

## **LEGAL PROTECTION IN THE HEALTHCARE SECTOR: CONSTITUTIONAL AND INTERNATIONAL DIMENSIONS**

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*This article addresses the issue of legal protection in the healthcare sector through the lens of constitutional principles and international legal standards. The study focuses on how recent challenges, including healthcare reform, the COVID-19 pandemic, and wartime conditions, have affected the practical implementation of the right to healthcare and access to effective legal remedies.*

*Particular attention is given to the relationship between formal legal guarantees and their actual realization. The paper examines the role of administrative regulation, especially in the field of public procurement, as well as the importance of judicial protection, including proper reasoning of court decisions and their enforcement. It is argued that without effective implementation mechanisms, legal norms in the healthcare sector risk remaining declarative.*

*The article also considers the impact of international standards on national healthcare policy, including the experience of mandatory vaccination and the role of local authorities in ensuring public health measures. The author emphasizes that wartime conditions significantly complicate access to healthcare and require a reassessment of the state's positive obligations.*

*It is concluded that legal protection in healthcare should be understood as a system that combines constitutional guarantees, administrative instruments, and judicial mechanisms. Strengthening this system requires not only legislative improvements but also practical changes aimed at ensuring real, effective protection of human rights.*

*Keywords: healthcare law, legal protection, right to healthcare, judicial protection, enforcement of court decisions, public procurement, constitu-*

*tional principles, international standards, public health, wartime conditions.*

### **Formulation of the Problem**

The issue of legal protection in the healthcare sector has become significantly more complicated in recent years. This is not only due to reforms but also because of the pandemic and, especially, wartime conditions. All these factors have shown that formal legal guarantees do not always work in practice the way they are supposed to.

I believe that healthcare law should not be treated as a narrow or purely sectoral field. It is, rather, a space where constitutional principles, administrative regulation, and international obligations intersect. In Ukraine, this is particularly visible, as the process of adapting legislation to European standards directly affects how healthcare functions in reality.

As I see it, one of the key problems is the gap between declared rights and their actual implementation. For instance, the issue of adapting administrative legislation in the field of healthcare procurement to EU standards has been analyzed in the literature [1]. However, I would like to emphasize that formal alignment does not automatically lead to real transparency or efficiency.

Another important point concerns the effectiveness of legal remedies. The right to healthcare is closely connected with the right to judicial protection. At the same time, I consider it important to stress that the effectiveness of such protection depends not only on access to

courts but also on whether court decisions are actually enforced [2]. Without enforcement, legal protection loses much of its practical value.

I also think that modern challenges in healthcare raise new legal questions. Mandatory vaccination, public health restrictions, and emergency measures require a careful balance between individual rights and public interest. In practice, this balance is not always easy to achieve, which creates legal uncertainty [6].

In my view, the issue of legal protection in healthcare should be considered within a broader constitutional framework. It is not only about access to medical services but also about the rule of law, legal certainty, and effective remedies.

**The purpose of this article is** to analyze the current state of legal protection in the healthcare sector, identify existing problems, and outline possible directions for its further development, taking into account constitutional principles and international standards.

#### **Analysis of Doctrinal Studies**

In my opinion, Ukrainian legal scholarship provides a meaningful but somewhat fragmented understanding of legal protection in healthcare.

A significant contribution has been made by Deshko Liudmyla and co-authors. Their research on public procurement in healthcare shows how important it is to align administrative procedures with EU legislation [1]. At the same time, I would argue that these studies also demonstrate that formal harmonization alone is not enough without proper implementation.

Another important direction concerns the enforcement of judicial decisions. It has been shown that the effectiveness of legal protection depends directly on whether court judgments are actually executed [2]. In the healthcare sector, this is particularly critical, because delays in enforcement may affect human life and health.

The issue of justification of judicial decisions has also been explored in detail [4]. In my view, proper reasoning is not just a formal requirement. It is a guarantee of fairness and transparency, and it directly influences trust in the legal system.

The collective work on the supremacy of constitutional norms emphasizes the central role of the Constitution in the legal system [5]. As I see it, this means that all healthcare regulations must be consistent with constitutional guarantees.

The research on mandatory vaccination of medical personnel during COVID-19 is also important [6]. It shows that public health measures can be justified if they meet the criteria of legality, necessity, and proportionality.

