

COUNTRY REPORT

Right to informed consent	
<u>Basic requirement:</u> <ul style="list-style-type: none">• Yes/No	
<u>Form of informed consent:</u> <ul style="list-style-type: none">• WRITTEN (required?)	
<ul style="list-style-type: none">• ORAL/VERBAL	
<ul style="list-style-type: none">• NON-VERBAL (implicit, tacit)	
<ul style="list-style-type: none">• PRESUMED	
<u>Burden of proof regarding information preceding consent: Physician or patient?</u>	
<u>Information preceding consent explicitly provided (no valid consent without information):</u> <ul style="list-style-type: none">• Yes/No	
<ul style="list-style-type: none">• Exceptions? (e.g. presumed consent)	

<p><u>Contents of information:</u></p> <ul style="list-style-type: none"> • nature • purpose • risks • consequences • alternatives • consequences in case of refusal • financial • other 	
<p><u>Standard of information:</u></p> <ul style="list-style-type: none"> • what majority of physicians would do (Bolam test) 	
<ul style="list-style-type: none"> • what average patient expects 	
<ul style="list-style-type: none"> • what individual patient expects 	
<p><u>Form of information:</u></p> <ul style="list-style-type: none"> • Written 	
<ul style="list-style-type: none"> • Oral 	
<ul style="list-style-type: none"> • Understandable language 	
<ul style="list-style-type: none"> • Clear (is a physician obliged to check whether the patient has actually understood the information) 	

<p><u>Refusal of information:</u></p> <ul style="list-style-type: none"> • Can a patient refuse to be informed? 	
<ul style="list-style-type: none"> • Consequences regarding the validity of consent 	
<p><u>Refusal and withdrawal of consent:</u></p> <ul style="list-style-type: none"> • Form (written/oral) 	
<ul style="list-style-type: none"> • Legal consequences (binding?; right of physician to end relationship with patient?) 	
<ul style="list-style-type: none"> • Conditions for legal validity: informed refusal/withdrawal? 	
<p><u>Anticipatory declarations:</u></p> <ul style="list-style-type: none"> • Positive declarations: binding Yes/No 	
<ul style="list-style-type: none"> • Negative declarations (refusal): binding Yes/No 	
<ul style="list-style-type: none"> • Form: written/oral 	
<ul style="list-style-type: none"> • National register: Yes/No 	
<ul style="list-style-type: none"> • How well informed? 	

<p><u>Minor patients:</u></p> <ul style="list-style-type: none"> • Fixed age limit for medical majority: Yes/ No 	
<p>- What if minor with medical majority in practice cannot give consent?</p>	
<p>- Below limit: only parents competent? Or together with minor having regard age/ maturity?</p>	
<p>- Same age limit for actual and anticipated refusal: Yes/No</p>	
<ul style="list-style-type: none"> • In case of no fixed age limit for medical majority: - Case by case according to age and maturity? 	
<p>- Who decides whether competent or not?</p>	
<p>- Is anticipated refusal by a minor possible or not?</p>	
<ul style="list-style-type: none"> • Can/must physician deviate from decision of parents? 	

<ul style="list-style-type: none"> • What in case of different views between minor and parents? 	
<ul style="list-style-type: none"> • Information to whom and in what cases? 	
<ul style="list-style-type: none"> • What if minor opposes parents to be informed? 	
<p><u>Incapacitated adults:</u></p> <ul style="list-style-type: none"> • Possibility to appoint a patient's representative? 	
<ul style="list-style-type: none"> • Competence of the direct relatives: <ul style="list-style-type: none"> - legal basis - actual practice? 	
<ul style="list-style-type: none"> • Conflicts between direct relatives 	
<ul style="list-style-type: none"> • Conflict of opinion between representative and physician 	
Right to information regarding one's health status	
<p><u>Basic requirement (provided as a right independent of right to informed consent):</u></p> <ul style="list-style-type: none"> • Yes/No 	
<ul style="list-style-type: none"> • Burden of proof? 	

<ul style="list-style-type: none"> • Involvement of minors and incapacitated adults 	
<p><u>Form of information:</u></p> <ul style="list-style-type: none"> • Written 	
<ul style="list-style-type: none"> • Oral 	
<p><u>Right not to know:</u></p> <ul style="list-style-type: none"> • Recognized as a right? <ul style="list-style-type: none"> - Who is competent to exercise this right in case of minors/ incapacitated adults? 	
<ul style="list-style-type: none"> • Breach in the interest of patient? <ul style="list-style-type: none"> - Modalities of breach (consult other colleague; motivation in medical file...) 	
<ul style="list-style-type: none"> ▪ Breach in the interest of third party? <ul style="list-style-type: none"> - Modalities 	
<ul style="list-style-type: none"> • Breach in the interest of society? <ul style="list-style-type: none"> - Modalities 	
<p><u>Therapeutic privilege (exception):</u></p> <ul style="list-style-type: none"> • Possibility or obligation? 	

