REVISTA
BRASILEIRA DE DIREITO

Unity of Case-Law as an Indicator for the Development of Single Medical Space

Unidade da Jurisprudência como Indicador para o Desenvolvimento do Espaço Médico Único

Vladyslav Teremetskyi(1); Olesia Batryn(2); Dmitro Zhuravlov(3); Oleg Predmestnikov(4); Serhii Knysh(5); Zoryana Knysh(6); Ruslana Shirshikova(7)

1 Doctor in Law, Professor, Leading research scientist of the Department of International Private and Comparative Law, Academician F.H. Burchak Scientific Research Institute of Private Law and Entrepreneurship, National Academy of Legal Sciences of Ukraine, Kyiv (Ukraine).
E-mail: vladvokat333@ukr.net | ORCID: https://orcid.org/0000-0002-2667-5167
2 Ph.D. in Law, judge of the Pecherskyi District Court of Kyiv, Kyiv (Ukraine).
E-mail: mysha-s@ukr.net | ORCID: https://orcid.org/0000-0001-9798-201X
3 Doctor in Law, Professor, Head of the Department on Amnesty Issues of the Office of the President of Ukraine, Kyiv (Ukraine).
E-mail: ndz0909@gmail.com | ORCID: https://orcid.org/0000-0002-2205-6828
4 Doctor in Law, Professor, Head of the Department of Law, Melitopol State Pedagogical University named after Bogdan Khmelnitsky, Zaporizhzhia (Ukraine).
E-mail: predmestnikov@ukr.net | ORCID: https://orcid.org/0000-0001-8196-647X
5 Doctor in Law, Professor, Head of the Department of Constitutional, Administrative and International law, Lesya Ukrainka Volyn National University, Lutsk (Ukraine).
E-mail: s.knush@gmail.com | ORCID: https://orcid.org/0000-0002-0717-1430
6 Ph.D. in Law, Senior Lecturer at the Department of Civil Law Disciplines, Lesya Ukrainka Volyn National University, Lutsk, (Ukraine).
E-mail: knyszoryana@gmail.com | ORCID: https://orcid.org/0000-0002-6548-3301
7 Ph.D. in Law, Associate Professor, associate professor of the Department of Constitutional, Administrative and International Law, Lesya Ukrainka Volyn National University, Lutsk (Ukraine).
E-mail: r.m.shyrshykova@gmail.com | ORCID: https://orcid.org/0009-0003-0920-7403

Revista Brasileira de Direito, Passo Fundo, vol. 19, n. 1, e4925, janeiro-abril, 2023 - ISSN 2238-0604

[Received/Recebido: november 28, 2023; Accepted/Aceito: november 29, 2023;
Publicado/Published: january 24, 2024]

DOI: https://doi.org/10.18256/2238-0604.2023.v19i1.4925

Como citar este artigo / How to cite item: clique aqui!/click here!

Abstract

The article is focused on the analysis of the unity of law-enforcement approaches for resolving medical disputes and their significance for a single medical space formation. A great influence of case-law on the health care system functioning was established. The authors analyzed the most common disputes in the medical area, where achieving a reasonable balance of private and public interests is of great importance for a single medical space formation, namely for: ensuring information security in the healthcare sector; organizing medical examinations and preventive vaccinations; ensuring certain rights of patients (respecting the rights of persons with mental or behavioral disorders; realization of reproductive rights; ensuring the right of patients or relatives to compensation for moral damage caused during the provision of medical care). The key legal positions of the Supreme Court on such categories of cases were studied. It was noted that the activity of the European Court of Human Rights, which acts as a supranational mean of human rights protection, is important for national judicial practice. At the same time, the authors indicated a significant number of deviations from precedent practice, which is negatively perceived by the ECHR and recognized as violations of the Convention on the Protection of Human Rights and Fundamental Freedoms. Judicial monitoring as a modern tool for ensuring regulatory legal acts' quality and effective mean for eliminating medical legislation's defects was studied. The authors offered to use court decisions as law sources in order to overcome legislative gaps, ambiguous and contradictory legal interpretations.

Keywords: case-law; medical disputes; protection of medical rights; information security in the healthcare sector; judicial monitoring; single medical space.

