

Constitutional aspects of the legacy of prof. Dr. Andrej Marušič: Positive obligations of the state regarding mental health and suicide

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Abstract

Public mental health and suicide are very important problems in today's society. It is the positive legal obligation of the state to take active responsibility for the mental health of individuals and the general public. This positive legal obligation of the state goes beyond merely protecting the rights, freedoms and other legitimate interests of persons with mental disorders from interference with those rights (the so-called negative character of human rights). In particular, when faced with compulsory admission to the Psychiatric Hospital or a similar institution. First, this positive obligation includes the existence of quality programs to prevent the risks of mental illness and suicide, as well as the institutionalization of effective assistance for persons with various mental disorders. Secondly, the State must implement the objectives of National Mental Health Program effectively, with emphasized determination and, above all, with a high degree of political, legal and ethical responsibility for human life, health and dignity. In doing so, the state must ensure appropriate legislation, adequate funding for medical institutions and research centers, and the employability of professionals in the field. Thirdly and most importantly, it must develop a quality, effective and available public health system as such. This positive obligation of the State must be constitutionally evaluated as a very important, but nevertheless only a first step in the fulfillment of the legal obligations of the State from the point of view of public health. The legal responsibility of the State is not exhausted in securing the so-called minimum standards (determined by the ECtHR case-law). The judiciary should be more rigorous in evaluating the exercise of the state's systemic legal obligations with respect to mental health.

Ustavnopравни vidiki zapuščine prof. Dr. Andreja Marušiča: Pozitivne obveznosti države glede duševnega zdravja in samomorov

Povzetek

Javno duševno zdravje in samomor sta zelo pomembna problema sodobne družbe. Pozitivna pravna obveznost države, da aktivno prevzame odgovornost za duševno zdravje vsakega posameznika in javnosti kot celote je njena pravna in ustavna obveznost. Ta pozitivna pravna obveznost države presega zgolj varstvo pravic, svoboščin in drugih legitimnih interesov oseb z duševnimi motnjami pred posegi v te pravice (tako imenovani negativni značaj človekovih pravic). Še posebej, kadar se soočajo z obveznim sprejemom v Psihiatrično bolnišnico ali podobno ustanovo. Prvič, ta pozitivna obveznost vključuje obstoj kakovostnih programov za preprečevanje tveganj duševnih bolezni in samomorov ter institucionalizacijo učinkovite pomoči osebam z različnimi duševnimi motnjami. Drugič, država mora cilje nacionalnega programa za duševno zdravje izvajati učinkovito, s poudarjeno odločnostjo in predvsem z visoko stopnjo politične in etične odgovornosti za človekovo življenje, zdravje in dostojanstvo. Pri tem mora država zagotoviti ustrezno zakonodajo, zadostno financiranje zdravstvenih ustanov in raziskovalnih središč ter tudi zaposljivost strokovnjakov na tem področju. Tretjič in najpomembneje pa je, da mora razviti kakovosten, učinkovit in razpoložljiv sistem javnega zdravja kot tak. To pozitivno obveznost države je treba ustavno oceniti kot zelo pomemben, četudi je to le prvi korak k izpolnjevanju pravnih obveznosti države z vidika javnega zdravja. Pravna odgovornost države ni izčrpana z zagotavljanjem tako imenovanih minimalnih standardov. Sodstvo bi moralo biti bolj strogo pri ocenjevanju izvrševanja sistemskih pravnih obveznosti države glede duševnega zdravja.

1. INTRODUCTION¹

The central purpose of this article is to address once again the general meaning of mental health and suicide. Or, to put it another way, to address once again the importance of the general public's awareness of mental health and the problem of suicide in the EU member states. And to at least partially cut off the edges of the *stigma* that more than obviously still attaches to any attempt at serious and all-encompassing public debate on these issues.

These two issues, or better "problems" of today's society, must be understood as the core of public health. On a national,² international and global level.³ Especially, it must be stressed, after the coronavirus pandemic of 2020. But also, or especially, because the global medical community is expressing great concern and warning the public that this is only the "first wave" of the pandemic we have just experienced, and that more waves could follow.

One of the most obvious and damaging consequences of the pandemic is fear, public fear. Combined with loneliness and anxiety, it is fear that further contributes to depression and depressive disorders in people. Which still too often lead to suicide attempts or even, and most tragically, suicides. Therefore, it was to be expected when psychiatrists and psychotherapists turned to the public with the information that the mental health problem has increased and worsened during the 2020 Coronavirus Covid-19 pandemic. Especially in those EU member states where a strict quarantine was ordered by government regulations. Slovenia is one of those states.

As a constitutional scholar, I have tried to make a modest contribution to this awareness in my home country, Slovenia, one of the smallest EU member states. I am not satisfied with the effect of my efforts. Especially since these two issues are almost neglected in the domestic legal community. This article represents my determination to continue to try to make a positive contribution to motivating fellow lawyers to work in greater numbers, more extensively, and with lasting resolve to increase the quality of the public health system and, at the same time, to improve the quality and effectiveness of shared mental health care and suicide prevention (not only in Slovenia, but also...) in all of the EU member states. It is not only a question of the basic human right to health, healthy environment and human dignity. It is a question about life and death, living and dying.

But there is also another, very personal reason for this article ...

In Memory of Prof. Dr. Andrej Marušič

Prof. Dr. Andrej Marušič (1965-2008) was my friend. He was a psychiatrist and psychologist whose work represents an important contribution to progress in the field of public mental health in Slovenia and worldwide. He studied medicine and psychology in Ljubljana, and did his postgraduate training mainly in England, where he obtained Doctoral Degree in psychiatry. As an assistant professor he taught at *Maudsley Hospital* in London and he was the *National Coordinator for Mental Health* at the World Health Organisation (WHO). His particular research interest was suicidology. He took a senior role in one of the sections of the *International Association for Suicide Prevention* (IASP). In 2002 he became the director of the *National Institute of Public Health* of the Republic of Slovenia. He was particularly devoted to investigative and clinical work aimed at improving the mental health of individuals and society as a

¹ This article is founded on the Conference Paper, written for and presented at the first *Tripple I Conference: Intuition, Imagination, Innovation, International Conference* dedicated to the legacy of prof. Andrej Marušič. Koper, Centre Rotunda, 4th of May 2009, and on the author's article *Legal and political priorities regarding the problem of mental health and suicide after the 2020 coronavirus pandemic*. *Javno zdravje*, No. 6/2020, pp. 1-4.

