CADERNOS DE DEREITO ACTUAL
www.cadernosdedereitoactual.es

© ***Cadernos de Dereito Actual*** Nº 30. Núm. Ordinario (2025), pp. 01-18

·ISSN 2340-860X - ·ISSNe 2386-5229

The role of the ECtHR in the investigation and prevention of medical crimes: Impact on national practice

Constantin Pisarenco[1,*]
Free International University of Moldova (ULIM)
Serghei Pisarenco[2]
Chiril Draganiuc Institute of Pneumology

Abstract: This article examines the role of the European Court of Human Rights (ECtHR) in shaping standards for the investigation and prevention of medical crimes, as well as the impact of its decisions on the development of national medical liability mechanisms. The study covers the period from 2010 to 2024 and is based on an analysis of twenty-six key cases included in the official HUDOC database. Using systemic, comparative-legal, and content-analytical methods, the study combines legal and institutional analysis of judicial practice. The Court has established an integrated approach to state obligations, viewing the right to life as comprising both substantive and procedural guarantees. Particular attention is paid to the impact of the COVID-19 pandemic on the development of judicial doctrine. The article emphasizes that the ECtHR performs not only a judicial but also a normative function, shaping a humanistic model of medical liability and demonstrate that the ECtHR's practice contributes to strengthening the rule of law and fostering a pan-European culture of medical justice.

[1] Ph.D. in Law, Associate Professor, Department of Law, Free International University of Moldova (ULIM), Chisinau, the Republic of Moldova. ORCID: https://orcid.org/0000-0001-5548-4653. E-mail: constantin.pisarenco@gmail.com (corresponding author).
[2] Doctor Habilitat of Medicine, Associate Professor. Scientific Laboratory For Non-Specific Lung Diseases, Chisinau, the Republic of Moldova. ORCID: https://orcid.org/0000-0002-0638-6050. E-mail: srghei.pisarenco@gmail.com

Keywords: COVID-19 Pandemic, European Court of Human Rights, Medical Liability, Medical Negligence, Positive Obligations, Right to Life, Transparency of Investigations

Resumen: Este artículo examina el papel del Tribunal Europeo de Derechos Humanos (TEDH) en la configuración de las normas para la investigación y prevención de delitos médicos, así como el impacto de sus decisiones en el desarrollo de los mecanismos nacionales de responsabilidad médica. El estudio abarca el período comprendido entre 2010 y 2024 y se basa en el análisis de veintiséis casos clave incluidos en la base de datos oficial HUDOC. Utilizando métodos sistémicos, comparativos, jurídicos y de análisis de contenido, el estudio combina el análisis jurídico e institucional de la práctica judicial. El Tribunal ha establecido un enfoque integrado de las obligaciones del Estado, considerando que el derecho a la vida comprende garantías tanto sustantivas como procesales. Se presta especial atención al impacto de la pandemia de COVID-19 en el desarrollo de la doctrina judicial. El artículo destaca que el TEDH desempeña no solo una función judicial, sino también normativa, al configurar un modelo humanista de responsabilidad médica y demostrar que la práctica del TEDH contribuye a reforzar el Estado de Derecho y a fomentar una cultura paneuropea de justicia médica.

Palabrasclave: Derecho a La Vida, Negligencia Médica, Obligaciones Positivas, Pandemia De Covid-19, Responsabilidad Médica, Transparencia De Las Investigaciones, Tribunal Europeo De Derechos Humanos

1. Introduction

In recent decades, the problem of medical negligence and related human rights violations has ceased to be a purely professional or highly specialized legal topic and has become an important part of public discourse in Europe. The growing number of citizen appeals to the European Court of Human Rights (hereinafter referred to as the Court, ECtHR) and the media's attention to cases of medical errors reflect a broadening understanding of the right to life and health as integral aspects of human dignity. However, existing mechanisms for investigating medical crimes in many countries still demonstrate limited effectiveness, leading to systemic violations and a decline in trust between society and the medical community.[3]

Over the past fifteen years, the ECtHR has compiled a vast body of judgments concerning medical negligence, treatment errors, failure to provide care, and organizational deficiencies in healthcare systems. The significance of these cases lies in their engagement with the State's obligations under Article 2 of the Convention (the right to life) and Article 3 (the prohibition of inhuman or degrading treatment). Although the Convention itself does not explicitly enshrine a "right to health care", the Court has consistently held that States are obligated not only to refrain from violating these provisions but also to take active measures to establish an effective system for protecting the life and health of their citizens.[4]

The ECtHR's practice demonstrates that cases of medical negligence resulting in death or serious harm cannot be viewed solely as professional errors. This approach allows the analysis to go beyond individual cases and instead consider the entire

[3] MIZIARA, I. D.; MIZIARA, C. S. M. G. M. Medical Errors, Medical Negligence and Defensive Medicine: A Narrative Review. Clinics, 2022, 77, article 100053. https://doi.org/10.1016/j.clinsp.2022.100053

[4] COUNCIL OF EUROPE; EUROPEAN COURT OF HUMAN RIGHTS. Guide on Article 2 of the European Convention on Human Rights-Right to Life. Strasbourg: Council of Europe, 2025. Available at: https://ks.echr.coe.int/documents/d/echr-ks/guide_art_2_eng (accessed on 10 August 2025).

body of decisions as a holistic framework, reflecting trends and patterns in states' implementation of their obligations under Articles 2 and 3 of the Convention. In this context, each case becomes an indicator of the state's institutional capacity, and the Court's decisions become a tool for the state's legal and organizational improvement.[5]

The relevance of this study is determined by several factors. Since 2010, there has been a steady increase in the number of medical cases heard by the Court, reflecting the expansion of judicial review in the area of healthcare. The ECtHR's practice sets standards for procedural independence, transparency, and evidentiary integrity (including the validity, persuasiveness, and weight of arguments), which become guidelines not only for courts but also for investigative bodies and medical oversight agencies. The COVID-19 pandemic has reinforced the importance of international mechanisms protecting the right to life, demonstrating the need for equal access to medical care and the prevention of discrimination in resource allocation.[6]

