legal protection has improved does not have a simple answer. In formal terms, progress can be observed. In practical terms, the situation is more complex. This, in my view, defines the direction of future development.

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Карпетян А.Р.

**РЕФОРМА СИСТЕМИ ОХОРОНИ
ЗДОРОВ'Я В УКРАЇНІ ТА ПРАВОВИЙ
ЗАХИСТ У МЕДИЧНІЙ СФЕРІ: ЧИ
ПОСИЛИВСЯ ЗАХИСТ ПАЦІЄНТІВ І
МЕДИЧНИХ ПРАЦІВНИКІВ?**

У статті досліджується вплив реформи системи охорони здоров'я в Україні на рівень правового захисту пацієнтів і медичних працівників. У центрі уваги перебуває не лише зміна організаційної моделі та фінансових механізмів функціонування системи охорони здоров'я, але й те, як ці зміни відобразилися

на реальному забезпеченні прав у медичній сфері. Проаналізовано наукові підходи до розуміння ролі конституційних гарантій, а також значення галузевого регулювання та судової практики для забезпечення ефективного захисту прав людини у сфері охорони здоров'я.

Особливу увагу приділено співвідношенню формального закріплення прав і можливості їх практичної реалізації. Обґрунтовується, що наявність розвиненої нормативної бази сама по собі не забезпечує належного рівня правового захисту без ефективних механізмів її застосування. Розглянуто проблеми доступу до правосуддя, виконання судових рішень, а також питання відповідальності у медичній сфері.

Окремий акцент зроблено на умовах воєнного стану, які істотно ускладнюють реалізацію права на охорону здоров'я та впливають на функціонування всієї системи. Показано, що в таких умовах зростає значення позитивних обов'язків держави щодо забезпечення базового рівня медичної допомоги, а також потреба у додаткових гарантіях для медичних працівників.

Проаналізовано також особливості повоєнного відновлення системи охорони здоров'я, яке розглядається не лише як процес відбудови інфраструктури, але й як можливість переосмислення підходів до правового регулювання. Звертається увага на необхідність забезпечення безперервності прав, справедливого розподілу ресурсів та підвищення рівня відповідальності публічної влади.

Зроблено висновок, що, незважаючи на певне посилення формальних гарантій, ефективність правового захисту у сфері охорони здоров'я залишається обмеженою. Подальший розвиток має бути спрямований на узгодження нормативного регулювання з реальними потребами та умовами функціонування системи охорони здоров'я.

Ключові слова: право на охорону здоров'я, правовий захист, медичне право, пацієнти, медичні працівники, судовий захист, виконання судових рішень, воєнний стан, повоєнне відновлення, конституційні гарантії.