² Comp. Brigite Ferlič Žgajnar: *Število samomorov spet v porastu* (The number of suicides is on the rise again). *Delo*, 7. 6. 2018. Available at <<https://www.delo.si/novice/slovenija/stevalo-samomorov-spet-v-porastu-68491.html>> (15. 8. 2020); *Število samomorov v Sloveniji upada, še vedno smo nad evropskim povprečjem* (The number of suicides in Slovenia is declining, we are still above the European average). *Dnevnik*, 4. 9. 2019. Available at <<https://www.dnevnik.si/1042897126>> (1.9.2020); See also the webpage of the NIJZ (National Institute of Public Health). Available at <<https://www.nijz.si/sl/oznake/samomor>> (5. 9. 2020). See also the data directly concerning mental health and suicide on the website of the Slovenian National Institute of Public Health. Available at <<https://www.nijz.si/en>>

³ See, for example: *The European Mental Health Action Plan 2013-2020*. WHO. Regional office for Europe. Copenhagen, Denmark, 2015: Available at <https://www.euro.who.int/_data/assets/pdf_file/0020/280604/WHO-Europe-Mental-Health-Acion-Plan-2013-2020.pdf> (15. 9. 2020); *The State of Mental Health in the European Union. Health & Consumer Protection. Directorate – General. European Commission. 2004-2012*. Available at <https://ec.europa.eu/health/ph_projects/2001/monitoring/fp_monitoring_2001_frep_06_en.pdf> (15. 9. 2020)

whole. He became *Head of the Department of Health Research at the University of Primorska*, where he successfully coordinated and completed several national and European research projects on various psychiatric and public health topics. He founded and directed his own Health Trust called '*Healing*' (*Zavod Celjenje*). His rich bibliography includes numerous internationally indexed primary articles in the field of psychiatry and related disciplines. He has been honored with two international awards for his research achievements. He was one of the most influential activists for *destigmatization* of mental disorders in Slovenia.⁴

Andrei's intelligence, especially emotionally, his love and determination for humanity, and his intuition enabled him to understand legal concepts and the logic of legal reasoning better than most lawyers or even legal experts I have ever met. Personally, and professionally, it was a privilege to be a part of his intellectual and scholarly attention.

Professor Marušič invited me to join his team and use constitutional law, legal philosophy, and legal theory as tools for policy making and development related to public health, mental health, and the problem of suicide. We planned a research and postdoctoral program Law and Suicidology. Soon after, he developed cancer and after several months of struggle and pain, the unforgiving disease overcame his strength and will to live.

This article is a small contribution to Andrei's professional legacy and a small reflection of my commitment to not lose sight of the topic discussed here.⁵

The Seriousness of Mental Health Problem in Europe

Mental health is considered to be one of the biggest and most serious health problems in Europe, especially (according to the statistical data) for the last decade.⁶ It is a serious problem in Slovenia also, putting my homeland near the top and in some recent years even on the top of the list of EU member States with the highest rate of suicides *per capita*. Slovenian and European public still awaits the information how many cases of suicide and suicide attempts were there during the 2020 Coronavirus pandemic. But it is already clear: the problem of mental health increased and the assumption it will increase even more seems to be a matter of logic.⁷

During the pandemic living conditions were hard to bear and damaging for people with depression, depressive disorders or other mental health problems. Especially since constitutional rights to freedom of movement and socializing were limited (In Slovenia by government decree, prohibiting movement across the municipal borders without special and officially confirmed reasons.) Socializing was limited, in most of the EU member States quite strictly. (In Slovenia even sitting on benches in parks, streets and even in the natural parks and even on the edge of the woods was prohibited.) Even though "the state of emergency" was not officially declared in all of the EU member States (the Slovenian Constitution explicitly determines, by Art. 92, the conditions for such declaration and those conditions were not

⁴ For his bibliography see SICRIS, available at

<https://bib.cobiss.net/bibliographies/si/webBiblio/bib201_20210105_175025_12768.html> (25.12.2020)

⁵ See Andraž Teršek (ed.): *Human Dignity and Mental Health*, REVUS-Journal for Constitutional Theory and Philosophy of Law, No. 10/2009. Special edition; in memory of prof. Marušič. Ljubljana 2009.

⁶ See, for example: *The European Mental Health Action Plan 2013-2020*. WHO. Regional office for Europe. Copenhagen, Denmark, 2015: Available at <https://www.euro.who.int/_data/assets/pdf_file/0020/280604/WHO-Europe-Mental-Health-Acion-Plan-2013-2020.pdf> (15. 10. 2020); *The State of Mental Health in the European Union*. Health & Consumer Protection. Directorate – General. European Commission. 2004-2012. Available at <https://ec.europa.eu/health/ph_projects/2001/monitoring/fp_monitoring_2001_frep_06_en.pdf> (10. 9. 2020)

