



## RESEARCH ARTICLE

**Patients' Rights Based on Kosovo Laws and International Standards**Arif Riza<sup>1</sup>, Muharem Faiku<sup>2\*</sup>, Alban Kryezi<sup>3</sup>, Valeri Qatani<sup>4</sup><sup>1,2,3,4</sup> Faculty of Law, University " Ukshin Hoti" Prizren, the Republic of Kosovo

ARTICLE INFO	ABSTRACT
Received: Oct 28, 2024	The study examines how social and individual dynamics interact when it comes to medical care in the Republic of Kosovo. emphasizing the importance of human rights and freedoms guaranteed by the constitution, especially in relation to health care. The study provides a theoretical framework for analysing the legal framework of the Republic of Kosovo and uses a comparative technique to assess how much these legal frameworks fulfil the patient's rights provided by international norms. In order to obtain information about the protection and actual fulfilment of the patient's rights, interviews with health professionals will also be conducted. The objective of this study is to provide important knowledge about medical law in Kosovo and to improve the knowledge of health care providers and the general public regarding their respective rights and obligations. Ultimately, it aims to educate and empower the Kosovo community for a health care system that is more efficient and more respectful of human rights.
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**1. INTRODUCTION**

The genesis of patient rights dates back to the earliest times. Based on the fact that health care is a basic human right, the importance of health care is added to the fact that the patient's rights must be protected by law and protected through mechanisms that, in practice, enable the realization of the patient's rights. The individual as a social being is involved in various social relationships both in daily life and in the professional life. Such relations may be closely related to human rights and freedoms as a constitutional category.

Protection, guarantee and the possibility for each of us to freely exercise our rights are some of the prerequisites for a legal state, whose functions are strictly regulated by legal norms. It is almost impossible for someone not to have had at least one case without being involved in a situation where he personally or a family member was in the position of the patient. Therefore, the request for medical assistance includes a range of rights that refer to patients. Patient rights are human rights. In this direction, the main purpose of this paper is to present the rights that belong to each individual during medical treatment. This purpose is precisely justified by the fact that patients must know their rights and responsibilities for a successful cure and treatment. On the other hand, the awareness of Kosovar society regarding the information and recognition of these rights is not that high and this represents the second fact that justifies the treatment of this topic.

The development of a new branch such as medical law is a necessity in our country, this branch which would expand the knowledge of each of us regarding the rights that belong to us as patients. Both law and medicine aim to preserve life, body, health and human dignity in general.

**2. LITERATURE REVIEW**

The patient's rights are given great importance these days. Given that ensuring the well-being and dignity of individuals receiving medical care is essential to the ethical code and effective functioning

of health care (Hojaman & Miranda, 2018). This literature review provides an overview of patient rights legislation in Kosovo, examining the legal infrastructure established by national laws and alignment with international standards. By offering different dimensions in terms of patient rights, we will present the country's compliance with international norms in health care in the Republic of Kosovo.

Kosovo has made important steps in defining and protecting the rights of patients through its legal system (Alidemaj, 2022). The constitutional act of the Republic of Kosovo regulates basic issues related to patient rights, such as health protection (Mustafa, Berisha, & Lenjani, 2014), while incorporated in the Constitution there are also legal instruments that regulate the rights of the patient, while the law on health is the legal act that in Kosovo regulates the rights of the patient (Lenjani, etj., 2020).

If a patient must pay a bribe to obtain life-saving surgery (Bryane & Hajredini, 2010), for the democratic states of Kosovo, such as human rights, we will manage to identify cases of corruption in the field of medicine. The Kosovo case provides a warning about the complex and difficult process of transforming and strengthening health systems (Percival & Sondorp, 2010). Kosovo health sector is currently in deep crisis (Bislimi & Edmond, 2012), insufficient budget for the health sector, the low level of wages of many families, etc.