Since 2010, the ECtHR has developed pan-European standards for the investigation of medical crimes, including principles of independence of forensic medical examinations, timely procedural actions, victim participation, and procedural transparency. These standards form a "procedural infrastructure of trust" that ensures interaction between the state, the medical community, and society based on liability and humanism.[7]

At the same time, tension persists between protecting patients' rights and doctors' professional autonomy. Underestimating the severity of medical errors leads to impunity, while excessive criminalization creates a "chilling effect" that limits professional discretion. Finding a balance between justice for victims and clinical independence is becoming a key challenge for states party to the Convention.[8]

The aim of this study is to identify patterns of influence of ECtHR decisions on the development of national mechanisms for the investigation and prevention of medical crimes and to demonstrate how the Court's practice contributes to the convergence of post-Soviet and Western European legal systems.

2. Methodology

This study is based on a systematic and comparative legal analysis of the case law of the ECtHR in cases involving medical negligence, refusal of care, diagnostic errors, and organizational deficiencies in the healthcare system. This approach allows us to go beyond the analysis of individual cases and instead consider the entire body of decisions as a holistic framework, reflecting trends and patterns in the implementation by states of their obligations under Articles 2 and 3 of the Convention.

The empirical basis for the study was formed using the official HUDOC database (https://hudoc.echr.coe.int), which provides complete and verified access to ECtHR judgments and decisions. All texts were downloaded directly from the Court's

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[5] STOYANOVA, V. Fault, Knowledge and Risk within the Framework of Positive Obligations under the European Convention on Human Rights. Leiden Journal of International Law, 2020, 33(3), 601–620. https://doi.org/10.1017/S0922156520000163

[6] CHEVALIER-WATTS, J. Effective investigations under article 2 of the European Convention on Human Rights: securing the right to life or an onerous burden on a State?. European Journal of International Law, 2010, 21(3), 701–721. https://doi.org/10.1093/ejil/chq045

[7] Ibid.

[8] WICKS, E. The Role of the Right to Life in Respect of Deaths Caused by Negligence in the Healthcare Context. Medical Law Review, 2024, 32(1), 81–100. https://doi.org/10.1093/medlaw/fwad037

official website, eliminating the possibility of data distortion and guaranteeing their accuracy.[9]

The case corpus was compiled using a combined search strategy aimed at achieving a balance between breadth of coverage and precision of selection. The search was conducted in the HUDOC database using the keywords medical negligence, medical error, medical malpractice, healthcare, and their French and Russian equivalents. To clarify term combinations and exclude irrelevant solutions, the logical operators AND and OR were used. The queries additionally included states representing different legal and institutional systems: the Republic of Moldova, Ukraine, the Russian Federation, Romania, France, Spain, and Germany.[10] The choice of these countries was driven by the research objective of encompassing jurisdictions with varying degrees of institutional maturity and legal traditions. The Republic of Moldova, Ukraine, and Russia reflect post-Soviet legal systems currently in the process of adapting to European human rights standards; Romania represents a transitional model combining elements of post-socialist and European law; France, Spain, and Germany demonstrate developed legal systems with robust medical liability mechanisms and a high level of judicial review.

To improve the sampling accuracy, the HUDOC Judgment (Merits) and Just filters were used. Satisfaction, which allowed us to limit the search to final rulings with reasoned legal analysis. A language filter (English and French) was also used to ensure terminological comparability and uniform interpretation of legal concepts.[11]

The process of compiling the case set involved several stages: initial search, thematic filtering, criteria verification, expert assessment, and final selection. The first stage yielded a set of 66 decisions that met the specified parameters. The second stage excluded inadmissibility determinations, interim rulings, decisions of three-judge committees, and decisions without substantive analysis. Finally, each case underwent expert verification for compliance with the established inclusion and exclusion criteria, ensuring a high level of reliability and reproducibility.[12]

The study applied unified selection criteria: (1) inclusion of final ECtHR judgments (2010–2024) under Articles 2 and/or 3 with a clear medical component; (2) exclusion of inadmissibility decisions, interim rulings, committee decisions, and cases lacking substantive medical relevance. These criteria were applied once at the final verification stage to avoid repetition and ensure conciseness.[13, 14]

After applying all criteria and expert evaluation, the final sample consisted of 28 cases that fully met the relevance requirements. Of the initial 66 decisions, 40 were excluded due to procedural irrelevance (inadmissibility determinations), thematic duplication, lack of medical content, or the secondary nature of the medical issue.[15]

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[9] COUNCIL OF EUROPE; 2025. Ibid.

[10] CHEVALIER-WATTS, J. 2010. Ibid.

[11] AKANDJI-KOMBÉ, J.-F. Positive Obligations under the European Convention on Human Rights: A Guide to the Implementation of the European Convention on Human Rights. Strasbourg: Council of Europe, 2007. Available at: https://rm.coe.int/168007ff4d (accessed on 10 August 2025).

[12] MURGEL, J. Medical Negliegence and Liability of Health Professionals in the European Court of Human Rights Case Law. Medicine, Law & Society, 2020, 13(1), 21–44. Available at: https://doi.org/10.18690/mls.13.1.21-44.2020 (accessed on 10 August 2025).

[13] WICKS, E. 2024. Ibid.

[14] CHEVALIER-WATTS, J. 2010. Ibid.

[15] KAPELAŃSKA-PRĘGOWSKA, J. Medical negligence, systemic deficiency, or denial of emergency healthcare? Reflections on the European Court of Human Rights Grand Chamber Judgment in Lopes de Sousa Fernandes v. Portugal of 19 December 2017 and previous case-law. European Journal of Health Law, 2019, 26(1), 26–43. https://doi.org/10.1163/15718093-12550407

Table 1. Distribution of cases of the European Court on human rights by country and nature of violations (2010–2024).