⁷ Comp. Anja Intihar: *stiske, nasilje in resni poskusi samomora v disfunkcionalnih družinah (DISTRESS, VIOLENCE AND SERIOUS SUICIDE ATTEMPTS IN DYSFUNCTIONAL FAMILIES)*. Delo, 19.6.2020. AVAILABLE AT <[HTTPS://WWW.DELO.SI/NOVICE/SLOVENIJA/STISKE-NASILJE-IN-RESNI-POSKUSI-SAMOMORA-V-DISFUNKCIONALNIH-DRUZINAH/](https://www.delo.si/novice/slovenija/stiske-nasilje-in-resni-poskusi-samomora-v-disfunkcionalnih-druzinah/)> (10.11.2020); EDITORIAL: *V času epidemije so mladostniki večkrat obiskali psihiatra, porast samopoškodb (DURING THE EPIDEMIC, ADOLESCENTS VISITED A PSYCHIATRIST SEVERAL TIMES, AN INCREASE IN SELF-HARM)*. MARIBORINFO.COM. AVAILABLE AT <[HTTPS://MARIBORINFO.COM/NOVICA/LOKALNO/V-CASU-EPIDEMIJE-SO-MLADOSTNIKI-VECKRAT-OBISKALI-PSIHIA TRA-PORAST-SAMOPOŠKODB/324779](https://mariborinfo.com/novica/lokalno/v-casu-epidemije-so-mladostniki-veckrat-obiskali-psihiatra-porast-samopoškodb/324779)> (10.12.2020). AN ADDITIONAL PROBLEM THAT AROSE DURING THE EPIDEMIC AND MAY NEVER BE ANALYZED IN DETAIL IS REFLECTED IN THE QUESTION OF HOW MANY PREVENTABLE DEATHS OCCURRED BETWEEN THE FIRST AND SECOND WAVES OF THE EPIDEMIC DUE TO THE FULL FOCUS OF MEDICAL PROFESSION AND POLICY ON THE DISEASE OF THE COVID VIRUS. SEE MARIJA ŠELAK: *Nikoli ne bomo vedeli, koliko ljudi je bilo žrtvovanih zaradi osredotočenosti zgolj na Covid (WE WILL NEVER KNOW HOW MANY PEOPLE WERE SACRIFICED FOR FOCUSING SOLELY ON COVID)*. NECENZURIRANO.SI, DECEMBER 2020. AVAILABLE AT <[HTTPS://NECENZURIRANO.SI/CLANEK/SVET/NIKOLI-NE-BOMO-VEDELI-KOLIKO-LJUDI-JE-BILO-ZRTVOVANIH-ZARADI-OSREDOTOCENOSTI-ZGOLJ-NA-COVID-837084?FBCLID=IWAR3PZ_KDH6RHZDLHU2YYZ1M7FCXHTL3ZFVYVSWYEE6KINF9WRDVGJXXQ14](https://necenzurirano.si/clanek/svet/nikoli-ne-bomo-vedeli-koliko-ljudi-je-bilo-zrtvovanih-zaradi-osredotočenosti-zgolj-na-covid-837084?FBCLID=IWAR3PZ_KDH6RHZDLHU2YYZ1M7FCXHTL3ZFVYVSWYEE6KINF9WRDVGJXXQ14)> (2.1.2021).

fulfilled), the exceptional circumstances of public life had an effect as if it has been declared.⁸ (Slovenian citizens were living in *de facto* quarantine.)⁹

The Problem of Fear

It soon became obvious people all over the Europe are quite frightened.¹⁰ And they seem to be even more frightened as days went by.¹¹ For most of the time politicians were the ones addressing the public. They took up most of the space and time in the media. According to the daily TV media programs in some EU member states a little more, in others a little less. Doctors, other medical staff or medical scientists were, such was the quite strong impression, in the second or third plan. Not only the politicians, even the WHO was using words, such as “*combating the Coronavirus.*”¹² As if it was the time of war. Since that nothing much has changed in this regard.

In most of the EU member states and most of the time (once again, such was the impression due to the daily TV media programmes and government PR-conferences) the public was addressed with pure statistical data: how many people have been tested for Covid-19, how many of those were positive and how many people daily died –presumably just from virus. Broader context was rarely offered to the public: information about the age of those who were infected, their other diseases, possible terminal illness... By doing so people, especially the elderly, were even more frightened.¹³

This fear won't go away with the officially proclaimed end of the Coronavirus pandemic. (Such proclamation came first in Slovenia, Austria and Hungary came second. It has been suggested other EU member States will do it in the second part of June, combined with the opening of the national borders inside the EU.) And this fear won't go away easily. It is a legitimate concern it will become a new epidemic. In EU member States who already declared the end of pandemic some citizens are still wearing masks when walking down the streets, driving cars, even exercising in nature (same goes for Slovenia). Even though the pandemic officially ended, even though the WHO did not advise that masks should be worn from the start of the pandemic, and even though medical experts and other professionals strongly oppose wearing masks (but the latter did not respond until after the official end of the pandemic). There are no reasonable indicators it won't be the same or even worse in other member States where pandemic will officially end much later. *People are scared and will remain to be scared.*¹⁴

⁸ For more detailed legal evaluation of measures, including the critical analysis of the constitutional court of the republic of slovenia judgment on the issue (No. U-I-83/20) see Andraž Teršek: *Commentary and criticism of the decision of the Constitutional Court of the Republic of Slovenia, No. u-i-83/20, on the legality and constitutionality of the restrictions of constitutional and fundamental human rights and freedoms during the official 2020 Coronavirus Covid-19 pandemic. Constitutional blog. Available at <[HTTPS://ANDRAZ-TERSEK.SI/COMMENTARY-AND-CRITICISM-OF-THE-DECISION-OF-THE-CONSTITUTIONAL-COURT-OF-THE-REPUBLIC-OF-SLOVENIA-NO-U-I-83-20-ON-THE-LEGALITY-AND-CONSTITUTIONALITY-OF-THE-RESTRICTIONS-OF-CONSTITUTIONAL-AND-FUNDAME/](https://ANDRAZ-TERSEK.SI/COMMENTARY-AND-CRITICISM-OF-THE-DECISION-OF-THE-CONSTITUTIONAL-COURT-OF-THE-REPUBLIC-OF-SLOVENIA-NO-U-I-83-20-ON-THE-LEGALITY-AND-CONSTITUTIONALITY-OF-THE-RESTRICTIONS-OF-CONSTITUTIONAL-AND-FUNDAME/)> (10.12.2020). See also Andraž Teršek, Jure Dragan: *Ustavnopravna analiza omejitve ustavnih pravic v času pandemije 2020 (CONSTITUTIONAL ANALYSIS OF THE RESTRICTION OF CONSTITUTIONAL RIGHTS DURING THE 2020 PANDEMIC)*. javna uprava, 56(1-2) 2020, pp. 85-102, 131-132.*

⁹ Living conditions were most strict in Belgium, France, Germany, Hungary, Italy, Poland and Spain. See: *States of emergency in response to the coronavirus crisis: Situation in certain Member States. Available at: [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2020\)649408](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2020)649408) (1. 6. 2020)*

¹⁰ For the activities of the European Union regarding public health see: http://ec.europa.eu/health-eu/index_en.htm (8. 10. 2009). For mental health see: http://ec.europa.eu/health-eu/health_problems/mental_health/index_en.htm (9. 10. 2009).

¹¹ In Slovenia another problem became obvious: hostile disposition towards each other was on the rise. Too many people behaved as they were the police, the surveillance agents towards each other, taking photographs and video recordings of their neighbours and strangers, presumably breaking the government decree not to stand too close to each other when having a conversation, not to socialize in groups of more than five people, not to cross the municipal borders on foot, on bikes and with cars, not to sit down on benches in parks, not to throw balls in basketball playgrounds etc. Too many of them were sending such material to the police. Slovenia almost became a Police State: not because of the police (who did a good job during the pandemic), but because of the “puritanical” character of too many individuals.