### **3. RESEARCH METHODOLOGY**

To achieve the objectives of this research, the theoretical method will be used in the beginning, through which the legal basis of the Republic of Kosovo will be consulted to analyse how the patient's rights are regulated. The comparative method will be used to compare the legal practice of Kosovo with international standards to see how unified the rights of patients in Kosovo are with the rights of patients in the European world. Part of this research will also be the interview method, through which health professionals will be interviewed, from whom data will be requested on how in practice the rights of patients are protected and realized and whether they have recently faced any situation that has resulted in the violation of patients' rights. Health care in the Republic of Kosovo is a constitutional category proclaimed by the highest legal act of a country. Kosovo has followed the European model regarding the approval of laws, not leaving aside the laws that refer to health issues, specifically the rights of patients. Citizens are guaranteed the right to equal access to health care services without any discrimination.

Despite this, often with some acts the rights of patients can be violated, and in such cases the criminal responsibility of health workers is not excluded. This research aims to serve as a valuable contribution by enriching the research literature with useful data regarding the development of a very important branch in the Republic of Kosovo and to expand the knowledge of both citizens and health professionals about their rights and responsibilities. The legislation on patient rights is simultaneously regulated by the highest legal and political acts and then by acts with lower legal power, such as administrative regulations and other acts that create the rights of patients and the legal basis to understand their rights.

Therefore, with all the legal provisions guaranteeing the patient's rights, the study also addresses the issue of criminalization, i.e., violations or abuses related to the patient's rights, penalties, or punitive measures that follow as a result of the patient's rights being disregarded.

### **4. RESULTS**

#### **Notion of patients' rights**

Laws must contain norms that have ethical elements (Buka, 2014). Some commentators distinguish individual rights 'as a patient' from the collective and social rights 'to become a patient'; the latter refer to issues of coverage, access and entitlements (Nys & Goffin, 2011). The term patient's rights is a term introduced recently in the literature of health sciences, where it was initially included in the publications of international organizations (Merakou, Vorgia, Papadatos, & Kremastinou, 2001).

A number of rights that are specific to the patient are included under patient rights. As a result, these are governed by state internal laws. However, several fundamental rights related to health are pre-regulated by international agreements, and as such, nations are 'required' to include them into their laws.

Patient rights are very important, and it should be noted that such rights have an impact on health care and other segments that have to do with health (Annas, 1992). How we are with patients is as important as what we do with or to them (Tschudin, 1992). As WHO has always stressed, everybody is entitled to the health care that he or she needs, but there is sometimes a distressing disparity in the apportionment of health care, not only between countries but also within countries (Leenen, 1994).

There are some rights that can be directly violated by medical activity, such as the right to life, bodily integrity, and human health (Riza, Kryezi, & Lecaj, 2023). Although today with the development of different fields, the attacks on health care can be very dimensional.

### **Regulation of patients' rights in KOSOVO**

The patient's rights are regulated by the highest legal and political act, in the Constitution of the Republic of Kosovo, health and social protection are foreseen. According to Article 51, health-related matters are governed by law, and social aid for the jobless, sick, disabled, and elderly is also governed by law..

With Law on Health is regulated principles, health care system, supervision of health care services (Buwa & Vouri, 2007). The principles of health care are the basic rules on which other legal provisions interact, equality and non-discrimination, conscientiousness, quality, evidence-based health interventions and affordable, effective costs, prevention of the spread of diseases and their timely detection, strategies and policies for well-being and health. Having the right of access to health care for all. In Kosovo, the public health is also regulated. To have the right of access to health care for all. In Kosovo, public health is also regulated by the law on public health, this law includes and regulates the activity of public health as a national interest.

Other acts which regulate the patient's rights: On amending and supplementing Law for Health Insurance and Charter of Patient Rights and Responsibilities.

The Republic of Kosovo has not signed the Biomedicine Convention, unlike the Republic of Albania, which signed and ratified it at the end of March 2011 (Riza, Kryezi, & Lecaj, *The Development of Medical Law in the Field of Gynecology and the Relationship with Criminal Law: The Applicability of the Legal Framework of the Republic of Kosovo*, 2023). Despite this, the legal system of the Republic of Kosovo has regulated most medical issues.

So the regulation of the patient's rights in the Republic of Kosovo first has a constitutional legal basis and then the laws and other legal acts.

