

Kuchuk A. M. Human rights in health care (based on the case law of the European Court of Human Rights). The article focuses on examining cases involving a breach of the rights in the field of health care and medical services provision by the public authorities, the European Court of Human Rights finds out whether or not there has been a violation of Art. 2 (the right to life) and Art. 3 (freedom from torture) of the Convention for the Protection of Human Rights and Fundamental Freedoms. However, if the victim was killed, the Court first determines the existence or absence of violations of Art. 2, if the victim is alive – the presence or absence of violations of Art. 3.

It is appropriate to divide the practice of the European Court of Human Rights in the field of health care into two groups according to the legal status of a person: cases in which the applicants have been arrested and received medical assistance while serving their sentences and other cases. This is due to the fact that the prisoner is completely under the control of the public authority and does not have the capabilities such as the unconvicted person has, particularly as to the choice of medical institution, doctor, etc. However, the quality of medical aid in penitentiary and civilian health care facilities may differ significantly. The state should provide the arrested with a minimum amount of medical observation for timely diagnosis and treatment.

Public authorities are obliged to adopt legislation providing for the obligation of healthcare institutions of different forms of ownership to take all necessary measures to ensure the protection of patients' lives.

Art. 2 and Art. 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms does not impose a disproportionate obligation on the state to provide any person with medical assistance or to release a sick person from serving a sentence.

The European Court of Human Rights does not recognize a person's right to euthanasia, considering the right to life as fundamental, without which all other rights protected by the Convention cannot be exercised.

The practice of the European Court of Human Rights does not recognize forced feeding as a violation of Art. 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, if the measures taken do not reach a minimum level of cruelty.

However, given the peculiarities of relations in the field of health care provision, it is appropriate to decide on the possibility of adopting a separate protocol to the Convention, the subject of which will be regulation of human rights in the field of health care sector. This can be an effective means of protecting human rights in the field of healthcare provision.

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