¹² See: WHO Campaigns/Connecting the world to combat coronavirus. Available at <<https://www.who.int/campaigns/connecting-the-world-to-combat-coronavirus/healthyathome/healthyathome---mental-health>> (5.12.2020); See also Campaigns to combat coronavirus, available at <<https://www.who.int/campaigns/connecting-the-world-to-combat-coronavirus>> (1.12.2020)

¹³ It is worth mentioning here that the Government of the Republic of Slovenia, specifically the Minister of the Interior, publicly acknowledged in front of television cameras in December 2020 that all deaths that occurred during the epidemic (i.e. from March 2020 to January 2021) are officially recorded as deaths. due to Coronavirus Covid-19 disease. The lawyer thinks that a formal and extensive criminal investigation will be launched the next day. In fact, absolutely nothing happened. The confession sounded as if the minister was just asking the moderator of the television round-table talk for an extra glass of water. Unimaginable, shocking and extremely disturbing!

¹⁴ In my public announcements, I keep emphasizing that the fear in people and the fear of people have already become a new epidemic. Comp. Andraž Teršek: *Največji in nujni izzivi slovenske javne uprave in držav članic EU po pandemiji 2020 (The biggest and urgent challenges of the Slovenian public administration and EU member states after the 2020 pandemic)*. Javna uprava, 56(1-2) 2020, pp. 7-13, 85-86, Editorial.

The Right to be Protected from Fear

Every single individual, every member of the society, every human has *the right to be protected from fear* - by the State. I claim it is a fundamental human right.¹⁵ Also in its connection to the right for the protection of health, clear environment, natural heritage and human dignity. To be protected from fear, to be protected from mental health damages and to be protected from social reasons for committing suicide are issues which come hand in hand with the *positive obligations* of the State regarding fundamental human rights, listed in the ECtHR, and fundamental constitutional rights and liberties, listed in national Constitutions (also determined by the Slovenian Constitution).¹⁶ This right should be again and again explicitly recognized, addressed and emphasized as a fundamental human right inside the scope of the EU legal order. Not in spite of, but precisely because of the experience of the 2020 Coronavirus pandemic.¹⁷

1. Constitutional Foundations

Professor Marušič invited me to join his team and use constitutional law as a tool for policy making and development in relation to public health, mental health and the problem of suicide. As a constitutional scholar, I am concerned with the question of how the concept of human rights can be legally understood and interpreted from a philosophical, moral, ethical and rational perspective, that is, as something morally grounded and rationally knowable.¹⁸

There are some fundamental human rights that are probably more closely connected to the problem of suicide, Andrej's basic subject, than others. Having in mind the right to life, the right to personal liberty, the right to quality of life, the right to the protection of health, the right to healthy environment, the right to mental integrity, the right to dignity.¹⁹ At last - *the Humanity*. Aren't these also the most important issues of our lives? Should we not do everything we can to assure those rights and such quality of life? Isn't there a pressing social need to do so?

We should use the policies and the legal order of the nation states and of the EU to give a respectful and necessary attention to those important issues.⁴ Constitutional law should be one of the most important accounts. It is necessary and useful to analyse the procedural guarantees and rights of mental patients within official proceedings for taking away of their freedom and mandatory detention. It is also necessary to analyse the rights and responsibilities of the physicians and other medical staff in their relation to mental patients.⁵ But this does not seem to be enough. This presents us not only with opportunity but also with necessity to make a few sufficient steps forward.

The model of modern constitutional democracy, the concept of the welfare state, and the constitutional doctrine of the positive obligations of the state²⁰ enable and demand a new approach to the

¹⁵ Let me just remind ourselves of the Universal Declaration of Human Rights, the Atlantic Charter and the Philadelphia Declaration, which marked the end of the II. world war and announced a new world social order. And in particular of the European Social Charter. All these international legal documents address this right – as a fundamental human right.

¹⁶ The doctrine of the positive obligations of the State is one of the dimensions of the rule of law and Staatsrecht. For the multidimensional structure of the legal system and the rule of law as its fundamental principle see Andrej Kristan, *Three Dimensions of the Rule of Law*, REVUS – Journal for Constitutional Theory and Philosophy of Law, 9 (2009), p. 65.

¹⁷ Even if, for example, the European Court of Human Rights (ECtHR) is reluctant when it comes to the idea of extending the responsibility of the state under the doctrine of positive obligations of the state and accepting fundamental rights with a predominantly social character as an equivalent subject of judicial justice. Comp. the decision of the ECtHR in *Botta v. Italy* (1998). See also A. Mowbray (2004), p. 148. It is worth advocating a change in such a law-making approach of the ECtHR to social rights and an equal judicial decision-making on these rights as fundamental human rights. The concept of fundamental human rights cannot be broken down into sub-categories and then only certain fundamental rights can be decided, even if they are national courts. A direct consequence of such an approach is also the fact that social rights at transnational level do not have effective judicial protection. Comp. D.J. Harris, J. Darcy: *The European Social Charter*, Transnational Publishers Inc., Ardsley, New York, 2001.

¹⁸ Describing fundamental human rights and freedoms as values that are morally founded and rationally recognized could be found in numerous works on theory and philosophy. See, for example, Jürgen Habermas: *Between Facts and Norms*. The MIT Press, Cambridge, Massachusetts 1998; Gustav Radbruch:

Filozofija prava (Philosophy of Law), Cankarjeva založba, Ljubljana 2001; John Rawls: *A Theory of Justice*. The Belknap Press of Harvard University Press Cambridge, Massachusetts 1999; Ronald Dworkin: *Taking Rights Seriously*. Cambridge, Cambridge University Press 1977.

¹⁹ See Andraž Teršek (ed.): *Human Dignity and Mental Health*, REVUS-Journal for Constitutional Theory and Philosophy of Law, No. 10/2009. Special edition, in memory of prof. Marušič. Ljubljana 2009.