Resumo

O artigo concentra-se na análise da unidade das abordagens de aplicação da lei para a resolução de disputas médicas e sua importância para a formação de um espaço médico único. Foi estabelecida uma grande influência da jurisprudência no funcionamento do sistema de saúde. Os autores analisaram as disputas mais comuns na área médica, onde o alcance de um equilíbrio razoável entre interesses privados e públicos é de grande importância para a formação de um espaço médico único, nomeadamente para: garantir a segurança da informação no setor da saúde; organização de exames médicos e vacinações preventivas; garantia de determinados direitos dos pacientes (respeito aos direitos das pessoas com transtornos mentais ou comportamentais; realização dos direitos reprodutivos; garantia do direito dos pacientes ou familiares à indenização por danos morais causados durante a prestação de cuidados médicos). Foram estudadas as principais posições jurídicas do Supremo Tribunal sobre tais categorias de casos. Observou-se que a actividade do Tribunal Europeu dos Direitos Humanos, que actua como um meio supranacional de protecção dos direitos humanos, é importante para a prática judicial nacional. Ao mesmo tempo, os autores indicaram um número significativo de desvios de práticas precedentes, que são percebidas negativamente pela CEDH e reconhecidas como violações da Convenção sobre a Proteção dos Direitos Humanos e das Liberdades Fundamentais. Estudou-se o monitoramento judicial como ferramenta moderna para garantir a qualidade dos atos normativos e meio eficaz para eliminar os vícios da legislação médica. Os autores propuseram utilizar as decisões judiciais como fontes jurídicas, a fim de superar lacunas legislativas e interpretações jurídicas ambíguas e contraditórias.

Palavras-chave: jurisprudência; litígios médicos; proteção dos direitos médicos; segurança da informação no setor da saúde; acompanhamento judicial; espaço médico único.

1 Introduction

The formation of an effective and efficient single medical space, among other things, requires a comprehensive approach to improving legislation, since it is known that despite a significant number of adopted regulatory legal acts in the healthcare sector, there are still terminological inaccuracies, internal contradictions, ambiguity in the understanding of medical legislation, which needs interpretation together with the agreement of content and correct application. Courts play an important role in the development of a single medical space, because, first, they ensure the compliance with unified approaches to the implementation of health care norms; secondly, form legal positions on important issues of the medical sector functioning.

Case-law can indeed significantly affect the functioning of the health care system. An example of this is Brazil, where the constitutional enshrinement of the right to health gave citizens the right to file suits on the country's state-run national health care system, known as "Sistema Único de Saúde" (SUS) demanding the foundation for treatment they did not receive. The courts in most cases recognize the right of the plaintiff to receive medical assistance, if the need for treatment is confirmed by a medical prescription for treatment. The judicial power still believes that individual needs and the right to health prevail over the priority government decisions. However, there are concerns that the courts could be used to force governments to spend disproportionately more on expensive treatment for those who can afford to hire defense attorneys and litigate cases, at the expenses of more cost-effective interventions that would benefit larger segments of the population. Such consequences can be particularly harmful in the context of limited budgets and high health inequalities. In particular, the federal government spent more than 1.3 billion reais (US $350 million) in 2016 to purchase drugs in compliance with court decisions, which was more than spent on HIV/AIDS drugs in the same year. As a result, patients who file suits, receive privileged access to publicly funded health care, and governments lose control over decision-making processes that should prioritize cost-effectiveness, equity, and public health care needs (Wang *et al*., 2020).

That is the reason why legal analysis and practical measurement of the influence of case-law for the development of a single medical space, as well as the formation of suggestions to ensure the unity of case-law in the healthcare sector in accordance with the European standards of judicial protection, are extremely important.

2 Methodology

The authors of the article have used general theoretical and special methods of scientific cognition. Thus, the method of theoretical analysis assisted to determine the

concepts and features of judicial monitoring. The methods of analysis and synthesis were used while determining the main landmarks of a single medical space, which contributed to the identification and interpretation of the most key legal positions of judicial authorities in medical cases regarding law- enforcement. The system and structural method was applied in determining specific legal positions to achieve a reasonable balance of private and public interests in the formation of a single medical space. The sociological method was used to generalize the empirical data regarding deviations by the courts from precedent practice. The use of the logical and semantic method provided an opportunity to systematically analyze the concept of legal positions of the Supreme Court, their significance for the unified case-law and the impact on the formation of a single medical space. Forecasting and generalization methods were used to determine perspective areas for ensuring the unity of case-law and uniform approaches in law- enforcement within the medical sector.