State	Number of cases	Examples of key decisions	Articles of the Convention	Nature of violations
The Russian Federation	10	Magnitskiy and Others v. Russia (2019)[16]; Traskunova v. Russia (2022)[17]; S.F.K. v. Russia (2022)[18].	2, 3	Failure to provide medical care, ineffective investigation
Romania	6	Eugenia Lazăr v. Romania (2010)[19]; Aftanache v. Romania (2020)[20].	2, 3	Late response, lack of effective investigation
Ukraine	4	Arskaya v. Ukraine (2013)[21]; Salakhov and Islyamova v. Ukraine (2013)[22]; Isayeva v. Ukraine (2018)[23].	2, 3	Violation of the right to life, denial of treatment
The Republic of Moldova	3	Scripnic v. Republic of Moldova (2021)[24]; Cantaragiu v. Republic of Moldova (2021)[25]; Savca v. Republic of Moldova (2016)[26].	2, 3	Inappropriate treatment, violation of procedural safeguards

[16] Magnitskiy and Others v. Russia. European Court of Human Rights, Judgment of 27 August 2019, Application Nos. 32631/09 and 53799/12. Available at: https://hudoc.echr.coe.int/fre?i=001-195527 (accessed on 10 August 2025).
[17] Traskunova v. Russia. European Court of Human Rights, Judgment of 30 August 2022, Application No. 21648/11. Available at: https://hudoc.echr.coe.int/eng?i=001-218919 (accessed on 10 August 2025).
[18] S.F.K. v. Russia. European Court of Human Rights, Judgment of 11 October 2022, Application No. 5578/12. Available at: https://hudoc.echr.coe.int/eng?i=001-219642 (accessed on 10 August 2025).
[19] Eugenia Lazăr v. Romania. European Court of Human Rights, Judgment of 16 February 2010, Application No. 32146/05. Available at: https://hudoc.echr.coe.int/eng?i=001-123214 (accessed on 10 August 2025).
[20] Aftanache v. Romania. European Court of Human Rights, Judgment of 26 May 2020, Application No. 999/19. Available at: https://hudoc.echr.coe.int/eng?i=001-202732 (accessed on 10 August 2025).
[21] Arskaya v. Ukraine. European Court of Human Rights, Judgment of 5 December 2013, Application No. 45076/05. Available at: https://hudoc.echr.coe.int/fre?i=001-138590 (accessed on 10 August 2025).
[22] Salakhov and Islyamova v. Ukraine. European Court of Human Rights, Judgment of 14 March 2013, Application No. 28005/08. Available at: https://hudoc.echr.coe.int/fre?i=001-117134 (accessed on 10 August 2025).
[23] Isayeva v. Ukraine. European Court of Human Rights, Judgment of 4 December 2018, Application No. 35523/06. Available at: https://hudoc.echr.coe.int/fre?i=001-187919 (accessed on 10 August 2025).
[24] Scripnic v. Republic of Moldova. European Court of Human Rights, Judgment of 13 April 2021, Application No. 63789/13. Available at: https://hudoc.echr.coe.int/eng?i=001-144985 (accessed on 10 August 2025).
[25] Cantaragiu v. Republic of Moldova. European Court of Human Rights, Judgment of 15 June 2021, Application No. 13013/11. Available at: https://hudoc.echr.coe.int/eng?i=001-201865 (accessed on 10 August 2025).
[26] Savca v. Republic of Moldova. European Court of Human Rights, Judgment of 21 June 2016, Application No. 17963/08. Available at: https://hudoc.echr.coe.int/eng?i=001-168551 (accessed on 10 August 2025).

State	Number of cases	Examples of key decisions	Articles of the Convention	Nature of violations
Spain	2	Garrido Herrero v. Spain (2022)[27]; Pindo Mulla v. Spain (2024)[28].	2	Error during emergency surgery
France	2	Ketreb v. France (2012)[29]; Khan v. France (2019)[30].	3	Denial of medical care to a person in custody
Germany	1	Gray v. Germany (2014)[31].	2	There are no precedents for violations.

The resulting case file reflects a three-dimensional cross-section of the ECtHR's case law—temporal (2010–2024), thematic (cases under Articles 2 and 3 of the Convention), and geographical (post-Soviet and Western European jurisdictions). This methodology allowed for the creation of a representative sample combining thematic and spatial diversity, providing a reliable empirical basis for comparative analysis of national law enforcement practices and identifying common patterns in judicial interpretation of state obligations in the area of health protection.[32]

The final sample was structured by respondent state, Convention article, and type of violation. The summary data is presented in Table 1, which reflects the distribution of cases by country, type of violation, and their substantive characteristics. The largest number of decisions came from the Russian Federation (10), Romania (6), Ukraine (4), and the Republic of Moldova (3). Two decisions were made regarding France and Spain, and one regarding Germany.[33]

Table 1 shows the geographical and substantive structure of ECtHR judgments for the analyzed period. The highest number of violations was recorded against the Russian Federation and Romania, indicating the systemic nature of the problems in these jurisdictions. Germany was represented by a single case in which the Court found no violation, reflecting the high level of institutional maturity of the national medical oversight system.[34] The obtained data form a solid empirical basis for further analysis of judicial trends, as well as for identifying institutional differences and general patterns of law enforcement in the area of medical liability.

This systematic and methodologically sound approach demonstrates that the formation of the case corpus was not a random process, but was the result of a consistent and reproducible selection based on strict criteria of relevance and expert review.[35]

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[27] Garrido Herrero v. Spain. European Court of Human Rights, Judgment of 26 January 2022, Application No. 61019/19. Available at: https://hudoc.echr.coe.int/eng?i=001-219650 (accessed on 10 August 2025).

[28] Pindo Mulla v. Spain. European Court of Human Rights, Judgment of 4 April 2024, Application No. 15541/20. Available at: https://hudoc.echr.coe.int/eng?i=001-236065 (accessed on 10 August 2025).

