

Use of the state language in legal relationships between the patient and medical personnel

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Abstract

Clear communication between healthcare professionals and patients is vital for ensuring accurate diagnoses, effective treatment and the protection of patients' rights. Language barriers can severely hinder this process, leading to misunderstandings, misdiagnoses and inadequate care, ultimately undermining the fundamental right to health. While many healthcare systems attempt to bridge linguistic gaps through bilingual staff, translated documents and interpretation services, these solutions have limitations. Translations may fail to capture medical nuance, and bilingual employees may lack sufficient language proficiency if not properly assessed. Therefore, the question comes out how does the use of the state language impact communication processes between patients and medical personnel in multilingual healthcare settings? In Latvia, recent legal reforms have highlighted the importance of language in healthcare delivery. On 13 June 2024, the Saeima Parliament adopted the final amendments to the Patient Rights Law to reinforce the use of the Latvian language in communication between medical personnel and patients. This legislative shift aims to enhance mutual understanding in the healthcare setting, safeguard patient safety and promote better health outcomes. This abstract examines the legal and ethical implications of language policy, its role in improving healthcare quality and equity and its alignment with constitutional and normative frameworks in Latvia.

Keywords

patient rights • rights to understand • communication

INTRODUCTION

Language is a vital element in the healthcare process that facilitates clear communication between healthcare providers and patients. Effective communication is essential for ensuring that patients can fully understand their health conditions, treatment options and rights. Language barriers can lead to misunderstandings, resulting in incorrect diagnoses and ineffective treatments, which undermine patients' fundamental rights to health. To address these issues, healthcare systems often implement strategies, such as hiring bilingual staff, providing translated documents and utilising interpretation services. However, these solutions can pose limitations; for instance, translations may not guarantee complete comprehension, and the effectiveness of bilingual employees can be compromised if their language skills are not adequately assessed. It is essential for healthcare organisations to continuously enhance their language support services, ensuring that all patients, regardless of their

linguistic background, receive the highest quality of care and have their rights to health upheld.

On 13 June 2024, the Saeima (Parliament of Latvia) passed the final amendments to the Patient Rights Law, which among other things, strengthened the use of the state language in communication between medical personnel and patients (Amendments to the Patient Rights Law, 2024). These amendments were prompted by recent challenges related to patients' and medical personnel's limited ability to exercise their rights and fulfil their duties in the healthcare process. The Patient Rights Law primarily aims to foster positive relationships between patients and healthcare providers, encouraging active patient participation in their healthcare, while ensuring that they can exercise and defend their rights and interests. This goal is closely linked to the use of the state language in medical processes, as clear communication between the patient and medical personnel is essential for quality healthcare (Patient Rights Law: Latvian Law. 2009).

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This study provides an explanation of the amendments to the Patient Rights Law, specifically addressing the new version of Article 15, which mandates that if a patient does not speak the state language and communicates in a language not understood by medical personnel, the patient must provide translation services, except when objectively impossible. The importance of language use in healthcare, its impact on the quality of treatment, patient safety and the protection of patient rights will be explored, along with relevant constitutional and legal frameworks in Latvia.

There is a correlation between the use of the state language and the exercise of patient rights and the provision of high-quality and the qualified healthcare services. Language use in healthcare is a crucial aspect that directly impacts the medical process, its quality and patient safety. Language is the primary means of communication that ensures effective information exchange between the patient and medical personnel (Branson and Chipman, 2018). High-quality and precise information exchange is essential for medical personnel to provide high-quality and qualified treatment, as required by the Patient Rights Law and various other normative acts. Before analysing the issue of state language use in healthcare, it is essential to consider the purpose of the Patient Rights Law. The amendments regarding the use of the state language between the patient and medical personnel have been incorporated into the Patient Rights Law because the law's primary aim is to promote positive relationships between the patient and the healthcare provider, encouraging the patient's active participation in their healthcare and ensuring that the patient has the opportunity to exercise and defend their rights and interests (Balodis, 2024).