It should be noted that the issue of the influence of case-law on the development of regulatory legal acts in the healthcare sector became the basis for research by Ukrainian scholars on the formation of a single medical space in the legal framework. It is important to single out such scholars as N.M. Parkhomenko (2020), O.V. Drozdova (2017), V.I. Teremetskyi and G.M. Muliar (2020), who focused many works and scientific papers to the issues of law-enforcement practice in Ukraine and its influence on the formation of legal regulation of social relations. Regarding aspects of the development of a single medical space in Ukraine, it is worth noting the following researchers: Ia.O. Bernaziuk (2020), B.O. Lohvynenko (2017), Ya.F. Radysh (2021), S.H. Stetsenko (2022) and others. However, the issue of the impact of case-law on the formation of a single medical space and the search for effective mechanisms of legal-enforcement in the medical area remains understudied.

3 Results and Discussion

Monitoring and analysis of the activity of courts of all levels on medical disputes plays an important role. However, special attention should be paid to court decisions, the content of which is related to and resolves an exclusive legal problem characterized by different application of the norms of material law, or by the lack of norms regulating disputed relations, or gaps in the implementation of specific legal relations.

The legal position of the Supreme Court becomes important in this context – it is a conclusion regarding the correctness of applying the law norm in specific legal relations (as a result of the accomplished interpretation, the elimination of gaps in the legislation, etc.), which is mandatory for the resolution of similar disputes by subjects of authoritative powers, including the courts. It is due to the obligation that legal positions in their totality ensure the unity of case-law.

Compliance with the principle of the unity of case-law must be understood as a beginning, an idea that provides courts with uniform application of regulatory legal acts in the judiciary and their interpretation by higher judicial authorities when deciding court cases (Parkhomenko, 2020).

Medical disputes can be generally attributed to the category of complex cases that require an understanding of their specific features, methods and tactics of consideration. We have highlighted the most common disputes in the medical field, where achieving a reasonable balance of private and public interests is of great importance for the formation of a single medical space, and the legal positions of the Supreme Court determine the unity of law- enforcement approaches.

1. Ensuring information security in the healthcare sector. Disputes between individuals, legal entities under private and public law regarding the violation of the legal regime of medical secrecy are frequent. The requirements of the present time strengthen and actualize the need to protect confidential medical information, taking into account the epidemic of recent years all over the world; the war in Ukraine and its consequences, which, among other things, consist in the increase of injured and sick persons, as well as significant migration of the population; globalization of electronic networks.

The State regional development strategy for 2021–2027 stipulates that executive power agencies and local self-government agencies can have access to data from various information sources exclusively taking into account the requirements for protecting the confidentiality of information for the formation and monitoring of regional policy (State regional development strategy for 2021–2027, 2020). However, such powers are close to ensuring the privacy of a person.

The basic legal position of the courts is that information about the health situation of an individual is personal data, therefore its collection or receipt can be carried out only with the consent of such a person, besides certain legal exceptions.

At the same time, the Supreme Court specifies within this issue that such information cannot be disclosed to persons whose right does not arise on the basis of the law and who have not confirmed special powers to receive it. For example, the chief physician is not obliged to provide the grandmother with information about the health situation of her grandson and the medical measures taken in relation to him, if there is no mother's consent, who is not deprived of parental rights (Resolution of the Supreme Court in case No. 645/5493/16 -ts, 2018); a patient has the right to receive reliable and complete information about his / her health situation, however, the medical institution is not obliged to provide such information to a patient's representative (defense attorney) in case if there are no appropriate powers determined by the terms of the contract on the provision of legal assistance (Resolution of the Supreme Court in case No. 442/4791/17, 2020).

At the same time, if a physician has legal grounds for disclosing the medical secret, then the court takes his side (Blinova; Potip, 2021). Thus, the Supreme Court recognized as legal the actions of the physicians of the ex-head of the State Fiscal Service, Roman Nasirov, and stopped the proceedings for the recovery of one million hryvnias based on his lawsuit against Maksym Sokolov, MD, cardiologist, who testified about his health in court in 2017.