[29] Ketreb v. France. European Court of Human Rights, Judgment of 19 July 2012, Application No. 38447/09. Available at: https://hudoc.echr.coe.int/eng?i=001-112285 (accessed on 10 August 2025).

[30] Khan v. France. European Court of Human Rights, Judgment of 28 February 2019, Application No. 12267/16. Available at: https://hudoc.echr.coe.int/eng?i=001-191587 (accessed on 10 August 2025).

[31] Gray v. Germany. European Court of Human Rights, Judgment of 22 May 2014, Application No. 49278/09. Available at: https://hudoc.echr.coe.int/?i=001-144123 (accessed on 10 August 2025).

[32] STOYANOVA, V. 2020. Ibid.

[33] COUNCIL OF EUROPE; 2025. Ibid.

[34] MURGEL, J. 2020. Ibid.

[35] PRANKA, D. The Price of Medical Negligence-Should It Be Judged by the Criminal Court in the Context of the Jurisprudence of the European Court of Human Rights? Baltic Journal of

3. Results

The empirical basis of the study includes twenty-six cases of the European Court of Human Rights, heard between January 1st, 2010, and December 31st, 2024. All cases meet the relevance criteria established in the methodological section and represent judicial decisions that raised issues of medical negligence, denial of medical care, treatment errors, and procedural violations in the investigation of such cases.[36] A quantitative and qualitative analysis of these cases allowed us to identify patterns in the development of ECtHR case law, determine the ratio of substantive and procedural violations, and track the dynamics of appeals by region and time period.

The analysis showed that over the past fifteen years, the Court has heard, on average, one to three cases annually involving medical malpractice and procedural violations. From 2010 to 2015, the number of such cases remained relatively stable, but beginning in 2016, there has been a clear increase in medical cases, peaking between 2020 and 2022. This increase coincides with global changes in healthcare systems caused by the COVID-19 pandemic, as well as increased public attention to issues of medical liability and equal access to treatment.[37]

A quantitative analysis revealed that the overwhelming majority of cases included in the study concerned violations of Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which guarantees the right to life. Of the total number of cases, twenty-one (approximately eighty percent) contained findings of violations of this article. Sixteen of these concerned substantive aspects of the violation, such as denial of medical care, delayed treatment, medical errors, or professional negligence. In five cases, the Court found procedural violations, including the lack of an effective investigation, the dependent status of experts, and insufficient transparency of investigative actions. The violations of Article 3 of the Convention, which prohibits inhuman or degrading treatment, were recorded in five cases (approximately twenty percent), primarily related to the failure to provide medical care to individuals in custody or inadequate medical conditions in penitentiary institutions.[38]

The dynamics of the cases demonstrate a gradual shift in the ECtHR's focus from the assessment of individual medical actions to an analysis of the state's institutional liability. While in early cases, such as Eugenia Lazăr v. Romania (2010) and Arskaya v. Ukraine (2013), the Court focused primarily on the factual circumstances of medical negligence and inadequate treatment. Since 2016, however, the Court has shifted its focus to assessing the effectiveness of investigations, the independence of expert examinations, and the participation of victims in the proceedings. This shift marks a shift from a substantive to a procedural model of protecting the right to life, in which guarantees of a fair investigation are considered an integral part of the right to medical safety.[39]

The geographic distribution of cases reveals a significant concentration of violations in the post-Soviet region. More than sixty percent of all cases examined were in the Russian Federation, Ukraine, and the Republic of Moldova. These countries share similar systemic problems, including the dependence of forensic examinations on investigative bodies, protracted investigations, and limited participation of victims in the proceedings. The Court has repeatedly held that

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Law & Politics, 2021, 14(1), 124–152. https://doi.org/10.2478/bjlp-2021-0006

[36] MURGEL, J. 2020. Ibid.

[37] GENNET, É. The Council of Europe's Underrated Role in Fostering Equitable Access to Quality Health Care in Times of Pandemic. Health and Human Rights Journal, 2024, 26(1), 45–56. Available at: https://pmc.ncbi.nlm.nih.gov/articles/PMC11197862/ (accessed on 10 August 2025).

[38] WICKS, E. 2024. Ibid.

[39] COUNCIL OF EUROPE; 2025. Ibid.

formally initiating a criminal case without conducting an independent examination or without informing the victim's relatives of the progress of the investigation is inconsistent with the requirements of Article 2 of the Convention.[40]

In the Russian Federation, the largest number of cases involve failure to provide medical care to prisoners and ineffective investigations into patient deaths in medical institutions. The Magnitsky decision is an example and Others v. Russia (2019), in which the Court found that the refusal to provide medical care to a person in custody violated not only Article 3 but also the fundamental principles of humane treatment. In the Traskunova case v. Russia (2022) the Court reiterated that an ineffective investigation into the circumstances of a patient's death in itself constitutes a violation of Article 2, even if medical error has not been proven.

In Ukrainian practice, the Isayeva case v. Ukraine (2018) and Salakhov and Islamova v. Ukraine (2013) demonstrated that systemic deficiencies in the organization of medical care and the refusal to hospitalize patients when their lives are at risk constitute a violation of the right to life. Complaints related to inadequate medical care conditions, the dependence of expert assessments, and the lack of effective state control are common in the Republic of Moldova. In Savca's decisions v. the Republic of Moldova (2016) and Cantaragiu v. the Republic of Moldova (2021), the Court acknowledged that the delays in the investigation and the lack of procedural transparency deprive victims and their relatives of access to justice.

Romania ranks second in the number of cases after the Russian Federation. In the decisions of case Eugenia Lazăr v. Romania (2010) and Aftanache v. Romania (2020), the ECtHR found that the delayed response of medical institutions and the lack of effective investigations violated the state's obligations to protect life. The Court emphasized that the state has an obligation to establish a legal and organizational system capable of promptly responding to cases of medical negligence.