<ul style="list-style-type: none"> • Only admitted when in the interest of the patient? 	
<ul style="list-style-type: none"> • Duty to inform relatives/ confident/ representative? 	
<ul style="list-style-type: none"> • Modalities (consult of colleague; motivation) 	
<ul style="list-style-type: none"> • Consequences regarding right to access medical file? 	
Rights regarding medical file	
<u>Right to a medical file:</u> <ul style="list-style-type: none"> • Provided for? 	
<ul style="list-style-type: none"> • Contents of medical file 	
<ul style="list-style-type: none"> • Right to add documents, declarations? 	
<ul style="list-style-type: none"> • Other rights: correction, erasure, demolition of file 	

<p><u>Right to access medical file/medical data:</u></p> <ul style="list-style-type: none"> • Patient right and/or right of data subject in privacy law? If both, concordant with each other? 	
<ul style="list-style-type: none"> • Who is competent in case of minors and incapacitated adults? 	
<ul style="list-style-type: none"> • Post mortem access by relatives or third parties? 	
<ul style="list-style-type: none"> • Does right to access medical file include: <ul style="list-style-type: none"> - Personal notes/ subjective impressions of physician? 	
<ul style="list-style-type: none"> - Data provided for by third party? 	
<ul style="list-style-type: none"> - Data related to a third party? 	
<ul style="list-style-type: none"> • Way of access: <ul style="list-style-type: none"> - Direct 	
<ul style="list-style-type: none"> - Indirect: <ul style="list-style-type: none"> ➤ obligatory or not? ➤ through physician/health care workers 	

/others	
- Other modalities (time limits, compensation of costs, etc.)	
<ul style="list-style-type: none"> • Right to receive a copy - Yes/No 	
- Right of physician to refuse to protect privacy of patient?	
- “personal and confidential” (required to be noted on the copy?)	
- Other modalities (time limits, compensation of costs, etc.)	
<ul style="list-style-type: none"> • Post mortem right of relatives or third parties to receive a copy? 	
Right to medical secrecy	
<ul style="list-style-type: none"> • Legal basis: - Criminal Code 	
- Patient right	

<ul style="list-style-type: none"> • Consent required when transmitting information to colleagues, other health care workers? If yes: explicit, implicit or presumed? 	
Right to privacy	
<p><u>Provided for as a patient right (right to intimacy):</u></p> <ul style="list-style-type: none"> • Yes/No 	
<p><u>Protection of personal data concerning health:</u></p> <ul style="list-style-type: none"> • Data Protection Law (date?) 	
<ul style="list-style-type: none"> - Right to have access 	
<ul style="list-style-type: none"> - Right to receive a copy 	
<ul style="list-style-type: none"> - Right to correction/erasure or demolition 	
<ul style="list-style-type: none"> • Other (e.g. Civil Code) 	

Patient rights and genetics

Patient rights and genetics	
<u>Genetic testing:</u>	
<ul style="list-style-type: none">• Legal/regulatory framework	
<ul style="list-style-type: none">• Definition of what constitutes a genetic test?	
<ul style="list-style-type: none">• Purposes for which genetic testing is allowed:<ul style="list-style-type: none">- medical purposes- scientific research- other (e.g. employment, insurance)	
<u>Genetic counseling:</u>	
<ul style="list-style-type: none">• Basic requirement: Yes/No	
<ul style="list-style-type: none">• Contents of the information:<ul style="list-style-type: none">- nature- purpose- full bearing of the test- predictive value	

<ul style="list-style-type: none"> • Form of information: <ul style="list-style-type: none"> - Written - Oral 	
<p><u>Form of informed consent in case of genetic testing:</u></p> <ul style="list-style-type: none"> • Written consent always required? 	
<p><u>(Genetic screening:)</u></p> <ul style="list-style-type: none"> • Pre-natal screening 	
<ul style="list-style-type: none"> • Neo-natal screening 	
<p><u>Genetic data:</u></p> <ul style="list-style-type: none"> • Definition of what constitutes genetic data?: <ul style="list-style-type: none"> - “Narrow” (only data resulting from genetic tests itself) - “Broad” (also information on family history?) 	
<ul style="list-style-type: none"> • Special protection of genetic data – “right to genetic privacy” (e.g. storage, use, processing, etc)? 	

<p><u>Genetic information and family members:</u></p> <ul style="list-style-type: none"> • Are there regulations in place related to the provision of genetic information to family members? 	
<p><u>Genetic discrimination:</u></p> <ul style="list-style-type: none"> • Specific provision prohibiting discrimination on the basis of genetic heritage or already covered by existing law (e.g. constitutional law)? 	
<p><u>Quality of genetic testing:</u></p> <ul style="list-style-type: none"> • Who is allowed to perform a genetic test? 	
<ul style="list-style-type: none"> • Quality assurance system of genetic tests and genetic testing services in place? 	