Accordingly, the method, form and expression of communication and information provision, including the language choice in patient and medical personnel communication, directly impact the medical process, its quality and, consequently, patient safety and the ability to protect their rights. This study will further focus specifically on the language aspect in the context of protecting the rights and fulfilling the duties of both the patient and medical personnel. The European Court of Human Rights practice indicates that the use of the state language correlates with the exercise of patient rights and the provision of high-quality and qualified healthcare services. According to the second part of Article 5 of the Patient Rights Law, the patient has the right to kind treatment, quality and qualified healthcare regardless of the nature and severity of their illness. Quality healthcare means treatment that meets certain standards and requirements while qualified healthcare is related to the level of professionalism. However, in both cases, the provision of appropriate treatment requires information provided by the patient. Qualified and high-quality healthcare means services provided at a high professional level. This includes the skills and experiences of medical

personnel, as well as continuous professional development. Communication between the medical personnel and the patient is essential for accurate diagnosis and treatment. The patient must be able to understand the medical personnel's instructions, and the medical personnel must be able to understand the patient's complaints. Language barriers can lead to misunderstandings and erroneous treatment, thus affecting the quality of the medical process. The second part of Article 15 of the Patient Rights Law stipulates the patient's duty to actively participate in healthcare and provide the treating physician with the necessary information for the medical process within the limits of their capabilities and knowledge. Thus, both qualified and high-quality healthcare is based on information that is important and necessary for the medical personnel to fulfil their duties. On the contrary, the lack of knowledge or use of the state language by the patient or the medical personnel (which, from a legal standpoint, cannot be allowed in the case of medical personnel, as they are obliged to use the state language in the performance of their duties) can negatively affect the quality of the medical process and lead to adverse consequences, such as inaccurately providing or understanding information given in the medical process, including collecting medical history. Therefore, strengthening the state language, as well as an overall paradigm shift in the interaction between patients and medical personnel, is a logical step primarily in strengthening patient safety (Chichirez and Purcărea, 2018).

The issue of protecting and strengthening the state language remains consistently relevant in the context of constitutional rights (Rodiņa and Bārdiņš, 2024). The Constitutional Court has reviewed at least 13 cases related to state language protection issues. According to Article 4 of the Constitution of the Republic of Latvia (hereinafter—Constitution), the Latvian language is the only state language in the territory of the Republic of Latvia, and according to the preamble of the Constitution, the Latvian language is one of the values that form the identity of Latvia and the foundation of a cohesive society.

At the same time, the preamble of the Constitution emphasises the duty of every person to take care of themselves, their loved ones and the common good of society, acting responsibly towards others and future generations (Balodis 2024). Caring for oneself, one's loved ones and society can manifest both in action and inaction. The concern mentioned in the preamble of the Constitution also applies to the concept of health protection, meaning that everyone must take care of their own, their loved ones and society's common good, and health is undoubtedly a public good (Constitution of the Republic of Latvia, 1922).

This is further emphasised by Article 111 of the Constitution, which stipulates the state's duty to protect human health, thereby highlighting the importance of health at the constitutional level. Meanwhile, Article 5 of the Medical

Treatment Law stipulates that everyone has a duty to take care of and is responsible for their own, the nation's, their loved ones' and dependents' health. The first part of Article 15 of the Patient Rights Law also states the patient's duty to take care of their health.

Caring for health includes not only refraining from actions that endanger health but also seeking medical treatment in a timely manner. According to the first part of Article 1 of the Medical Treatment Law, medical treatment includes not only professional and individual treatment, rehabilitation, diagnosis and patient care but also prevention. Thus, caring for one's health means the patient's duty to seek medical attention in a timely manner, including for prevention, as provided for in the Patient Rights Law (2009).

The fifth part of Article 4 of the Patient Rights Law stipulates the duty of the patient to provide information in an understandable form, explaining medical terms and taking the patient's age, maturity and experience into account. The second part of Article 15 of this law stipulates the patient's duty to actively participate in medical treatment and provide the treating physician with all the necessary information for the medical process and other information essential for the medical personnel to fulfil their duties.

The proposal for amendments to the Patient Rights Law currently submitted to the Saeima was adopted in the third reading of the Saeima plenary session, supplementing the second part of Article 15 with the second prime part (Amendments to the Patient Rights Law (Latvia), 2024).

The new legal norm more clearly defines the patient's duty, in the case that they do not speak the state language and speak a language not understood by the medical personnel, to invite a person who provides a translation. This has sparked a number of discussions, and, therefore, this legislative initiative is examined in more detail in this study.

RESEARCH RESULTS AND DISCUSSION

Legal aspects of the use of the state language in healthcare

As mentioned in the commentaries on the Constitution (Commentary on the Constitution of the Republic of Latvia, 2016) citing the opinion of the Constitutional Law Commission on the constitutional foundations of the Latvian state, the Latvian language, as the state language, holds a constitutional status under Article 4 of the Constitution. This means that it must be used in state institutions, administration, judiciary and official communication and must serve as the language of communication among all members of Latvian society, regardless of their ethnicity or native language. Consequently, state policy must ensure that the Latvian language fully performs its constitutional function as the state language.