²⁰ For a summary of this doctrine from the point of view of the Strasbourg Court of Justice, see Alastair Mowbray: *The Development of Positive Obligations under the European Convention on Human Rights by the European Court of Human Rights*, Hart Publishing, Oxford-Portland Oregon,

fundamental and most important social and legal problems of our society.²¹ Mental health and suicide are two of them. Thus, new and legitimate expectations must be placed on the law and the state. A comprehensive legal and constitutional analysis should fill the gap in national and international perspectives. In particular, it should focus on the following:

- the problem of the existence of programs and the quality system for treatment of mental illness and suicide²² (ranging from educational aspects and civil society, over family assistance policy, combating mobbing at workplace, rehabilitation and social integration of ex-prisoners, all the way to public and private clinics, hospitals, NGO's etc.);
- the quality and effectiveness of such programs and the institutional system;
- the degree of fulfilling the positive obligations of the State, with the concern for increasing these positive obligations;
- the principle of the highest possible effort of the State that must be clearly and convincingly shown and introduced within the legal policy on the issue as a whole;
- the principle of strict objective responsibility of the State if such legal expectations and constitutional obligations are not fulfilled.

If and when we discuss the highest level of the protection of mental health possible, as our concern and liability, we must be serious and sincere. This has to be clearly apparent in the above-mentioned programs and institutionalised system.²³ There is a strong impression that so far such conditions for healthy and safe society were not fulfilled. Slovenia ranks amongst the highest in Europe as far as the percentage of suicide *per capita* goes.²⁴ It seems that this fact widely opens the door not only for special political and general social concerns but also for analytical scientific approach from the legal perspective. Similar expectations should be addressed to the EU as a supranational organisation.²⁵ These are not only political but also *constitutional* questions. A different legal approach towards them could be an important, maybe even a deciding step forward.

2. Important Precedent of the Constitutional Court

In its decision No. U-I-60/03 Constitutional Court of the Republic of Slovenia reviewed the provisions of the *Non-litigious Civil Procedure Act* and of the *Health Services Act*, regarding mental patients. It found several provisions not to be in conformity with the Constitution. Until the established inconsistency is

2004. Active constitutional court policy from the title of that doctrine see Andraž Teršek: *The Welfare State: Utopia or Opportunity*. Lawyer, 64 (2009) 5/6, pp. 237-249.

²¹ Comp. WHO general observations regarding mental health problem, available at <http://www.who.int/mental_health/media/slov.pdf> (10.12.2020); http://www.who.int/mental_health/prevention/suicide/suiciderates/en/ (19. 12. 2020). See also Saška Roškar: *Še vedno nas je strah govoriti o samomoru*. Dnevnik, October 9, 2009, available at <<http://www.dnevnik.si/novice/slovenija/1042297855>> (10.12.2020).

²² See Mental Health Act, Official Gazette of the Republic of Slovenia, No. 77/2008. Article no. 7. provides a national program for the protection of mental health. Still such a statute provision does not create a legal obligation of the State to adopt a national program because this legal obligation already exists as a constitutional obligation.

²³ Official Gazette of RS, No. 77/2008. Article 7 of the law deals with the adoption of a national mental health protection program. However, as mentioned above, its adoption does not create a legal obligation for the State, as it already exists as a constitutional obligation. The said article reads: (1) The development objectives and needs in the field of prevention, psychiatric treatment, comprehensive treatment within the framework of social protection, supervised treatment and community-based treatment shall be established by the national mental health protection program for a period of at least five years (hereinafter referred to as the national program)). (2) The national program shall include: a strategy for the development of mental health protection, an action plan for mental health protection, objectives, organization, development and tasks of providers, a network of providers of mental health programs and services, taskmasters for the implementation of the national program.

²⁴ Available at <http://www.who.int/mental_health/media/slov.pdf> and <http://www.who.int/mental_health/prevention/suicide/suiciderates/en/> (10. 9. 2020); See also Saška Roškar: *Še vedno nas je strah govoriti o samomoru* (We are still scared to speak about suicide). Dnevnik, 10.9.2009. Available at <<http://www.dnevnik.si/novice/slovenija/1042297855>> (10.9.2020).

²⁵ Direct foundation of the legal policy for the protection of public mental health in the European Union could be found in Article 152 of the Treaty establishing the European Community: »A high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities.... Community action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health...The Community shall encourage cooperation between the Member States in the areas referred to in this Article and, if necessary, lend support to their action.... Member States shall, in liaison with the Commission, coordinate among themselves their policies and programs in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination...incentive measures designed to protect and improve human health, excluding any harmonization of the laws and regulations of the Member States...«

remedied the Court ordered which principles must be ensured in procedure for the involuntary commitment of persons to a mental institution:

an *ex officio* counsel must be appointed for an involuntarily committed person upon the commencement of proceedings;

the authorised mental institution is obliged to submit to the court the notification of detention and it must contain reasons substantiating the necessity of detention.

In its reasoning the Court explained its views on the general principles of the positive obligations of the State regarding mental patients and the official processes of limiting their freedom by detention in closed wards of psychiatric hospitals.

Compulsory detention in psychiatric hospitals is, of course, severe interference with human rights and fundamental freedoms of patients. Court particularly emphasized:

- the right to personal liberty (Art. 19 of the Constitution);²⁶
- the right to protection of mental integrity (Art. 35 of the Constitution);²⁷
- and the right to voluntary medical treatment (Art. 51.3 of the Constitution).²⁸

The right to the protection of mental integrity is probably the most important element in this context. It nevertheless represents a wide range of opportunities for broad interpretation what does this right *really* mean and what are the *positive obligations of the State* to protect this right in the most effective manner that is possible. On the other hand, the right to voluntary medical treatment also guarantees (according to the Constitution) the right to reject medical treatment. So the State has to show with clear and convincing evidence there is a necessity for the compulsory detention and evaluate this pressing necessity in a legal process which will protect this negative side of the right to voluntary medical treatment in the most effective manner.

Necessity represents the existence of a legitimate purpose which justifies such detention, which is averting danger which the patient due to mental illness causes either to others or to themselves. Such danger must be clearly established with suppressing reasons which cause such danger. Otherwise there is no necessity. Once again, when such pressing reasons for compulsory detention are established as clear and convincing and when it becomes clear there is no other alternative, constitutional condition of necessity is established. With other words, compulsory detention in closed wards of psychiatric hospitals is a measure which should be used only in cases in which danger cannot be suppressed with other measures outside of the closed ward of a psychiatric hospital - the so-called *ultima ratio*.

As the legislature, beside the possibility of passing compulsory detention in a closed ward of a psychiatric hospital, did not provide courts with other measures, it thereby interfered contrary to the principle of the rule of law and Art. 2 of the Constitution with personal liberty.