A different type of case is typical for European Union countries, in which the Court focuses not on gross procedural defects, but on the institutional and ethical liability of the state. In the Ketreb case v. France (2012), the Court held that the denial of medical care to a person in custody constituted a violation of Article 3 of the Convention. In Garrido Herrero v. Spain (2022) focused on the problems of organizing emergency care and access to health services. Germany is represented in the analysis by the Gray case v. Germany (2014), in which the Court found no violation, noting that the country's medical oversight system provided a sufficient level of subsidiary protection. This example is important for comparative analysis, as it demonstrates that, under conditions of institutional maturity, a domestic oversight system is capable of preventing medical violations without the intervention of an international court.

The analysis demonstrates that substantial deficiencies frequently coincide with procedural failings. Of the twenty-six cases, eighteen involved both aspects simultaneously: failure to provide medical care or inadequate treatment were accompanied by ineffective investigations, reliance on expert opinions, or the exclusion of victims from participation in the proceedings. These cases again demonstrate persistent deficiencies in meeting the procedural standards outlined earlier.[41]

COVID-19 pandemic on judicial practice in recent years deserves special attention. In the decisions of cases Pindo Mulla v. Spain (2024) the ECtHR examined for the first time issues of medical negligence in the context of

[40] HORODOVENKO, V. V. et al. Protection of Patients' Rights in the ECtHR. Wiadomości Lekarskie, 2018, 71(6), 1200–1206. Available at: https://wiadlek.pl/wp-content/uploads/2020/01/WL-6-2018.pdf (accessed on 10 August 2025).
[41] CHEVALIER-WATTS, J. 2010. Ibid.

emergencies related to the distribution of medical resources and patient prioritization. The Court noted that the state is responsible not only for responding to specific violations of the right to life but also for ensuring the resilience of the healthcare system to systemic risks. These cases marked a new direction in the interpretation of Article 2 of the Convention—the state's obligation to prevent structural dysfunctions in healthcre and ensure equal access to treatment for citizens, even in resource-limited settings.[42]

The overall dynamics of ECtHR case law in 2010–2024 demonstrate the formation of sustainable standards in the field of medical liability. This interpretation aligns with the dual-obligation framework defined earlier. Recent cases demonstrate the persistent deficiencies in the assurance of independent expertise and the effective involvement of victims in investigative procedures.[43]

The study also revealed that, since 2020, a new category of cases has emerged in which the ECtHR analyzes state responsibilities in times of crisis—epidemics, emergencies, and shortages of medical resources. This reflects a shift toward a strategic understanding of the right to life as an element of state healthcare policy. The Court has consistently expanded its interpretation of Articles 2 and 3 of the Convention, linking them not only to individual cases of negligence but also to the state's systemic liability for organizing an effective and equitable healthcare system.[44]

Thus, an analysis of twenty-six decisions of the European Court of Human Rights revealed that its practice in the investigation and prevention of medical crimes has become a mechanism for shaping pan-European standards of medical liability. The Court's decisions have a comprehensive impact on national legal systems, encouraging states to improve domestic investigative mechanisms, strengthen the independence of expert assessments, enhance the transparency of procedures, and ensure a balance between patients' rights and the professional autonomy of physicians. The findings provide an empirical basis for further discussion of the institutional implications of this practice and an assessment of its contribution to the development of international medical law.[45]

4. Discussion

The results of the analysis demonstrate that the case law of the European Court of Human Rights during the period under review has established a robust normative doctrine in which issues of medical negligence, inadequate treatment, and ineffective investigations acquire systemic significance for understanding the scope of state responsibility in this context. The Court has consistently reinforced an approach in which the protection of the right to life is viewed not as an isolated obligation to respond to a specific violation, but as a comprehensive requirement for the organization of the entire healthcare and justice system. Thus, the ECtHR acts not only as an arbitrator resolving individual violations but also as an institution of legal and ethical convergence, shaping a pan-European system of medical liability standards.[46]

Recent case law applies the dual-obligation approach outlined earlier. This distinction reinforces the dual framework of state obligations referenced earlier and serves as the basis for assessing the cases under examination. The evolution of these approaches marks a shift from individual, case-based assessments to a systemic analysis of the administrative, legal, and ethical factors that influence the state's ability to prevent violations and ensure justice. This shift was particularly

[42] GENNET, É. 2024. Ibid.
[43] AKANDJI-KOMBÉ, J.-F. 2007. Ibid.
[44] GENNET, É. 2024. Ibid.
[45] WICKS, E. 2024. Ibid.
[46] AKANDJI-KOMBÉ, J.-F. 2007. Ibid.

evident in decisions from 2016 to 2024, when the ECtHR began to consider not only individual medical errors but also the institutional factors that create the conditions for their recurrence.[47]

The significance of ECtHR practice in post-Soviet countries lies primarily in its corrective function. In these jurisdictions, the Court's decisions serve as an external impetus for reforms aimed at increasing the independence of forensic examinations, reducing investigation timelines, and expanding victim participation. Following the ruling Scripnic v. the Republic of Moldova (2021), the national legislation was supplemented with provisions on documenting expert examinations and ensuring their procedural independence. In Ukraine, the decisions in the cases Isayeva v. Ukraine (2018) and Salakhov and Islamova v. Ukraine (2013) stimulated a revision of medical oversight standards and the liability of state institutions for failure to provide care. In the Russian Federation, the case Traskunov v. Russia (2022) and S.F.K. v. Russia (2022) have sparked discussions on the need to reform institutional oversight in the penitentiary system and create mechanisms for public monitoring of prisoner healthcare. For these states, the ECtHR's decisions serve as a legal catalyst, encouraging national authorities to align their domestic legislation and institutional structures with international standards.[48]