In addition, studies on international obligations in the field of public health highlight the role of local authorities in implementing healthcare policy [7]. I consider this aspect especially important in crisis situations.

At the same time, I believe that existing research does not fully address the realities of wartime. Issues such as access to healthcare in occupied territories or the functioning of medical institutions under extreme conditions remain insufficiently explored.

#### **Presenting the Main Material**

In my opinion, legal protection in the healthcare sector should be understood as a complex system that combines constitutional guarantees, administrative mechanisms, and judicial protection.

First, the constitutional dimension is fundamental. The principle of supremacy of constitutional norms [5] requires that all healthcare policies comply with basic rights and freedoms. This includes not only access to care but also equality and legal certainty.

Second, administrative regulation plays a crucial role. Public procurement, licensing, and regulation of medical services directly influence the availability and quality of healthcare. However, as I see it, the main issue is not the absence of regulation but problems with its implementation [1].

Third, judicial protection remains essential. At the same time, I would like to emphasize that its effectiveness depends on proper reasoning of judicial decisions [4] and their actual enforcement [2]. Without these elements, judicial protection becomes largely formal.

I also think it is important to consider international standards. For example, the experience with mandatory vaccination [6] shows that

even restrictive measures can be justified if they are proportionate and legally grounded.

At the same time, wartime conditions significantly complicate the situation. Access to healthcare becomes uneven, and legal mechanisms may not function properly. In such circumstances, the state's positive obligations become especially important. Even with limited resources, the state must take steps to ensure access to healthcare.

Another issue, in my view, is the role of local authorities. Research shows that they are key actors in implementing healthcare policy [7]. However, their capacity is often limited, especially in crisis conditions.

Finally, I believe that broader principles of international law should also be taken into account. For example, the principle *de minimis non curat praetor* [9] may be relevant in certain contexts. However, in healthcare, its application should be cautious, since even minor violations can have serious consequences.

The issue of legal protection in the healthcare sector becomes especially tangible in wartime. What usually looks coherent on paper starts to work very differently in practice. The gap between legal guarantees and real access to healthcare becomes more visible and, in some cases, quite critical.

War affects not only the availability of medical services but also the way legal rules operate. Formal rights remain unchanged, yet their implementation often depends on circumstances that are difficult to control. This is particularly noticeable in areas affected by active hostilities or in temporarily occupied territories, where access to healthcare may be limited regardless of existing legal provisions.

One of the main difficulties lies in the disruption of institutional capacity. Medical facilities may be damaged or forced to relocate, healthcare workers may leave or be unable to continue their work, and supply systems may function irregularly. Under such conditions, established administrative and legal procedures do not always produce the expected results. This raises a practical question about how legal protection can be ensured when the system itself is unstable.

Access to legal remedies also becomes more complicated. Even when there are clear indica-

tions that the right to healthcare has been affected, individuals may face obstacles in trying to defend their rights. These can include limited access to courts, problems with collecting evidence, or uncertainty about which authority is responsible in a конкретній ситуації. As a result, the right to judicial protection may formally exist but remain difficult to use in practice.

The role of the state in such conditions becomes particularly important. Even with limited resources, there is still an expectation that basic steps will be taken to maintain access to healthcare as much as possible. The scope of these obligations may change, but the need to act in a way that protects life and health does not disappear.

Local authorities often play a key role here. In many cases, they are the ones dealing with immediate healthcare needs and trying to respond quickly to changing circumstances. At the same time, their ability to act effectively depends on coordination with central authorities and on the resources available to them.

It is also noticeable that international standards and external support become more relevant in wartime. When national mechanisms are under pressure, additional frameworks and cooperation can help fill some of the gaps.

Overall, wartime conditions show quite clearly that legal protection in healthcare cannot rely only on formal rules. What matters is how these rules work in reality. The situation highlights both the vulnerabilities of the system and its ability to adapt, which makes it a useful basis for further legal reflection and development.

When the focus shifts from survival to recovery, the discussion about legal protection in healthcare changes quite noticeably. The problems do not disappear; they take a different form. Instead of emergency responses, attention moves to rebuilding systems, restoring trust, and making sure that the same vulnerabilities do not reproduce themselves.

One of the first things that becomes obvious is that rebuilding healthcare infrastructure is not only a technical or financial task. It is also a legal one. Decisions about where and how to restore hospitals, how to prioritize regions, or how to allocate resources inevitably raise ques-

tions of fairness, transparency, and accountability. If these questions are not addressed clearly, there is a risk that recovery efforts may deepen existing inequalities.

