

European Health Law and Patient's Rights – a report from an international conference

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On October 9-11, 2013 the European Association of Health Law and the Centre for Biomedical Law (Centro de Direito Biomédico) organized IV European Conference on Health Law, which took place in Coimbra in Portugal.

Congress organizers

The European Association of Health Law (EAHL) is an international organization, associating lawyers (both science workers and practitioners) specializing in medical law. The European Association of Health Law aims at strengthening the health and human rights interface throughout Europe, and to serve as an indispensable source of advice and guidance for the future of health law and policies in Europe. The main principle of the EAHL is to achieve academic excellence and improve health law practice. The Founding Conference of the Association took place on 10th and 11th of April 2008 in the Royal Society of Edinburgh, Edinburgh, Scotland. It was attended by over 100 delegates from 23 countries. The organizational structure of the Association and its Constitution was approved at the founding conference 2008 [1].

The Center for Biomedical Law (CDB) is the oldest and more dynamic research institution in the field of Health Law in Portugal, editing the *Lex Medicine* – Portuguese Journal on Health Law and providing a monographic collection, with already includes 20 publications on Medical Law, Health and Pharmaceutical Law. CDB was created by a decision of the Academic Board of the Faculty of Law, at the suggestion of Prof. Guilherme de Oliveira, in May 1988 [2].

Main subject

The conference subject was focused on three main questions: Preventive environment and measures, Reaction against malpractice/Patients Compensation and Learning from mistakes. The congress had four keynote speakers: Roger Brownsword, Bernard Koch, Joahan Legemaate and Joana Namorado.

Roger Brownsword, professor of Law, King's College of London, raised a question of the use of modern technologies (CCTV, GPS etc) to secure better patient's protection in medical centres, referring to improvements, caused by technological novelties, e.g. in transport safety. Professor Bernard Koch, University of Innsbruck presented the results of his researches on comparison of medical staff responsibility in 13 European countries, including Poland.

Polish representation

Among 81 papers and 30 posters, 6 lecturers were from Poland. Dr. Maria E. Sokalska, independent researcher, raised a question of

protection of patient's rights in Poland, in the context of the Spokesperson for Patient's Rights activity. Dr Julia Kapelańska – Pręgoska – Human Rights Department, Faculty of Law and Administration, Nicolaus Copernicus University – presented speech titled *Health-care and State's Positive obligation under the European Convention of Human Rights Even*. In her lecture, she asked if there is a human right to safe health care. She analyzed regulations included in w European Convention on Human Rights (ECHR), as well as rights granted by the European Court of Human Rights. Natalia Łojko – attorney at law, Baker&McKenzie, member of the commission for determination of medical events, Board of Governors of the World Association of Medical Law – described activities of the commission for determination of medical events. The commissions started their activity in Poland on January 1, 2012. Despite criticism of the new legal regulation (the idea of no fault liability was questioned), the commissions have become very popular and are more and more often chosen as the means of liability proceedings by virtue of medical malpractice. Mrs. Katarzyna Syroka – Marczewska – attorney, PhD candidate, Faculty of Law and Administration, University of Warsaw in Poland – prepared a poster, related to patient's rights in Poland, in which she synthetically presented regulations from the act on Patient's Rights and the Spokesperson for Patient's Rights from 2008.

Dr Anna Jacek, presented a question of *no fault liability* in her poster. On January 1, 2012 there was introduced a change in regulations of the act on patient's rights and the Spokesperson for Patient's Rights. The task of regional commissions for adjudication on medical events is to adjudicate on medical event or its absence. In regulations of the act on patient's rights and the Spokesperson for Patient's Rights there has been determined a fee for application for determination of medical event, however, the regulations do not determine the possibility of exemption of an applicant from the fee.

Whereas, Dr Emilia Sarnacka raised a question of medical liability. She claimed that the subject-matter of professional liability of medical staff is the aspect of medical law that is most often omitted. On the one hand, it is related to the fact that it is a specific part of medical law, and the general rules of liability, like in case of criminal or civil liability, do not apply here. What is more, lawyers participate in this type of proceedings very rarely, despite the fact that the accused are entitled to have a spokesperson. Another issue is a social attitude towards the subject-matter of professional liability – often, patients or their close ones do not trust the court, in which judges are doctors, and they decide to choose a traditional legal course.

Most of all, it is related to the fact that the proceedings may be conducted dishonestly, as they take place within a professional group, which the accused is a part of. In relation to the above, one may sometimes get the impression that professional liability is as if “aside” of legal liability (penal, civil and professional).

Activity of EAHL in the near future

Conference organizers are in the middle of preparing a monograph, including speeches of the lecturers, which is planned to be published in autumn 2014.

Immediately after the conference, EAHL accepted new members, also including the authors of this article – Dr. Emilia Sarnacka and Dr. Anna Jacek.

Next EAHL conference will be held in Riga, University of Latvia, on 28-29 April, 2014. The main theme of the conference will be: Access to Health Care.

REFERENCES

1. <http://www.eahl.eu/about> [cited 2013 Nov 8].
2. IV European Conference on Health Law, Book of Abstracts