However, ensuring this status is not enough; the state must use all available legal means to ensure that the Latvian language genuinely fulfils its role as the common language of communication and democratic participation in society (Commentary on the Constitution of the Republic of Latvia. Introduction, 2016).

This is especially important considering Latvia's historical experience and the fact that the dominance of the Latvian language in the country is still not sufficiently ensured. The population of Latvia, considering the ethnic composition, is not monolithic: 62.6% are Latvians, while the remaining ethnic groups include Russians (23.4%), Ukrainians (3.2%), Belarusians (2.9%), Poles (1.95%), and other nationalities with smaller percentages (Latvian Central Statistical Bureau data, 2024). The Ombudsman has emphasised that in the context of globalisation, Latvia is the only place in the world where the existence and development of the Latvian language, and thus, the core nation can be guaranteed (Ombudsmen of the Republic of Latvia, 2017). Therefore, it is crucial to protect the state language, not to exclude anyone, but because the core values of the state are enshrined in the Constitution. Thus, the state needs to take positive measures and intensify the protection of the state language (Commentary on the Constitution of the Republic of Latvia, 2016).

This bar chart compares the enforcement of state language use in healthcare across Lithuania, Estonia, France and Belgium, showing different approaches and challenges.

The status of the Latvian language as the state language enshrined in the Constitution and the principles of the state language use are further elaborated in laws, especially in specific language laws (Judgment of the Constitutional Court of 21 December 2001, Case No. 2001-04-0103).

According to the first and second parts of Article 6 of the State Language Law, employees of state and municipal institutions, courts and institutions belonging to the judicial system, state and municipal enterprises, as well as companies where the state or municipality holds the majority of the capital, must know and use the state language to the extent necessary for performing their professional and official duties. Meanwhile, employees of private institutions, organisations, companies (business companies) and self-employed persons must use the state language if their activities affect legitimate public interests, which the legislator has also identified in areas such as health, healthcare, consumer rights, labour rights, workplace safety and other socially significant areas (People make a language great, 2017).

From this, it can be concluded that the State Language Law distinguishes between public and private legal relations, but health and healthcare are areas that receive equal treatment concerning the use of the state language regardless of the legal form of the healthcare service provider. At the same time, when interpreting the regulations included in the State

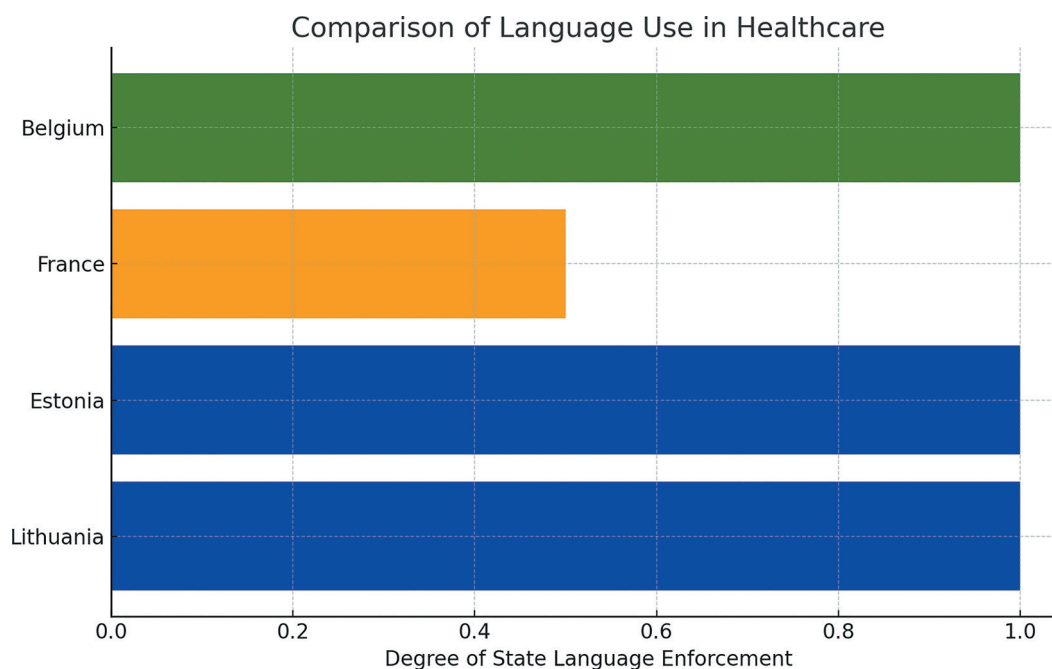


Figure 1. Comparison of language use in healthcare across different countries.