The next step is to structure the process of this evaluations and detention with all the elements of the ordinary and legally correct legal process. Such process has to guarantee the respect for human rights and fundamental freedoms of patients in accordance with Constitution, international standards of the protection of human rights and regarding the adequate solutions in comparable European legislations.

A mental patient detained must be in a suitable manner regarding their health condition explained reasons for which they are detained in a psychiatric hospital. Furthermore, they must be informed that they have the right to legal assistance of a legal representative of their own free choice. As the challenged provisions did not allow these principles they were inconsistent with the provisions of Arts. 22²⁹ and 25³⁰ of the Constitution.

²⁶ "Everyone has the right to liberty and security of person. / No one shall be deprived of his liberty save in the cases and according to the procedure prescribed by law." He must be informed in writing as soon as possible as to why he has been deprived of his liberty and must be informed immediately that he is not obliged to state anything that he is entitled to immediate legal assistance from a lawyer who he is free to choose him and that, at his request, the competent authority is obliged to inform his relatives of his deprivation of liberty."

²⁷ "The inviolability of a person's physical and mental integrity, his privacy and personal rights is guaranteed."

²⁸ "Everyone has the right to health care under the conditions laid down by law. The law provides for the right to health care from public funds."

²⁹ "Everyone is guaranteed equal protection of his rights in proceedings before a court and other state bodies, local community bodies and holders of public authority who decide on his rights, duties or legal interests."

³⁰ "Everyone is guaranteed the right to appeal or other legal remedies against decisions of courts and other state bodies, local community bodies and holders of public authority by which they decide on his rights, duties or legal interests."

Every mental patient who is compulsory detained must be guaranteed the right to judicial protection regarding the lawfulness of detention. The legislature should for proceedings of deciding on the lawfulness of detention determine short time-limits. Namely only prompt judicial supervision regarding the lawfulness of detention can ensure the effective protection of the rights of patients. Furthermore, a notice of detention must contain data on a person detained, on their medical condition, and on the fact, who had brought them to the health institution. The notice should also contain reasons which caused passing of a measure of compulsory detention of a patient. Only on the basis of these reasons the court can judge whether in an individual case compulsory detention was necessary as *ultima ratio*.

The Constitutional Court found that the challenged statutory regulation did not satisfy this condition and was inconsistent with the right to effective judicial protection which is guaranteed by the provision of Art. 23. of the Constitution.³¹

The also stated that the measure of compulsory detention of patients in psychiatric hospitals is logically related to medical treatment. Its purpose is to suppress the reasons which caused passing the measure. Detention of patients in psychiatric hospitals thus includes certain forms of medical treatment which follow from the purpose and the nature of the measure. Naturally this cannot mean unrestricted authorization for carrying out any measures of medical treatment without adequate external supervision. So, the legislature should on one side define which are the measures of medical treatment that follow from the purpose and the nature of compulsory detention and are logically connected therewith, and on the other side determine the measures of medical treatment which exceed this framework and for which the explicit consent of a patient is needed.

This was another problem within the Act. Its legal non-regulation of a position and the rights of a patient at the time of detention in a psychiatric hospital meant an unconstitutional gap in the law which is inconsistent with the principle of legal certainty, due to Art. 2 of the Constitution. Furthermore, the challenged statutory regulation was inconsistent with the provision of Art. 51. of the Constitution, which imposes on the legislature a positive duty to determine cases in which compulsory medical treatment is allowed.

For the protection of the rights of patients the legislature should also clearly define cases and the conditions on which it is allowed to use measures of restraint and limitation. And a certain method of supervision or supervision mechanisms over the use of the above cited measures should be foreseen.

Therefore, the Constitutional Court established that relevant legal provisions did not regulate certain important issues regarding the compulsory detention of persons in closed wards of psychiatric hospitals. The State clearly did not fulfil its constitutional duties and positive obligations.

So, when such obligations of the State are fulfilled and above-mentioned constitutional standards of the detention procedure are satisfied as the minimum guarantees, the court can than valuate the lawfulness of the referral and admission to medical treatment in psychiatric hospital without the consent of a patient. One of the most important aspects is the evaluation of those conditions which make such detention necessarily made by a physician who, on the basis of objective medical standards, establishes the existence of mental illness and evaluates danger which the patient due to the illness imposes on others and to themselves from a viewpoint of medical profession. The question whether it is, due to the nature of mental illness, necessary that the patient is restricted freedom of movement and prevented contacts with the outside world, is, according to the Constitutional Court, the matter of judicial evaluation which is carried out by courts.

Another important question decided by the Constitutional Court concerns the restriction of access to medical records. Such restriction of the right to access to medical records is to be considered an exception which may be applied only in urgent or extraordinary cases. On patient's request a physician is as a rule always and without setting conditions obliged to enable the patient with access to all their objective and original medical data, and furthermore to enable transfer of contents or a transcript of these data. In extraordinary cases the physician may restrict or prevent access to their personal notes and evaluations in documentation which disclosure could severely interfere with the process of medical

³¹ "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

treatment or the relationship between a patient and a physician. It is once again of an essential significance that in cases of disputes with the physician, a patient can exercise their right to the access to medical record judicially, that is in judicial review of administrative acts. This must be guaranteed with clear and effective legal provisions.

A physician who is treating a patient has a competence for providing data on medical condition of the patient to their close relatives or a guardian. But still, everyone may require that medical professionals and their co-workers without their explicit consent do not provide anyone with data on their medical condition, not even the closest relatives.

The Constitutional Court was also clear regarding the emergency medical intervention without the prior consent of a patient. In cases in which the patient due to their medical condition cannot form legally relevant declaration of will, and medical intervention is urgent, physicians are in these urgent cases obliged to act so as to save life of the patient.