Obviously, information security is also applied to other aspects of the circulation of medical information, given the rapid development and introduction of information technologies, therefore there is an urgent need to protect such information, to ensure its integrity, availability and confidentiality. It is necessary to develop and implement an information security policy aimed at creating a common information space and harmonizing national legislation with European legislation in order to have a high level of information protection in the healthcare sector.

2. *Organization of medical examinations and preventive vaccinations.*

One of the most important areas of medicine is prevention, which includes organizational, medical, socio-economic and other measures, the purpose of which is to identify and eliminate health-threatening conditions, to prevent the occurrence of diseases, as well as to preserve the reserve of a healthy organism.

The purpose of the medical examination is a comprehensive assessment of the health situation of certain categories of persons (employees engaged in heavy work, work with harmful or dangerous working conditions or those requiring professional selection, and annually for persons under the age of 21) (The procedure for conducting medical examinations of employees of certain categories, 2007), determining the health situation of an employee and his ability to perform the relevant work duties, as well as preventing the occurrence and spread of infections.

The legal position of resolving disputes regarding medical examinations is unambiguous and consists in the fact that the legislation does not oblige an employee to undergo a medical examination only in the medical institution designated by the employer (Resolution of the Supreme Court in case No. 712/3841/17, 2019). At the same time, the employer is obliged to organize preliminary (upon hiring) and periodic (during employment) medical examinations of certain categories of employees at own expenses. The absence of an employee's position in the List of professions for whom medical examination is mandatory does not oblige the employer to pay for such services (Resolution of the Supreme Court in case No. 754/3152/18-ts, 2020). The Supreme Court also emphasizes that refusal to undergo a medical examination is not a reason to suspend an employee from work in case an employer fails to fulfill the obligation to organize such an examination (Resolution of the Supreme Court in case No. 428/2053/17, 2020).

Vaccination is the most effective, safe and affordable method of reducing the level of infectious diseases. The issue of vaccination related to the epidemic of COVID-19

has recently gained special relevance all over the world. Ya. O. Bernaziuk noted that the Supreme Court formulated a number of important legal positions regarding the application of preventive measures to protect the population from infectious diseases, in particular: in case of "competition" of fundamental constitutional rights (to education, inviolability and freedom, health care, etc.), the courts must provide an assessment for maintaining the optimal balance between the intervention of the subject of authoritative powers into the corresponding guaranteed rights of a person and the public interest; the task of the state is to ensure the optimal balance between the implementation of the child's right to education and the interests of other children; in matters of prevention of infectious diseases, the principle of the importance of public interests prevails over personal interests, but only if such intervention has objective grounds; regarding the realization of the right to education of children whose parents refuse to give the child preventive vaccinations, the courts note that an alternative form of education can be chosen for such children, for example, remote or individual (Bernaziuk, 2022).

It must be stated that there is an ambiguous perception of vaccination in society. The WHO has called "vaccine mistrust" as one of the top ten global health care problems (Tolokova; Galchuk, 2019). However, immunoprophylaxis currently remains the only effective way to ensure health against vaccine-preventable diseases and to reduce the burden on the health care system.

3. *Guarantees for ensuring certain rights of patients*.

The provision of medical assistance to persons with mental or behavioral disorders is a special category of cases, since forced treatment of such persons, which is a last resort when it is impossible to solve the problem with less burdensome actions, should not violate their rights. Courts when resolving disputed situations must maintain a reasonable balance of ensuring public interests and guarantees of providing quality medical care to persons with mental or behavioral disorders and their protection.

The legal position of the Supreme Court in disputes of this type is as follows:

1. a person suffering from a mental illness, as a result of which he / she commits and manifests real intentions to commit actions containing the signs of danger to him / her and others, is subject to compulsory hospitalization in a psychiatric institution;
2. the presence of only the opinion of psychiatrists about the signs of a mental disorder of a patient, without other medical data, which is proper and admissible evidence of the relevant state of health, is insufficient for making a decision on forced hospitalization into a psychiatric institution without a person's conscious consent (Supreme Court, 2021). However, the consent of an incapable person to treatment can be questioned by interested parties and appealed in court (Teremetskyi, Kolodchyna, 2021, p. 30).