### **Legislation and international standards for patient rights**

The genesis of patients' rights begins with the Hippocratic Oath (Antonioniou, et al., 2010). The Charter of Fundamental Rights of the European Union provides the Union with a 'more evident' framework of protection of the individuals before the public authorities within the European context (Garcia, 2002)...Article 35 of the Charter provides for a right to health protection as the "right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices" (O'Mathuna, Scott, McAuley, Daneshmandi, & Daly, 2005).

The Declaration of Alma-Ata reaffirmed that the primary goal is to achieve the highest possible level of health, seeking cooperation with other social and economic sectors besides the health sector (Stensland, 1978). Also in the International Convention on Economic, Social and Cultural Rights in 1966, article 12 " Everyone has the right to the enjoyment of the highest attainable standard of physical and mental health (Vierdag, 1978)".

The ECHR and the Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data provide for the guarantee of the right to respect for private life in relation to information about his/her health and for everyone to have knowledge about his/her health (Büschel, Mehdi, Camilleri, Marzouki, & Elger, 2014). Article 5 of the Oviedo Convention affirms the well-established requirement for informed consent in medicine (Mittelstadt, 2021). The importance of this instrument lies in the fact that it is the first comprehensive multilateral treaty addressing biomedical human rights issues (Andorno, 2005). Despite the specifics contained in this convention, cases of gaps are also emphasized (Pascalev & Vidalis, 2010).

WMA’s Declaration of Lisbon on the rights of the patient, which was first adopted in 1981 (Jukic & Puljak, 2018). WMA Declaration of Lisbon on the Rights of the Patient defined patients rights (Kurihara, etj., 2023). WMA has issued several acts regarding the regulation of patient rights. Including some statements that have regulated the ethics and other that have to do with the rights of the patient.

While in this purpose we mention the WHO, a specialized organization, established for international cooperation on health issues (Riza, E Drejta e Organizatave Ndërkombëtare dhe Organizatat Ndërkombëtare, 2011).

Poor quality of care is responsible for close to 5 million of the more than 8 million deaths from treatable conditions occurring annually in LMICs—far more than the 3.6 million deaths resulting from insufficient access (Glassman, Keller, & Lu, 2018).

Another patient rights act is: A Declaration for the Promotion of Patient Rights in Europe. It is also known as the catalogue of patients' rights (Leene, 1994).

**Criminalization of criminal offenses directed against the patient's rights**

As regards the criminalization of criminal offenses against the patient's rights, the Republic of Kosovo has regulated these criminal offenses with the criminal code. Penalties are also foreseen for illegal actions by developing the health activity in an illegal manner. For example, health care workers will be criminally liable if they apply a tool or method not respecting the medical rules that may lead to the worsening or aggravation of the patient's illness or condition, or in the other case, damage to the health of another person.

**Table 1: The number of criminal cases**

Irresponsible Medical Treatment	Number of cases
2020	25
2021	24
2022	14

Source: Author’s elaboration

As seen in Kosovo for the criminal offense of the Criminal Code of the Republic of Kosovo sanctioned in Article 254 Irresponsible Medical Treatment for the last three years we find these statistics. In 2020, we had a larger number of criminal offenses (irresponsible medical treatment), such cases with a similar number are also in 2021, despite the year 2022 we see a decrease in criminal offenses (irresponsible medical treatment). Thus reflecting the decrease in the number of criminal cases. Also, the Republic of Kosovo, with its penal code, has foreseen some criminal offenses that attack the rights of the patient. See some cases from judicial practice.

**Case:** Used an inappropriate means of medication-surgery: during the operation of the cholecystitis-*idhca*, he carelessly punctured the small intestine in two places, so that after the incision in the abdomen was sewn up, his health condition worsened due to severe blood infection (Aktgjykim, 2022). Openly used inappropriate methods of treatment, so that he did not present the real state of the degree of deformity and did not recommend wearing or using the Orthosis Corset in time, even though the injured person was being treated by the accused, and as a result of this, the state of health of the victim has worsened, causing severe deviation of the spinal axis (Aktgjykim, 2018). Without medical reasons from different persons-injured donor, taking advantage of their weak economic situation, for the purpose of transplantation, he bought egg cells in exchange for different amounts of money, paying the amount of 800 euros in cash (Aktgjykim, 2022).