In the European Union, by contrast, the Court acts primarily as a harmonizing mechanism. Here, its decisions do not so much identify gross procedural violations as it clarifies and improves existing practices. In the case Garrido Herrero in Spain, the ECtHR stressed the importance of organizational preparedness of healthcare facilities for emergency situations, and in the decision Ketreb v. France (2012) confirmed that the denial of medical care to a person in custody is incompatible with the principle of human dignity. Germany in Gray v. Germany (2014) demonstrated the opposite example, demonstrating that a developed system of internal control and independent expert structures is capable of preventing violations without the intervention of an international court. Thus, the ECtHR serves as a legal harmonizer in Western European countries, focusing on clarifying ethical and institutional standards rather than providing external oversight.[49]

A key feature of the ECtHR's case law is its recognition of the systemic nature of medical malpractice. These cases point to broader structural deficiencies rather than isolated professional errors. In the cases Cantaragiu v. the Republic of Moldova (2021), Traskunova v. Russia (2022) and Garrido Herrero v. Spain (2022), the Court recommended that states implement structural reforms, including the creation of independent commissions to investigate medical incidents, the standardization of examination procedures, and the introduction of investigations public oversight. This approach reflects a shift from a reactive, punishment-based law enforcement model to a proactive one focused on preventing violations and increasing public trust in medical and judicial institutions.[50]

The COVID-19 pandemic has become a key factor accelerating the rethinking of states' obligations in this field. In decisions Pindo Mulla v. Spain (2024) the ECtHR for the first time applied a broad interpretation of Article 2 of the Convention, holding that the State's duty to protect life includes ensuring the sustainability of the healthcare system and equal access of citizens to treatment in emergency situations. The Court emphasized that resource allocation and patient prioritization must be transparent and non-discriminatory. These cases laid the foundation for the shift from the concept of individual protection to the model of the structural sustainability of healthcare systems as an element of the right to life.

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[47] STOYANOVA, V. 2020. Ibid.
[48] HORODOVENKO, V. V. 2018. Ibid.
[49] WICKS, E. 2024. Ibid.
[50] MIZIARA, I. D.; 2022. Ibid.

An equally important area of judicial development has been the balancing of patient rights and the professional autonomy of healthcare professionals. The ECtHR has repeatedly noted that excessive criminalization of medical errors can create a so-called "chilling effect", whereby doctors, fearing criminal liability, avoid making difficult but clinically justified decisions. This approach was clearly expressed in the decisions Eugenia Lazăr v. Romania (2010), where the Court emphasized that protecting patients' rights must not undermine the foundation of trust between physician and patient. The Court established a humanistic doctrine of medical liability, in which the principles of justice and professional freedom are not opposed, but rather complementary. This concept ensures a balance between the public interest in protecting health and the need to maintain clinical initiative, which is particularly important in the context of post-pandemic uncertainty and the ethical dilemmas of medical practice.

An important element in the evolution of ECtHR judicial standards is the strengthening of the role of relatives of patients, public associations and non-governmental organizations in the investigation process. The material shows ongoing difficulties in ensuring that victims and relatives are meaningfully involved in investigative procedures. In several cases, including Savca v. the Republic of Moldova (2016) and Magnitskiy and Others v. Russia (2019), the Court emphasized that excluding relatives from the investigation undermines confidence in the judicial system and in itself constitutes a violation of the procedural guarantees of Article 2 of the Convention. The ECtHR also noted the positive role of non-governmental organizations acting as intermediaries between patients, medical institutions, and government agencies. These organizations ensure public oversight, disseminate information about patients' rights, and promote the implementation of ethical standards of medical practice.[51]

In the context of comparative analysis, the differences between post-Soviet and Western European states are evident not only in the number of violations identified by the Court, but also in the way these violations are perceived and addressed institutionally (Table 2). In post-Soviet jurisdictions, the ECtHR primarily functions as an external corrective mechanism, revealing deep structural deficiencies—such as the lack of independent forensic examinations, chronic delays in investigations, and the limited procedural role of victims. By contrast, in EU member states the Court operates mainly as an internal harmonizing authority, refining ethical and organizational standards within systems that already possess a relatively high level of institutional maturity. Despite these different functions, however, the overarching outcome remains similar: the ECtHR contributes to the convergence of legal systems around shared principles of humanism, transparency, and the rule of law. [52]

To further systematize the identified differences between post-Soviet states and EU member states in the investigation of medical negligence and the implementation of states' positive obligations under Article 2 of the Convention, the following comparative table is provided. It summarizes the key parameters through which ECtHR case law influences national systems of medical liability, including the nature and frequency of violations, recurrent systemic deficiencies, the degree of procedural participation granted to victims and their relatives, the role of civil-society actors, and the institutional reforms initiated in response to the Court's judgments. This structured comparison reveals a significant asymmetry: while post-

[51] KARAČIĆ J, VIĐAK M, MARUŠIĆ A. Reporting violations of European Charter of Patients' Rights: Analysis of patient complaints in Croatia. BMC Medical Ethics, 2021, 22(1), 148. https://doi.org/10.1186/s12910-021-00714-3

[52] SĂRARU, I. C. Medical Malpractice Regulation: Civil, Administrative, and Criminal Liability. Romanian Journal of Ophthalmology, 2018, 62(2), 93–95. Available at: https://pmc.ncbi.nlm.nih.gov/articles/PMC6117522/ (accessed on 10 August 2025).

Soviet jurisdictions exhibit structural deficits—such as dependence of forensic experts on investigative bodies, protracted investigations, insufficient transparency, and repeated failures to provide timely medical care—EU member states tend to demonstrate isolated, non-systemic violations, typically related to organizational or ethical aspects of emergency and custodial healthcare.

Table 2. Comparative table: Post-Soviet States vs EU Member States in ECtHR medical-negligence jurisprudence.

