

## Patients' rights in the EU as regards complementary medicine

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## Patients' Rights

### Agenda:

- Development of patients' rights in EU
- Meaning of patients' rights for complementary medicine
- Safeguarding complementary medicine in EU
- Obligation legislator to act

## Patients' rights

- Human Rights → Council of Europe
- European Convention, Rome 1950
- European Court of Justice, e.g.:
  - case C 29/69 Stauder [1969],
  - Case C 36/75 Rutili [1975]
- Part of legal system EEC/EC/EU
- Article 8: right to private life =  
right to physical and moral integrity of the person

## Informed consent

- Respect of privacy entails right to integrity
- Right to integrity entails right to consent
- Right to consent entails right to be informed
- Therefore the right to integrity implies informed consent ('l'accord éclairé')
- Resolution EP 1984: ...and free choice of doctor/health care provider

## Informed consent

- WHO-Europe (1993): “The principle of consent to medical treatment is generally acknowledged in the countries that participated in the study. The requirement for consent to diagnosis, treatment and other medical acts (e.g. medical examinations) is primarily based on the right to personal (physical) integrity.”
- WHO: Declaration on patients’ rights (1994)
- Council of Europe, EC co-signer: Convention on Human Rights and Biomedicine 1997

## Further explication

- ECHR:
  - Right to self-determination (Pretty/UK and Trocellier/France)
  - Informed consent (Tysiac/Polen and Evans/UK)
  - Right to second opinion (Frankowicz/Polen)

## In Union Treaty

- Article 6 Maastricht Treaty
- Charter of Fundamental Rights EU
  - Article 3: informed consent
  - Article 35: acces to health care
- Lisbon Treaty

## Newest developments

- Charter Patients' Rights ACN
- Accepted by Economic Social Committee
- Conclusion:
  - Freedom of therapy beyond doubt
  - Complementary medicine included

## Regulatory aspects

- EP Amendments to Directive 92/73/EC
- Three issues:
  - Injectables
  - Public therapeutic indication
  - Non-homeopathic antroposophicals

## Conclusions

- Respecting fundamental patients' rights demands maximalisation
- Not balancing against administrative requirements
- Three marketbarriers disproportionate
- And hinder patients' rights
- Necessity for EU legislator to act in short term