**Summary of patient rights; practical analysis**

We have prepared forms addressed to different age groups from all regions of Kosovo.

**Table 2: Patient rights and practice**

Replay	Yes	No	In most cases

Have the services for diagnosing the disease been available in the public institution?	46%	44%	9%
Have you been informed about the use of medications?	87%	5%	8%
In exchange for medical treatment, did you give money to the doctor?	24%	76%	0%
After visiting your doctor, were you referred to any private medical institution?	52%	48%	0%
<b>Do you know about the rights provided by the Charter patient's rights act?</b>	<b>59%</b>	<b>41%</b>	<b>0%</b>

Source: Author's elaboration

We have analysed the forms which we have distributed to different age groups, which you can see in table .1., from the completed forms we found that 46% of people have diagnosed the disease in public medical institutions, 44% of them expressed that they could not diagnose the disease in public medical institutions, while 9% could only receive basic medical services. From these data we conclude that there is a balance between services that can be provided in public hospitals and services that cannot be provided in public hospitals.

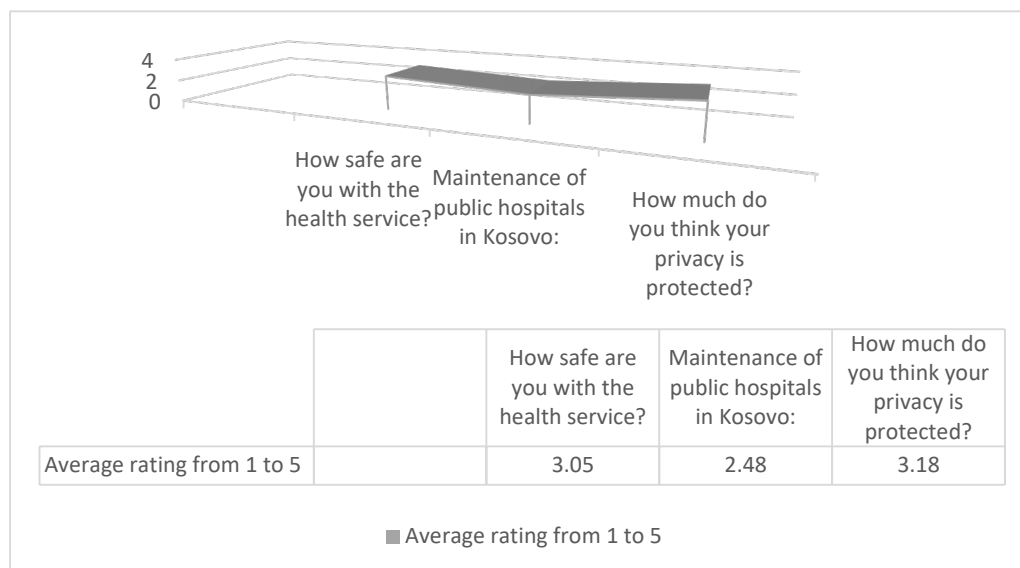
As for informing patients about the use of drugs, 87% expressed the opinion that during the treatment, the medical personnel kept them informed about the use of medical drugs, 5% of the respondents stated that they did not inform them about the use of medical drugs or have not instructed them in the use of medical drugs, while 8% of respondents state that in many cases they were uninformed about the use of drugs.

As for the financial cost that patients face during medical treatments, 34% of respondents say that they could not afford the financial cost due to the high prices of medical services. Also, here we can see the level of dissatisfaction with social protection and the provision of social assistance, so much so that they cannot even afford health care.

A bad situation is in the provision of medical services, we emphasize that: 52% of the respondents after visiting the doctor were referred to private hospitals, for security reasons, another point is that patients do not feel safe for treatment in public hospitals.