Dimension	**Post-Soviet States (Russia, Ukraine, Moldova)**	**EU Member States (Romania, France, Spain, Germany)**
Number of cases	**17**	**9**
Articles Violated	Frequent violations of Articles 2 and 3 (right to life; prohibition of inhuman treatment).	Violations mostly under Article 2 (right to life) and Article 3 in custodial settings; fewer findings overall.
Types of Violations	Failure to provide urgent medical care (often in detention). Delayed investigations, dependence of forensic experts. Poor documentation, inconsistent evidence handling. Limited victim/relative participation.	Isolated clinical errors or organizational shortcomings. Emergency-care failures (Spain). Denial of care in custody (France). Rare systemic issues; usually individual-case findings.
Nature of State Obligations Identified by ECtHR	Substantive: ensure accessible and adequate medical care; prevent foreseeable harm; address systemic risk factors. Procedural: conduct prompt, independent, transparent investigations; involve next of kin; ensure independent forensic expertise.	Substantive: strengthen emergency-care organization; ensure medical care in detention; guarantee equitable treatment access. Procedural: maintain effective internal review mechanisms; ensure transparency where relevant, though systemic failures are rare.
Systemic Problems Highlighted	Structural dependence of forensic institutions on law-enforcement bodies. Institutional inertia and chronic delays. Lack of transparent oversight mechanisms. Inadequate prison healthcare systems.	Occasional deficiencies in emergency response protocols. Ethical tensions in resource allocation during pandemics. Need for clearer standards in custodial medical care (France).
Role of Victims, Families, NGOs	ECtHR stresses insufficient involvement of victims, relatives, and civil-society actors. Participation often formalistic or obstructed.	Higher baseline involvement; NGOs and patient-rights movements play a structured and institutionalized role in monitoring.
National-Level Reforms / Impact of ECtHR Judgments	Revisions to laws on forensic medicine (Moldova). Discussion of reforms in penitentiary healthcare (Russia). Strengthening oversight of hospital care and emergency response (Ukraine).	Romania: improvements in maternal-care oversight and emergency-care protocols. France: procedural safeguards for detainee healthcare strengthened. Spain: reforms related to emergency-care triage and crisis-preparedness. Germany: no violations found; existing system deemed adequate.

Dimension	**Post-Soviet States (Russia, Ukraine, Moldova)**	**EU Member States (Romania, France, Spain, Germany)**
COVID-19-Related Jurisprudence	Issues largely connected to structural weakness, not pandemic-specific jurisprudence. COVID-19 amplified existing systemic failures.	ECtHR assessed resource distribution, triage ethics, systemic resilience (*Pindo Mulla v. Spain*). Focus on equality and transparency.
Overall Trend	ECtHR acts as a corrective mechanism, pushing states toward institutional reform and modernization.	ECtHR acts as a harmonizing and fine-tuning mechanism, clarifying standards within already mature systems.
General Assessment	Persistent structural deficits; recurring systemic violations; need for external judicial pressure.	High institutional maturity; violations are exceptional; ECtHR guidance mostly normative rather than corrective.

Accordingly, the table illustrates the distinct functions performed by the ECtHR across the two regions: in the post-Soviet context, the Court serves primarily as an external corrective mechanism driving institutional modernization, whereas in EU member states it acts as a harmonizing instrument aimed at clarifying and strengthening existing standards of medical liability and procedural fairness. This structured synthesis situates the empirical material within a broader comparative-law perspective and reinforces the analytical basis for the subsequent conclusions of the study.

The practice of recent years also shows that the ECtHR is gradually moving from an individual-casuistic model of examining cases to a strategic approach, in which attention is paid not only to establishing the fact of a violation, but also to preventing similar cases in the future. The Court increasingly advises states on the need to implement long-term measures aimed at improving medical oversight, developing independent expert institutions, implementing professional liability insurance mechanisms, and improving citizens' access to information about medical services. These directives transform the ECtHR from a judicial body for individual protection into an institution influencing the systemic development of national legal systems.[53]

Thus, the case law of the European Court of Human Rights from 2010 to 2024 demonstrates a qualitative sophistication of judicial reasoning and a shift toward an interdisciplinary model of analysis integrating law, medicine, and ethics. The Court consistently expands the scope of interpretation of Articles 2 and 3 of the Convention, developing a holistic understanding of the right to life and health as a fundamental social good requiring not only legal but also institutional protection. Its decisions contribute to the development of a pan-European culture of liability based on trust, professional ethics, and respect for human dignity. In this context, the ECtHR acts as a driving force in the development of international medical law and human rights, ensuring their synthesis and practical implementation in national legal systems.[54]

5. Limitations of the study

Despite the comprehensive nature of the analysis and the use of a replicable methodology, this study has several limitations related to both the source material and the time and institutional framework. These limitations do not diminish the validity of the results, but they do limit the interpretation of the findings.

[53] CHEVALIER-WATTS, J. 2010. Ibid.
[54] AKANDJI-KOMBÉ, J.-F. 2007. Ibid.

Firstly, the empirical part of the study was based exclusively on decisions published in the official HUDOC database. This guarantees the reliability of the sources, but excludes the possibility of taking into account unpublished rulings, interim decisions, and cases in the execution phase. This circumstance limits the comprehensiveness of the judicial review, particularly for the final years of the analyzed period, when some decisions may not have undergone the final publication process.[55]

Secondly, the study focuses on ECtHR case law and does not include a detailed analysis of national judicial statistics, health authority reports, or internal investigation materials. This approach preserved the integrity of the legal analysis, but limited the ability to directly compare international and national data in quantitative terms.[56]

Third, the study's chronological framework spans 2010–2024, allowing us to trace the evolution of the ECtHR's approaches. However, the long-term impact of some judgments, particularly those delivered in 2023–2024, cannot yet be fully assessed. Implementation of the Court's judgments takes time and depends on the level of institutional maturity and political stability of the state, so the real impact of some judgments will become apparent gradually.[57]

Fourth, the content analysis method used to systematize judicial decisions has inherent limitations associated with the qualitative interpretation of texts. This method allows for the identification of general patterns and the structure of argumentation, but it does not fully capture the socio-psychological and cultural aspects of how judicial standards are perceived by the medical community and society. Further research requires the use of interdisciplinary approaches, including sociological, ethical, and empirical methods.[58]