3. Legal Policy and Cultural Environment

Let me be allowed to make a general comment about the political environment surrounding this decision. It is clear that the reviewed regulation did not satisfy even the so-called minimum standards, set in international Conventions or other similar legal documents. A few decisions of the ECtHR could be listed where above-mentioned minimum standards were introduced.³² The Constitutional Court of Slovenia did enough, but it didn't do more than summarise those standards and demand they be included in the national legislation.³³

It is troubling and disturbing how - even though such safeguards and guarantees seem something so obvious and self-evident from the legal point of view - the legislator still managed to ignore these minimum standards. But this is not the end of the sad story. From the position of a constitutional scholar I often appeal to the legislator as well as to the Courts not to be satisfied with such minimum standards when our national Constitution and its interpretation given by the Slovenian Constitutional Court already guarantees a higher degree of protection of particular constitutional rights and freedoms. Or when the Constitution allows for them to be interpreted in such a manner as to assure a higher degree of protection. My concern deepens when I realise on a daily basis there are many more cases when even minimum standards of legal protection explained in the ECtHR case-law are not being followed.³⁴ The right to human dignity, protection of health, mental integrity and healthy environment represent those areas where a high level of effective protection, and higher than minimal standards, could and should be guaranteed.³⁵ This is especially true since the problem of suicide is a very serious one and could even deepen as a result of bad policy. The legislator should respond to this task with determination and responsibility.

³² See especially the decisions of the European Court for Human Rights (ECtHR) in cases: *Winterwerp v. Nederland* (1979); *Eriksson v. Sweden* (1989); *Van der Leer v. Nederland* (1990); *L.C.B. v. United Kingdom* (1998); *Guerra and others v. Italy* (1998); *Aerts v. Belgium* (1998); *Ilhan v. Turkey* (2000); *Kudla v. Poland* (2000); *Keenan v. United Kingdom* (2001); *Oldham v. United Kingdom* (2000); *K. and T. v. Finland* (2001).

³³ See, for example, *Mental Health Patient's Rights*. Available at

<http://www.athealth.com/Practitioner/newsletter/FPN_3_11.html> (17. 10. 2020). See also *Movement for Global Mental Health*. Available at <http://www.globalmentalhealth.org/articles_human-rights-and-mentalhealth_39.html> (1.12.2020). See also *The Role of Mental Health Human Rights in National Mental Health Legislation, Department of Mental Health and Substance Dependence, World Health Organization*. For a short overview of the constitutional law-making in the United States see: *The Law of Mental Illness*. *Harvard Law Review*, Vol. 121 (2008). Available at

<http://www.harvardlawreview.org/issues/121/feb08/DEVO/DEVO_intro08.pdf> (1.12.2020). For the legal foundations of the rights of mentally disturbed in Slovenian legal system and criminal procedure see *Primož Baucon: (Criminal Law) Position of Mentally Disturbedž*. *Pravnik*, 64(5-6) 2008, p. 251 et al.

³⁴ For the problem of "minimum standards" see: *Boštjan M. Zupančič: Constitutional Law and the Jurisprudence of the European Court of Human Rights: An Attempt at a Synthesis*. *REVUS*, No. 1/2003; *Ciril Ribičič: Uveljavljanje evropskih standardov v praksi slovenskega ustavnega sodišča (Implementing*

European Legal Standards in the Practice of the Constitutional Court of the Republic of Slovenia). *REVUS*, No. 3/2004; *Andraž Teršek: Ustavna demokracija in konstitucionalizem: (evropska) izhodišča in onkraj njih (Constitutional Democracy and Constitutionalism: (European) Starting Points and Beyond Them)*), *Zbornik z XII. dnevov javnega prava, Portorož*, 2003.

³⁵ See in particular the decisions of the ECtHR in the following cases: *Winterwerp v. The Netherlands* (1979); *Eriksson v. Sweden* (1989); *Van der Leer v. The Netherlands* (1990); *L.C.B. v. the United Kingdom* (1998); *Guerra and Others v. Italy* (1998); *Aerts v. Belgium* (1998); *Ilhan v. Turkey* (2000); *Kudla v. Poland* (2000); *Keenan v. The United Kingdom* (2001); *Oldham v. The United Kingdom* (2000); *K. and T. v. Finland* (2001).

If a legislator does not respond the Judiciary should be stricter when evaluating legal policies of the State. Those rights represent a wide range of opportunities for broad judicial explanation (interpretation, constitutional law-making) of their full meaning and of the positive obligations of the State: in function of protecting these rights in the most effective manner possible.

4. Best Effort Reasonably Possible

Prof. Andrej Marušič shared similar views on the responsibility of the State and society as a whole, regarding the institutionalized protection of mental health. This is evident from his substantiations of the fundamental elements and stages for the effective accessibility to the system of public mental health.³⁶ Most of what prof. Marušič evaluated as "good" or "beneficial" for the protection of mental health and as the reflection of appropriate social responsibility for public mental health, could or even should be interpreted as a legal obligation of the State, justified on its constitutionally determined positive obligations.³⁷

Slovenian *Mental Health Act* has been enacted in 2008. It is an important step forward, and one that prof. Marušič so passionately argued for. But still this Act has to be critically evaluated, both in theory and from the point of view of its implementation in practice. In this regard the State must act in the best way it possibly and reasonably can. It is a constitutional obligation of the State. Consequently, until the State does act in such manner its constitutional obligations are not fulfilled. The State must provide the best possible policy, the best possible legislation and the most effective system for ensuring public health, mental health and suicide prevention. The expectations towards State must be strengthened in this regard.³⁸

If the State is not successful in providing quality and effective systemic protection of mental health and public health as such it is legally and objectively liable for damages. And national Courts have to play their important part in the process of imposing the duty of the best effort reasonably possible on State Administration and legal policies regarding public health. International Courts have to increase the level of minimum standards in this regard.³⁹ So I respectfully call upon the legal community, national and global, to use this logic and to claim such duties of the State before the Courts.⁴⁰

As for constitutional scholars, we should stay on course of trying to promote the moral and ethically persuasive understanding of the human rights to life, health, integrity and dignity.

The Short-Term Priorities of the EU

Slovenia, as an example of the EU member State, has a *National Resolution* for facing the mental health problems.⁴¹ But in recent years the forecasts and commitments written in that document basically remained a status of "pure words written on paper," with no effective and determined, not to say responsible execution in social practice. Even a special *Act on Mental Health* was enacted, in late 2008, publicly introduced as an appropriate legal framework covering the problems of mental health of individuals and of the Nation. But this statute is nothing special. Most of the provisions concern general principles already known and written elsewhere, with addition of the provisions transcribed from the

³⁶ See Andrej Marušič, Sanja Temnik: *Javno duševno zdravje (Public Mental Health)*. Mohorjeva družba, Celje 2009.

³⁷ See *ibidem*, pgs. 66-67, 76 et al.