As for the recognition of the rights that belong to patients, during our research we argue that the majority of the interviewees stressed that they are not familiar with the Charter of Patients' Rights. Take into account that 41% of those interviewed are not familiar with the Patient's Rights Card. Therefore, this ignorance of the patient's rights has consequences as a weak trigger from other segments such as from not promoting the rights of patients or not informing the public about the rights of patients.

**Table 3: Findings from the average regarding patient rights**



Source: Author's elaboration

From table 3. We see the average of the three questions: How safe are you with the health service? Maintenance of public hospitals in Kosovo?! How much do you think your privacy is protected?

The answers from the interviewees to these questions reflect that from 1 to 5 for all the interviewees there is not a high percentage of people who feel safe with health services. Thus giving us the average in total: 3.05.

While in relation to the maintenance of public hospitals in Kosovo, the interviewees express dissatisfaction with the maintenance of public hospitals, and in relation to the maintenance of hospitals, the average level of maintenance shows the poor dedication of public hospitals.

Regarding the right to privacy, in relation to the information that is protected, from the interviewees we conclude that the data protection from 1 to 5 has an average of 3.18, having a significant percentage but not a satisfactory level considering the role of the right to privacy.

In the lowest rank is the maintenance of public hospitals, from the low average it reflects the poor maintenance of health institutions.

## 5. CONCLUSIONS

The patient's rights date back to ancient times, the guarantee of some of the basic medical rights began to be demanded a long time ago. The patient's rights first have their genesis in the Hippocratic Oath, it is the first charter through which the foundations for the patient's rights are laid. While today everywhere in the world the rights of the patient are regulated and guaranteed quite precisely, where more and where less. The patient's rights enjoy an internal state infrastructure, but for a while they are also regulated by international law. Where some of the documents include: Oath of Hippocrates, The Charter of Fundamental Rights, Declaration of Alma-Ata, the Oviedo Convention...

Kosovo, a democratic country, has tried to regulate the patient's rights through legal acts, starting from the constitution of the Republic of Kosovo which guarantees some of the patients' rights, then with laws that cover different areas, up to acts with force lower legal. And in cases of violations of the patient's rights, illegal actions are sanctioned by the penal code of the Republic of Kosovo.

We can say that Kosovo has sufficient legal bases that regulate the field of health, as far as patient rights are concerned. But what is difficult: how these legal acts are implemented in practice. Bearing in mind that only legal rules are never enough when they are not implemented in practice. By this we understand that the legal acts that regulate the rights of the patient not only remain written, but also the implementation of these legal rules is needed and as such they manage to be respected by everyone. Therefore, it's controversial regarding the measures/ strategies that operate in practice for the implementation of legal acts.

From the analysis done in practice we found that: 44% of the respondents did not diagnose the disease as a result of not providing medical services - The government should invest in the tools and technical equipment that serve in the diagnosis of diseases, the mentioned result shows us the state of the devices that are not provided in the hospitals of Kosovo. A significant percentage of the respondents state that they cannot afford the financial cost of treatment. As a result of poverty and at the same time it presents insufficient social schemes with which they cannot even take care of their health. A poor result appears when patients, due to lack of trust in the treatment of diseases in public hospitals, continue after the doctor's visit to private hospitals. This implies a proper disengagement in terms of treatments that are taken in public hospitals and that end with dissatisfaction with the medication given. The state must take measures and provide mechanisms that have an effect in practice regarding the protection of the patient's rights.

The hospital maintenance (hygiene) from the respondents comes to the conclusion in the average, which represents a poor result. As for hygiene in hospitals, their maintenance should be strengthened. The importance of hospital maintenance is essential because the low level of cleanliness of health facilities, spaces which are frequented by many people, can be one of the reasons for the deterioration of health. Lack of maintenance or poor hygiene results in health consequences both for the patient and for other people who frequent the hospital premises.

Our study has a multidimensional impact, potentiating the impact in the legal field, the importance of our topic identifies the main bottlenecks of the patient's rights. Therefore, not only with the

recognition and information of the patient's rights, but we emphasize the urgent need to undertake governmental actions regarding the patient's rights.

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