Language Law, the decisions of the Constitutional Court must be considered (Judgment of the Constitutional Court of 21 December 2001, Case No. 2001-04-0103). The court has concluded that narrowing the use of the Latvian language as the state language within the country's territory can also be regarded as a threat to the state's democratic order. It must be emphasised that the ability to freely use the state language is necessary for every member of Latvian society to function successfully within society (Judgment of the Constitutional Court of 13 November 2019, Case No. 2018-22-01).

However, the State Language Law also provides for exceptional situations. The second part of Article 10 of this law stipulates that state and municipal institutions, courts and institutions belonging to the judicial system, as well as state or municipal enterprises (business companies), accept and review documents in the state language only, while also providing for exceptions. One such exception is related to a person contacting emergency services. The provisions of this study do not apply to applications submitted to the police, healthcare institutions, rescue services and other institutions in urgent cases of emergency medical assistance, criminal offences or other violations of law, as well as when emergency assistance is requested in the case of fire, accidents or other disasters.

Thus, the State Language Law provides that in an emergency, when contacting the Emergency Medical Service, the emergency department of a healthcare institution, and thereby establishing public legal relations between the patient

and the healthcare institution's personnel, it is permissible to submit an application in another language. It is important to emphasise here that, first, in the context of the administrative process, the submission of an oral application is understood to include making and receiving a call by dialling the emergency services on 112 and 113, as well as approaching the emergency department of a healthcare institution in an emergency with a request for urgent assistance.

Moreover, it cannot be ruled out that a person may approach the aforementioned institutions, implicitly requesting urgent assistance, and thus, this case would also be treated as an application. Second, the knowledge and use of other languages in mutual communication between the personnel of these services and the patient in providing emergency medical assistance are proportionate, as in this case, the harm to a person's health and life, which is a fundamental human right, could be caused by the failure to provide assistance or providing incomplete assistance due to the mutual inability to communicate and could be greater than the threat to the state language and its constitutional status. Therefore, it can be concluded that the knowledge and use of other languages by medical personnel in certain exceptional cases are permissible and desirable if the patient cannot communicate in the state language and provide the medical personnel with complete information about themselves (Hemlin, 2013).

Another example in national normative acts is the scope of the Asylum Law, which stipulates that when exercising an asylum seeker's right to receive healthcare services, information is

provided to the asylum seeker by an official of the State Border Guard and the Administration in writing (orally, if necessary) in a language they understand or in a language reasonably assumed to be understandable to them (Asylum Law, 2016). The following will analyse the rights and obligations of the patient and the medical personnel, including the mutual relationships between medical personnel within the healthcare institution regarding the use of the state language.

Rights and duties of the patient and medical personnel in the use of the state language

Until now, the aspect of language choice and use has derived from the patient's right to receive information in an understandable form, as stipulated in Article 4 of the Patient Rights Law, which includes explaining medical terms and considering the patient's age, maturity and experience. The criterion of an understandable form has a broader scope, encompassing the language aspect as well. This means that every patient must receive information in a form that is inherently understandable to them, and if possible, in a language they comprehend. According to the commentary on the Patient Rights Law, this implies that speaking in a comprehensible language and using body language are interchangeable criteria when providing information to a patient, and the requirement for an 'understandable form' includes language, written signs and implied actions, but does not impose an obligation on medical personnel to speak in a way that is comprehensible to the patient (Slokenberga, 2019). The new amendments to the Patient Rights Law impose an obligation on the patient to use the state language in communication or to bring a person who can provide a translation. Therefore, if the patient does not know the state language or cannot communicate in it at an adequate level, they are entitled when visiting medical personnel, to bring another person who knows the state language and whom the patient trusts to act as a bridge between the medical personnel and the patient to receive quality healthcare services (The State Language Law, 1999). Similarly, this obligation applies to a person who uses sign language, as neither the medical personnel nor the medical institution is required to know or provide a sign language interpreter.

Conversely, the medical personnel are obliged to know the state language at a specified level, ensuring that when a patient contacts medical personnel, it is guaranteed that the state language in Latvia is always the communication language in which the patient can receive the most accurate information within the healthcare service (Howick et al., 2023). The commentary on the Patient Rights Law also notes that within the financial and human resources of healthcare institutions, it is not always possible to provide an interpreter.