Another issue that tends to surface is continuity of rights. People who were displaced, injured, or otherwise affected during the war often remain in a legally uncertain position. Access to medical services, reimbursement, or long-term care may depend on fragmented rules or temporary arrangements. This creates a situation where the formal right to healthcare exists, but its practical realization varies from case to case.

It also becomes clear that legal protection cannot be limited to restoring what existed before. In many respects, the pre-war system had its own weaknesses. Simply recreating it would mean preserving those problems. This is why post-war recovery opens a window for rethinking regulatory approaches, especially in areas such as public procurement, access to medicines, and oversight of medical services.

At the same time, the question of accountability becomes more prominent. Decisions taken during the war - including those related to allocation of resources or prioritization of care - may later require legal assessment. This does not necessarily mean assigning blame in every case, but it does require clear procedures for reviewing actions and ensuring that individuals have access to remedies where needed.

Another layer concerns the role of international cooperation. Post-war recovery usually involves external funding and technical assistance. This creates additional legal dimensions, including compliance with international standards, monitoring of funds, and coordination between different actors. If these processes are not properly regulated, they may lead to new risks instead of solving existing ones.

Local authorities are again at the center of many processes. They are often responsible for implementing recovery measures on the ground. At the same time, their capacity varies, and without proper legal support and coordination, this may result in uneven access to healthcare across different regions.

Overall, post-war recovery highlights a simple but important point: legal protection in healthcare is not only about reacting to vio-

lations. It is also about creating conditions in which such violations are less likely to occur. This requires attention not just to legal norms themselves, but to how they are applied in practice and how they respond to real needs.

### **Conclusions**

In my opinion, legal protection in the healthcare sector is a complex and evolving phenomenon. The analysis shows that Ukrainian scholarship provides a solid theoretical basis, particularly in the works of Deshko Liudmyla and co-authors. At the same time, I believe that these approaches need further development in light of current challenges. As I see it, the main problems include the gap between legal norms and their implementation, insufficient effectiveness of judicial protection, and the lack of comprehensive approaches adapted to wartime conditions. I consider that improving legal protection requires a combination of measures. These include strengthening enforcement of judicial decisions, improving administrative procedures, ensuring compliance with constitutional principles, and integrating international standards. In my view, special attention should be paid to mechanisms that ensure real, not merely formal, protection of rights. This involves better coordination between public authorities and more effective use of legal remedies. Without such changes, legal protection in healthcare risks remaining declarative, which is especially dangerous in situations where human life and health are directly affected.

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**ПРАВОВИЙ ЗАХИСТ У  
СФЕРІ ОХОРОНИ ЗДОРОВ'Я:  
КОНСТИТУЦІЙНИЙ ТА  
МІЖНАРОДНИЙ ВИМІРИ**

У статті розглядаються питання правового захисту у сфері охорони здоров'я

крізь призму конституційних засад та міжнародно-правових стандартів. Особливу увагу приділено впливу сучасних викликів, зокрема реформування системи охорони здоров'я, пандемії COVID-19 та умов воєнного стану, на реалізацію права кожного на медичну допомогу та ефективний юридичний захист.

Акцент зроблено на співвідношенні формально закріплених прав і їх практичної реалізації. Обґрунтовується, що за відсутності ефективних механізмів реалізації навіть якісні правові норми можуть залишатися декларативними.

Окремо розглянуто вплив міжнародних стандартів на формування національної політики у сфері охорони здоров'я, зокрема у контексті обов'язкової вакцинації та ролі органів місцевого самоврядування у забезпеченні права кожного на охорону здоров'я. Наголошено, що умови війни суттєво ускладнюють доступ до медичних послуг і потребує переосмислення питання позитивних обов'язків держави.

Зроблено висновок, що правовий захист у сфері охорони здоров'я доцільно розглядати як комплексну систему, яка поєднує конституційні гарантії, адміністративні механізми та судові засоби захисту. Її ефективність залежить не лише від нормативного регулювання, але й від практичної здатності забезпечити реальне відновлення порушених прав.

**Ключові слова:** право на охорону здоров'я, правовий захист, судовий захист, виконання судових рішень, публічні закупівлі, конституційні принципи, міжнародні стандарти, публічне здоров'я, адміністративне регулювання, воєнний стан.