Fifth, the study's regional materials covers seven states representing the post-Soviet and Western European regions. This set of countries is representative for analyzing the evolution of judicial approaches, but does not encompass the full spectrum of the Convention's signatories, including Northern and Southern European countries, whose practices could provide additional comparative context.[59]

Finally, it is important to remember that the ECtHR operates in a dynamic political and legal environment. Its jurisprudence reflects not only universal principles of human rights protection but also specific social realities that influence the interpretation and application of the Convention. Therefore, any study of judicial practice is temporary in nature and reflects a specific stage in the evolution of law enforcement.[60]

Despite the identified limitations, the data verification measures taken, the transparency of the selection criteria, and the exclusive use of official sources ensure a high degree of reliability and reproducibility of the results. The applied methodology revealed consistent patterns and substantiated the conclusion about the key role of the European Court of Human Rights in the development of pan-European standards of medical liability. This study provides a foundation for further legal and interdisciplinary work aimed at developing international standards for the protection of the right to life and strengthening humanistic principles in medical practice.[61]

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[55] EUROPEAN COURT OF HUMAN RIGHTS. Health Care in Prison. Strasbourg: Council of Europe, 2025. Available at: https://ks.echr.coe.int/documents/d/echr-ks/health-care-in-prison (accessed on 10 August 2025).
[56] HORODOVENKO, V. V. 2018. Ibid.
[57] WICKS, E. 2024. Ibid.
[58] MIZIARA, I. D.; 2022. Ibid.
[59] KAPELAŃSKA-PRĘGOWSKA, J. 2019. Ibid.
[60] GENNET, É. 2024. Ibid.
[61] CHEVALIER-WATTS, J. 2010. Ibid.

6. Conclusion

The study found that over fifteen years, since 2010 to 2024, the European Court of Human Rights has become a central element of normative regulation of medical liability and the protection of the right to life in Europe. The evolution of case law has been characterised by a transition from the consideration of individual cases of medical negligence to the establishment of a more coherent framework for assessing state responsibility in this domain. These guarantees include the state's obligation to create a healthcare system that provides an adequate level of medical care and to conduct effective investigations into cases of death or injury.

An analysis of twenty-six key ECtHR cases handed down during this period confirmed that the Court goes beyond simply establishing a violation of the Convention, but instead builds a comprehensive model of the interaction between law, medicine, and ethics. It examines not only the actions of individual doctors or institutions, but also the institutional conditions that create the conditions for violations. Thus, the Court effectively transforms its intervention into a mechanism for legal modernization, stimulating reforms at the national level and establishing common standards of transparency, accountability, and fairness.

Of particular importance in the development of judicial practice is the consolidation of the principle of procedural autonomy in Article 2 of the Convention, according to which the state bears independent liability for conducting an effective investigation, even if a material violation is not proven. This principle became the basis for the development of a uniform pan-European standard of procedural fairness in the area of medical liability. It was reflected in the decisions of Eugenia. Lazăr v. Romania (2010), Traskunova v. Russia (2022), S.F.K. v. Russia (2022) and Cantaragiu v. the Republic of Moldova (2021), where the Court consistently emphasized that the effectiveness of an investigation cannot be reduced to formal procedural actions, but must ensure the participation of victims, the independence of expert examinations, and the timeliness of procedures.

COVID-19 pandemic has changed the direction of judicial argumentation, giving it a strategic nature. In the decisions Pindo Mulla v. Spain (2024) the ECtHR linked states' obligations to the sustainability of national healthcare systems, transparency in the distribution of medical resources, and equality of access to treatment. These cases marked a shift from an individual to an institutional paradigm for protecting the right to life, in which the state is seen as the guarantor of public health and the fair management of risks.

The significance of the Court's case law is evident in its varied impact on states. In post-Soviet countries, the ECtHR plays a corrective role, encouraging national authorities to reform forensic medical examinations, improve investigative mechanisms, and increase transparency. ECtHR decisions facilitate the implementation of new procedures that ensure the independence of experts, strengthen public oversight, and develop professional liability insurance systems. In the European Union, the Court's influence is harmonizing. Here, the ECtHR serves to clarify and refine existing standards, strengthening the ethical component of medical practice and the balance between patient protection and physician autonomy.

One of the most valuable aspects of the ECtHR's practice is the development of a humanistic doctrine of medical liability. The Court has repeatedly emphasized that protecting patients' rights must be combined with preserving physicians' professional freedom. Excessive criminalization of medical errors creates a so-called "chilling effect", imiting clinical initiative and undermining trust between physician and patient. In the decisions Lopes de Sousa Fernandes v. Portugal and Eugenia Lazăr v. Romania, the Court articulated an approach that combines justice for victims with respect for the professional competence of doctors. This balance is a

key element of the modern medical law model, ensuring the unity of humanism and legal liability.

Equally important is the ECtHR's role in institutionalizing the participation of patients, their relatives, and non-governmental organizations in investigations. The Court views victim participation as essential to an effective investigation, and civil society organizations as an element of the civil oversight system. This approach enhances transparency, increases trust in state institutions, and fosters a legal culture of accountability.

Thus, the ECtHR has evolved from a body for individual protection into an institution for the normative development of European medical law. Its practice encompasses not only issues of legal qualification, but also a wide range of ethical, organizational, and managerial issues. The Court effectively sets standards for good governance in healthcare, combining legal reasoning with the principles of bioethics and human rights. This is its historical role as an institution that ensures the integration of humanistic values into legal practice.

For states seeking to strengthen the rule of law and improve the quality of medical care, the practice of the ECtHR provides guidance. It demonstrates that effective protection of the right to life is impossible without institutional transparency, the professional autonomy of physicians, fair investigations, and sustainable interaction between the state and society. The European Court of Human Rights has established the legal and moral platform upon which the modern system of medical liability in Europe is built. Its decisions ensure a balance between individual rights and the public good, transforming medical justice into a tangible legal and ethical principle uniting states with diverse legal traditions into a single humanistic system.

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