This means that the healthcare institution may choose such a solution or identify employees within the institution who have foreign language skills and are willing to provide translation when necessary, although the institution cannot be required to do so.

It should also be noted that the relationship between the patient and medical personnel can be formed within the framework of public legal relations (e.g., receiving emergency medical assistance or a healthcare service paid for by the National Health Service) and within private legal relationships (e.g., voluntarily choosing and receiving a paid service at a private healthcare institution). Thus, private healthcare institutions may include broader services, such as interpreter services, especially if such institution attracts medical personnel from abroad.

A more detailed procedure regarding mutual communication between the patient and medical personnel, including in cases where the patient does not understand the state language or does not know it at an adequate level, should be regulated by the internal regulations of the healthcare institution to ensure the prohibition of unequal treatment as stated in Article 3 of the Patient Rights Protection Law, namely, that in the same legal and factual circumstances, all patients in comparable situations should be treated equally, while in different legal and factual circumstances, treatment must not be the same (Slokenberga et al., 2022).

Another aspect that has been raised in public discussions is the mutual communication between medical personnel (Young doctors urge hospitals to comply with the State Language Law (Latvia), 2024). Equal requirements to use the state language not only in relationships with the patient but also in mutual communication between medical personnel, including residents and other persons such as medical students, medical support staff, employees, representatives of other institutions, visitors and within the healthcare institution, regardless of its legal status, are determined by Article 6 of the State Language Law. Although the law differentiates between the requirements for private law entities and public law entities, the law stipulates that the state language must be known and used to the extent necessary for performing the relevant functions, which includes the requirement to know and use the state language to provide quality healthcare services.

Similarly, foreign specialists and foreign management members of companies (business companies) working in Latvia are also required to know and use the state language to the extent necessary for performing their professional and official duties or to ensure a translation into the state language. While the Patient Rights Law is the main legal act regulating the rights, duties and relationships between the patient and the healthcare institution and medical personnel, including the provision of quality information and the form of communication,

the Labour Law, which regulates the relationship between the employer and employee, is also equally applicable. Legal acts do not prescribe the language to be used in informal interpersonal relationships, but it should be noted that every employee has the right to safe and healthy working conditions. Moreover, the rights of the employee cannot be considered less important or, conversely, superior to patient rights, especially if the employees are medical personnel and non-compliance with these norms may affect the quality of healthcare services and directly endanger patients. Therefore, each healthcare institution, as the employer of medical personnel, should ensure a unified procedure and approach to ensuring the knowledge and use of the state language and, if necessary, address specific and relevant issues within the institution's internal regulations.

Patient's right to receive information in an understandable language—foreign approaches

In all countries, regardless of whether their constitutions explicitly include a norm that protects the state language (*expressis verbis*) or not, the state language is a constitutional value (Young doctors urge hospitals to comply with the State Language Law (Latvia), 2024). Similarly, the patient's right to information, as the right of every person to obtain, retain and disseminate information, is a human fundamental right based on constitutional values (Young doctors urge hospitals to comply with the State Language Law (Latvia), 2024; Commentary on the Constitution of the Republic of Latvia. Introduction, 2014).

Communication between the patient and medical personnel is also regulated by the legal acts of other countries. It should be noted that the parameters of the language situation and the special role of the language in national identities differ, as does the interaction between patients and medical personnel regarding the use of language in mutual communication.

For example, in Lithuania, according to the law, the documentation of healthcare institutions is completed in Lithuanian, and medical documents (such as medical histories, care records, outpatient cards, patient appointment notes, etc.) must be written in Lithuanian, allowing the use of Latin for diagnostic entries and prescriptions (The Lithuanian Law on Healthcare Institutions). According to the State Language Law, healthcare workers in Lithuania, similarly to Latvia, must know the state language according to the language proficiency level set by the state, while the heads of healthcare institutions must ensure that permanent residents are served in the state language.

In Estonia, similarly, the State Language Law mandates the use of the state language in matters of fundamental human rights, including healthcare. The obligation of the healthcare

service provider is to ensure that medical personnel who speak Estonian are employed. In educational institutions in Estonia, exams are taken in the state language, and thus, a sufficiently high level of language proficiency is a prerequisite for passing the medical exam. For medical personnel who have obtained education abroad, a language proficiency certificate must be attached to register in the Health Care Information System. At the same time, as noted by Agne Nettan-Sepp, an adviser on health affairs at the Estonian Ministry of Foreign Affairs, the language barrier is a problem in Estonia, as the number of young people who do not know Russian is increasing, and solutions must be sought in healthcare (for example, within the framework of personnel policies of healthcare institutions, the question is being addressed that, if necessary, a translation for communication with the patient can be provided by an employee of the institution who has Russian language skills) (Nettan-Sepp, 2024). In Estonia, there is experience that for emergency medical assistance, a hospital, using an external service provider, provides professional translation services to patients who face a language barrier in Estonian.