3. there are also many contradictions while implementing reproductive rights, which is a peculiar element of the inalienable human right to life. The axiological value of legal relations in the field of human reproductive activity is that it is understood not as a purely private sphere, but as an activity that concerns the entire society, provides opportunities for the continuation of life for subsequent generations, determines heredity and interaction between age-related cultural stereotypes (Blihar *et al*., 2022). However, there is still a need to study the legitimacy of postmortal reproduction in many countries, given the possibilities of scientific achievements in the field of assisted reproductive technology, in particular the development of postmortal reproduction, the need to give birth to children in such a way, ethical considerations about the feasibility of postmortal reproduction (Chekhovska *et al*., 2021, p. 2).

The system of reproductive rights as personal non-property rights of individuals should also include the right to reproductive health. Accordingly, a person is empowered to use their reproductive health, which can be in the form of surrogate maternity or germ cells donation.

At the current stage, the legal adaptation of society to the development of medicine in the field of reproductive technologies is still ongoing in Ukraine. Disputes arising from the birth of several children by a surrogate mother, the birth of a dead child or a child with certain defects, a miscarriage or the need for an artificial termination of pregnancy based on medical indications, etc., are currently common. Such circumstances are often not provided in the terms of the contract or make its execution impossible. That is the reason that the courts take a balanced approach to solving such cases. Thus, the plaintiffs (spouses) in case No. 150/628/16-ts referred to the departure of the defendant (potential surrogate mother) from Kyiv as a violation of the terms of the contract. However, the executor's obligation to permanently reside in Kyiv for the entire period of validity of this contract arises only from the moment of confirmation of pregnancy, which did not happen (Resolution of the Supreme Court in case No. 150/628/16-ts, 2019). Therefore, the legal position of the Supreme Court is unambiguous - if pregnancy did not occur as a result of the "surrogate maternity" program, the consequences of the contract on the provision of medical services (surrogate maternity) cannot be applied. Thus, the state has an obligation not only to recognize, but also to guarantee human rights to reproduction and other related rights, therefore the court acts as one of the subjects of the institutional system whose activity ensures this.

Another type of substantive consideration of disputes that require the unity of law- enforcement approaches is the right of a patient or relatives to compensation for moral damage caused to the patient during the provision of medical care. We agree with O.V. Drozdova that it seems impossible to develop the universal methodology for determining the amount of compensation for such damage. The amount of such compensation to a large extent depends on the nature of the disputed legal relations,

therefore we consider it appropriate to develop the uniform guidelines for all courts to determine the amount of compensation for moral damage for certain categories of cases, in particular, for cases related to the protection of patients rights. These fundamental indicators should be developed on the basis of the generalization of case-law and contained, for example, in the decision of the Plenum of the Supreme Court, where the minimum and maximum limits of the amount of compensation for moral damage related to one or another violation of patients rights should be established, specifying their amount annually taking into account the "standard of living". Following them, the court will be able to determine the amount of compensation in accordance with the law, that is, taking into account the requirements of reasonableness and justice (Drozdova, 2017).

The activity of the ECHR, which acts as a supranational mean of protecting human rights, is important for national case-law. The analysis of the ECHR practice gives reason to believe that the main subject matter of consideration were cases related to the realization of reproductive rights, the right to proper medical care and quality medicinal products, the right to information about the situation of own health and its dissemination, dishonest performance of professional duties by physicians, violation of the patients rights in places of imprisonment or restriction of liberty, the right to respect for private and family life, etc. (European Court of Human Rights).

However, it is worth noting that the Grand Chamber, despite all the positive aspects of legal positions, colossal work on the way to the unity of case-law, deviated 165 times from the conclusions of the courts of cassation, the Supreme Court and its own conclusions, which indicates the lack of unity of judicial practice even at the highest level staffed by professional judges, who have the Scientific and Advisory Board composed of leading scientists of Ukraine. The gap between the effect of laws in practice and their social function of regulating law and order hints at certain troubles in law-enforcement (Biletska, 2023). Thus, the trust to court proceedings among the participants of the dispute, fairness, permanence is doubted, since there is no mechanism for restoring the violated right of the party under such conditions. There is a contradiction of such components of the rule of law principle as legal certainty and dynamic interpretation of law.

At the same time, the ECHR in its decisions recognizes deviations from precedent practice as a violation of the Convention on the Protection of Human Rights and Fundamental Freedoms (clause 1 of the Art. 6), determining the significance and duration of disagreements, the existence of a mechanism for eliminating the consequences and their application in each case. However, it is worth noting that the categorical prohibition of deviating from the legal position of the Supreme Court will make it impossible to correct judicial errors made as a result of different interpretation of law norms. Due to the above, there is a need for a clear legislative procedural regulation with the specification of the grounds for deviating from the established legal position, the order and consequences, and the obligation to apply it by lower courts.