³⁸ *Comp. with the decision of the ECtHR in the case of Keenan v. United Kingdom (2001)*. See Alastair Mowbray: *The Development of Positive Obligations Under the European Convention on Human Rights by the European Court of Human Rights*. Hart Publishing, Oxford, 2004, p. 58 et al. On mortality rate as a result of the mental illness and suicide as an indicator of the public mental health see Marušič and Temnik (2009), pp. 56-65.

³⁹ Even though the European Court for Human Rights (ECHR) is still and quite conservative as far as the idea for extending the responsibilities of the member States on the basis of the doctrine of positive obligations of the State is concerned. And even though this court is still refusing to accept social rights as fundamental rights as an equal element of its judicial lawmaking. See decision of the ECHR in the case of *Botta v. Italy (1998)*. I strongly favour the idea that ECHR should make a revision of such judicial policy and principled approach towards the social rights. The concept of fundamental rights should not be divided into subspecies as a matter of judicial jurisdiction over one species while ignoring the other. Such a step seems even more necessary due to the fact that social rights are left without effective judicial control on supranational level. *Comp. D.J. Harris, J. Darcy, The European Social Charter*, Transnational Publishers Inc., Ardsley, New York, 2001.

⁴⁰ *Comp. Andraž Teršek, Defending social rights in economic crisis: more active constitutional policy and greater positive obligations of the state*. V: Radovan Dávid (ur.). *Cofola 2009 : the conference proceedings*, Acta universitatis brunensis, Iuridica, No. 345. 1st ed. Brno: Masarykova univerzita, 2009, 1-9. Available at: <http://www.law.muni.cz/edicni/cofola2009/files/contributions/Andraz%20Tersek.pdf>.

⁴¹ *Resolution on the National Mental Health Program 2018–2028*. Available at: <http://www.pisrs.si/Pis.web/pregledPredpisa?id=RESO120&d-49681-o=2&d-49681-p=1&d-49681-s=2> (5. 6. 2020)

Constitutional Court judgement (No. U-I-60/03) determining fundamental right of individuals who are posted, by doctors or by court decisions, to Psychiatric Hospital for treatment. The documents review of the European Commission regarding mental health of the of citizens of the EU member states shows quite similar picture.⁴²

In the EU member states systemic arrangement of the mental health problem remains insufficiently effective. The deficit of professional staff, funds and special capacities remains obvious. Inside the frame of public health system and institutions, which I strongly consider to be a legal and political priority in the near future, this problem must not be ignored or put aside as secondary or even less important.

Legal Foundations for Further Deliberations

In the next months and years special concern should be given to the analysis, interpretation and synthesis of some of the essentially legal and constitutional (not only medical, ethical, philosophical and sociological) questions and problems, directly connected with mental health and the problem of suicide. Mental health and suicide should be fully and publicly addressed as legally relevant phenomena. A constitutional principle of "social state" must be politically and legally strengthened, not weakened. Socially responsible political community (as the EU was supposed to be) may not disregard the issue. Substance and scope of fundamental rights and freedoms closely connected with mental health and the suicide represent special, the most intimate relationship between the State and individual, so the *positive nature* of fundamental human and constitutional rights must be safeguarded with more effort of the State and its institutions, not with less effort. In this regard the EU Administration must play its part: as a legislator and as a supervisor over the implementation of political commitments and legal duties of the EU member states regarding the public health system, the protection of mental health and the prevention of suicides.⁴³

Work to Be Done

Legal aspects of mental health and the suicide problem represent a subject with quite a deficit in respect of scientific research and evaluation. The analysis of the EU institutions and committees regarding mental health confirm such evaluation. This presents us with necessity to make determined and sufficient steps forward. The model of modern constitutional democracy and the constitutional doctrine of positive obligations of the State enable and demand new approach to legal aspects of mental health and suicide. Some new and legitimate expectations towards legal policy and constitutional obligations of the State have to be made. A comprehensive legal and constitutional analysis should fulfil the gap in national and international prospect.⁴⁴ All the relevant potentials of legal theory and legal practice should be determined and used for the purpose of reducing the number of cases of suicide and mental illness present in current social life. Success of this research could enable EU as the "political and legal community"⁴⁵ to be progressive in evolving public programmes of mental care, psychotherapy, nursing, preventing suicides and palliative care.⁴⁶

Legal community in the EU member states should be deeply involved in forcing the States to do much more in this context as it has been done in previous years. The EU should use common legal order and policy making process to put the EU member states and the daily politics of the member States under an effective control of responding to their legal duties and exercising their ethical, legal and political responsibility regarding mental health and suicide. I consider this to be among the absolute legal and political priorities of the EU legal policies in the next two to five years. Lost time in this regard needs to

⁴² See footnote No. 1.

⁴³ See, for example, Robert G. Meyer, Christopher M. Weaver: *Law and Mental Health: A Case-Based Approach*. 1st Ed. The Guilford Press, 2005; Brendan D. Kelly: *Dignity, Mental Health and Human Rights: Coercion and the Law*. 1st Ed. Kindle Edition, Routledge, 2016.

⁴⁴ For a constitutional commentary on rights and freedoms that directly or indirectly concern issues of public health and mental health, see Matej Avbelj (ed.): *Komentar Ustave Republike Slovenije. Del 1 in 2 (Commentary on the Constitution of the Republic of Slovenia. Part 1 and 2)*. Nova Gorica: Evropska pravna fakulteta, Nova univerza, 2019.

⁴⁵ The s. c. community psychiatry must not be neglected in this regard. See Marušič and Temnik 2009 (fn. 3), p. 82. For examples of risk factors for the development of mental disorder, see p. 26.

⁴⁶ The final assessment of the quality of national policies and legislation for the protection of mental health and suicide prevention will depend most on developments in social practice. It will be conditioned by a real improvement in the general quality of life in Slovenia. Comp. Bojanka Štern: *Javno zdravje in javno zdravstvo (Public health and public health system)*, *Zdravniški vestnik* (2007) 76, pp. 317-322.

be made up quickly, with increased awareness, responsibility and efficiency. So, I call upon the EU member states legal community for its special and increased attention and effort to face this problem.⁴⁷

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⁴⁷ See, as an example, B L Danto: *New Frontiers in the Relationship Between Suicidology and Law Enforcement. Suicide Life Threat Behaviour*, 1979; No. 9 (4), pp. 195-204.

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