According to French law, patients do not have the right to demand an interpreter in healthcare, but several ethical and legal aspects oblige ensuring that the patient and medical personnel or medical support staff understand each other (Inspection Générale des Affaires Sociales, France, 2024). The Public Health Code recognises the need for translation as a 'tool to improve access to rights, prevention and care for people who are distant from healthcare systems'. The provision of professional translation services is considered the highest standard. Simultaneously, the Public Health Authority has developed competence training guidelines based on the transfer of best practices for translation in healthcare, focussing on acquiring the necessary minimum skills to provide professional translation services in healthcare. Thus, the approach used by France is focussed on professional training for translation specifically in healthcare (The French Public Health Code, 2005). In 2019, an economic model for language translation in healthcare was developed, emphasising that in those structures, such as the immigration service, where daily work with immigrants is carried out, translation opportunities and procedures are well organised. However, elsewhere, including in healthcare, the use of professional translation services is not common practice due to limited resources.

In Belgium, since the 1990s, an intercultural mediation programme in healthcare has been implemented, one of the tasks of which is to ensure translation between medical personnel and the patient. The World Health Organization, in its 2019 report, mentioned a best practice example of the role of the Belgian intercultural mediator, namely, that the tasks are much broader, ensuring that the patient (in the example, of Italian origin) knows and can find their way from the provider of inpatient care to the outpatient clinic to which they are referred

(World Health Organization, 2019). Due to not being confident that the patient had in fact understood how to reach the said clinic, the Belgian mediator decided to accompany the patient there. On the way to the clinic, the mediator inquired about whether the patient had health insurance, which would facilitate access to healthcare services. The patient, in turn, inquired about whether the mediator could recommend an Italian-speaking dermatologist. Such an example demonstrates a patient-centred approach and promotes the adherence of a patient of a different ethnic origin, as well as encourages the patient to proactively address their health issues in a timely manner. A similar practice exists in Slovenia.

This bar chart compares the enforcement of state language use in healthcare across Lithuania, Estonia, France and Belgium, showing different approaches and challenges.

Thus, from the examples of other countries mentioned, it can be concluded that in healthcare, it is crucial to ensure that in providing a quality healthcare process, the medical personnel fully understand everything the patient wishes to communicate about their health condition, and the patient fully understands the medical personnel's instructions, recommendations and referrals and can accurately follow them. Ensuring mutual understanding also promotes patient adherence to the healthcare process, which plays a significant role in achieving successful treatment outcomes.

CONCLUSIONS

In the Republic of Latvia, the state language is Latvian. Healthcare professionals have the duty to be proficient in the state language at the level prescribed by legal acts to provide qualified and quality healthcare, including patient treatment and the training of residents.

Patients who are residents of Latvia have the obligation to be proficient in the state language. The Constitutional Court has repeatedly indicated that the constitutional status of the state language legally strengthens the rights and duties of Latvian residents to use the Latvian language in both spoken and written communication, which also applies to its use in the healthcare process.

A lack of knowledge of the state language cannot be a discriminatory factor concerning the provision and quality of healthcare services. Health protection is a fundamental human right protected by the state. At the same time, patients are obliged to care for their health and cooperate with healthcare professionals in strengthening their health. Participation includes the patient's responsibility to ensure that the information they provide to the healthcare professional, who performs their duties in a state institution where the working language is the state language, is communicated effectively.

There are exceptions to the patient's obligation to communicate in the state language during the healthcare process. These exceptions apply to communication in the state language during emergency situations when contacting the Emergency Medical Service, the emergency department of a medical institution, and establishing public legal relations with the medical institution's staff. In such cases, communication in another language is permissible.

In other countries, various methods exist to ensure communication with patients who do not know the state language in which healthcare services are provided. These may be included in the personnel policy of each healthcare institution by identifying and, if necessary, involving staff who know the relevant language or by using professional interpreter services. Additionally, to ensure successful cooperation between the healthcare professional and the patient, guidelines or broader services, such as intercultural mentor programmes, may be developed, with a wider focus on the patient's rights and needs.

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