The legislator, forming the most optimal and effective mechanism for the regulation of medical legal relations, must fully take into account the results of law-enforcement and correct existing legal conflicts. In this context, it is appropriate to mention the Law of Ukraine "On Law-Making Activity" (Law of Ukraine No. 3354-IX, 2023), which defines the specifics of legal monitoring of regulatory legal acts based on the results of the generalization of case-law and the analysis of judicial statistics. In particular, the Supreme Court is given the right to appeal to law-making entities with an offer to amend or terminate a regulatory legal act that is ineffective when applied, creates conflicts or does not contain a mechanism for implementation. This practice should be considered positive, since there is a clear relationship between regulatory legal acts and the results of their actions.

It is worth noting that judicial monitoring has the following characteristics: (a) implementation of monitoring on a professional basis; (b) implementation of monitoring within procedural forms established by law; (c) implementation of monitoring by an authorized and competent subject of judicial power; (d) implementation of monitoring based on the analysis of judicial acts and directly of the court proceedings; (e) distinguishing certain precedents in the process of monitoring formed on the basis of specific individualized decisions (Materials of the International Conference, 2022). We believe that judicial monitoring is a modern tool for ensuring the quality of regulatory legal acts and can contribute to the effective elimination of defects, in particular, medical legislation.

Therefore, there should be unity in the activities of parliamentarians and judicial authorities, focused on social problems in the healthcare sector, which corresponds to the model of the development of law in many democratic countries.

4 Conclusion

The main orientations of a single medical space in Ukraine can be summarized as follows: a single legal framework for the functioning of all health care institutions; unity of regulatory quality assurance of medical care; uniform approaches to financing, organizational and resource support, control and quality for the provision of various types of medical care; compliance with clear standards of medical services.

The unity of case-law, uniform approaches in law-enforcement, which guarantees the effectiveness of judicial protection of the violated rights of the subjects of medical legal relations and faith in the rule of law should be the key mechanism for the protection of defined priorities. Considering the dynamics of the situation in our country, the possibility of using court decisions as a source of law in order to overcome legislative gaps, ambiguous and contradictory legal interpretations is considered to be the most needed. We believe that "specimen cases" will contribute to the mobility of the legal system, capable of responding to social challenges and to be actively developed.

References

BERNAZIUK, Ia. Peculiarities of ensuring the unity of judicial practice and deviation from the legal positions of the Supreme Court (on the example of the resolution of public legal disputes). *Bulletin of the LSUIA named after E. O. Didorenko*, v. 2, n. 90, p. 77-89, 2020. https://doi.org/10.33766/2524-0323.90.77-89

BILETSKA, L. Does the solution of an exclusively legal problem contribute to the unity of judicial practice? *Legal newspaper,* 2023. https://yur-gazeta.com/publications/practice/sudova-praktika/chi-spriyae-ednosti-sudovoyi-praktiki-virishennya-viklyuchnoyi-pravovoyi-problemi.html

BLINOVA, G.; POTIP, M. (). Procedural aspects of the protection of secrecy about the state of health. *Law and society*, v. 6, p. 28-36, 2021.

BLIHAR, M.; ZHAROVSKA, I.; SHANDRA, B.; ZAYATS, O. Legal relations in the field of human reproductive activity. *Reproductive endocrinology,* p. 63-64, 97–104. 2022. https://doi.org/10.18370/2309-4117.2022.63.97-104

CHEKHOVSKA, I.; TEREMETSKYI, V.; BOZHUK, I.; KNYAZKA, L.; OBRYVKINA, O.; MENIV, L. Postmortal and Posthumous Reproduction: Ethical and Legal Approaches to the Legalization. *Journal of Legal, Ethical and Regulatory Issues*, v. 24, 1S, p. 1-8, 2021. https://www.abacademies.org/abstract/postmortal-and-posthumous-reproduction-ethical-and-legal-approaches-to-the-legalization-12228.html

WANG, D.; VASCONCELOS, N. P. DE; POIRIER, M. J.; CHIEFFI, A.; MÔNACO, C.; SRITHARAN, L.; KATWYK S. R. VAN; HOFFMAN, S. J. Health technology assessment and judicial deference to priority-setting decisions in healthcare: Quasi-experimental analysis of right-to-health litigation in Brazil. *Social Science & Medicine*, v. 265, 113401, 2020. https://doi.org/10.1016/j.socscimed.2020.113401

DROZDOVA, O. Civil legal protection of patients' rights in the context of the practice of the European Court of Human Rights: thesis. Ph.D. legal Sciences: 12.00.03. Kharkiv, 243, 2017.

European Court of Human Rights. https://www.echr.coe.int/Pages/home.aspx?p=home.

Law of Ukraine No. 3354-IX (August 24, 2023). On law-making activity. https://zakon.rada.gov.ua/laws/show/3354-20#Text

LOHVYNENKO, B. Legal regulation of health care of citizens in Ukraine: current problems. *Public law,* v. 1, p. 100-105, 2017. http://nbuv.gov.ua/UJRN/pp_2017_1_15

Order of the Ministry of Health of Ukraine. No. 246. On approval of the Procedure for conducting medical examinations of employees of certain categories. May 21, 2007. https://zakon.rada.gov.ua/laws/show/z0846-07#top

PARKHOMENKO, N. The unity of judicial practice as a component of legal regulation. *Journal of the Kyiv University of Law*, v. 3, p. 26-30, 2020. https://doi.org/10.36695/2219-5521.3.2020.02.

RADYSH, Y.; KOSHOVA, S.; MIKHALCHUK, V. The unified medical space of Ukraine – a new paradigm for the development of the national health care system. *Public administration: improvement and development*, v. 9, 2021. https://doi.org/10.32702/2307-2156-2021.9.30

Resolution of the Cabinet of Ministers of Ukraine No. 695. On the approval of the State Regional Development Strategy for 2021–2027. August 5, 2020. https://zakon.rada.gov.ua/laws/show/695-2020-%D0%BF#top

Resolution of the Supreme Court in case No. 645/5493/16-ts (2018). http://reyestr.court.gov.ua/Review/76825941

Resolution of the Supreme Court in case No. 442/4791/17 (2020). https://reyestr.court.gov.ua/Review/93666639

Resolution of the Supreme Court in case No. 712/3841/17 (2019). https://reyestr.court.gov.ua/Review/84005754

Resolution of the Supreme Court in case No. 754/3152/18-ts (2020). https://reyestr.court.gov.ua/Review/87453155

Resolution of the Supreme Court in case No. 428/2053/17 (2020). https://reyestr.court.gov.ua/Review/90280126

Resolution of the Supreme Court in case No. 150/628/16-ts (2019). https://reyestr.court.gov.ua/Review/85390164.

Review of the judicial practice of the Civil Court of Cassation as part of the Supreme Court in cases of disputes arising in the field of health care (2021). Supreme Court. https://ips.ligazakon.net/document/VSS00788

TEREMETSKYI, V.; MULIAR, G. Harmonization of National Courts' Activities with the Case-law of the European Court of Human Rights in the Context of Protecting the Rights to Health Care. *Bulletin of Mariupol State University*. Series: Law, 20, p. 101-112, 2020. http://visnyk-pravo.mdu.in.ua/ARHIV-uk/20/14.pdfThe court recognized the actions of Nasirov's doctors as legal and closed the proceedings for recovery of one million hryvnias in his favor. https://www.radiosvoboda.org/a/news-nasirov-likar-pozov/30862923.html

TEREMETSKYI, V.; KOLODCHYNA, R. Provision of Forced Psychiatric Care in the Context of International Narratives. *Legal, Economic Science and Praxis*, v. 3, p. 28-32, 2021.

TOLOKOVA, T.; GALCHUK, O. Current issues of vaccination in Ukraine. *Nursing*, v. 4, p. 15-18, 2019. https://doi.org/10.11603/2411-1597.2019.4.10830

The role of the Constitutional Court of Ukraine in the implementation of the strategic course of the state to acquire full membership of Ukraine in the European Union: electronic coll. materials of the International conf. (Kyiv, June 28, 2022), 193.

Unified medical space of Ukraine: legal dimension: monograph / edited by S.G. Stetsenko (2022) Kharkiv: Pravo, 672.