

REVIEW ARTICLE

Eur J Med Transl Biosci. 2026;1(1):91–99 · Open Access · CC BY 4.0 · Selected from ICMTB, peer reviewed by members of the editorial board

EUROPEAN COURT OF HUMAN RIGHTS PRACTICE ON VIOLATION OF PATIENT AUTONOMY AS AN ETHICAL PRINCIPLE IN MEDICINE

Eda Çela^{1*}, Brunilda Zllami²

¹Department of Basic Sciences, Faculty of Dental Medicine, Western Balkans University, 1051, Tirana, Albania

²Department of Medicine, Faculty of Technical Medical Sciences, Western Balkans University, 1051, Tirana, Albania

*Corresponding author: E-mail: eda.cela@wbu.edu.al

Abstract

Patient autonomy is an important right both legally and ethically for making sound choices concerning one's healthcare treatment. It is a key component of medical ethics and is protected by international human rights laws such as the European Convention on Human Rights (ECHR). However, despite well-established legislation, numerous violations of patient autonomy persist in Europe's healthcare system. This study analyzes the jurisprudence of the European Court of Human Rights (ECtHR) on the infringement of patients' right to autonomy and the Court's application of Articles 3, 8, and 9 of the ECHR. Doctrinal legal research was carried out by analyzing Grand Chamber and Chamber judgments of the ECtHR from 2011 to 2026, covering landmark cases from Spain, Ukraine, and Poland concerning emergency surgeries, advance directives, prenatal diagnosis, and the scope of surgical consent. Four notable cases indicate four types of autonomy violations: (1) healthcare professionals' failure to adhere to valid advance directives (*Pindo Mulla v. Spain*, 2024); (2) lack of regulations regarding emergency consent (*Mayboroda v. Ukraine*, 2023); (3) refusal to provide diagnostic information as a result of discrimination (*R. R. v. Poland*, 2011); and (4) performing surgeries beyond consent provided by patients (*S. O. v. Spain*, 2025). The Court has firmly established that patients' particular refusals prevail over professional decision-making, converting the ethical aspiration of patient autonomy into a legal right. Advance directive registration, emergency communication measures, and consent-specific training programs are needed. These standards apply not only to EU member countries but to all signatories to the Convention.

Keywords: patient autonomy, European Court of Human Rights, informed consent, medical ethics, end-of-life decisions, bodily integrity

1. Introduction

Patient autonomy is one of the main building blocks of modern medical ethics, serving as both an ethical requirement and a legal right. It states that competent adult patients have the ability to choose whether to consent to any medical procedures or not, regardless of whether such choices will result in negative consequences to their health and even death [1]. In terms of its conception, patient autonomy differs greatly from the concept of medical practice which was prevalent in the past.

The codification of patient autonomy in relation to human rights in Europe is provided through the adoption of three provisions of the European Convention on Human Rights (ECHR) in 1950, which are protected and enforced by the European Court of Human Rights (ECtHR). The first of the Articles related to patient autonomy is Article 8, which provides the right to respect for private and family life which is

understood to include the right to self-determination in healthcare including the right to refuse treatments as well as access to personal medical records. Secondly, Article 9 guarantees freedom of thought, conscience and religion which guarantees patients' rights to make medical decisions based on their convictions. Lastly, Article 3 prohibits inhuman or degrading treatment providing a minimal level of decent medical treatment that needs to be guaranteed by States.

Notwithstanding these comprehensive legal safeguards, healthcare systems throughout Europe still experience major breaches of patients' autonomy rights. Violations of patients' autonomy occur in many ways, ranging from ignoring patients' refusal of treatment to coercive measures and information suppression. Some of the systemic causes of such ongoing violations include the following: First, clinicians ignore the right of patients' refusal in cases of emergencies on the basis that the urgency of the situation is an excuse to provide treatment before the assessment of patients' wishes. Second, many European countries have not set up an effective system for handling advance directives for healthcare, thus leaving a gap of authority for decision-making by courts and healthcare facilities on insufficient evidence of patients' wishes. Third, certain vulnerable groups, including religious minorities, pregnant women with diagnostic problems, and patients who are unable to give consent during crucial moments of healthcare treatment, are exposed to major risks of autonomy violations [2].

The ECtHR has been increasingly actively involved in delineating the parameters of patient autonomy and in laying down the obligations of the state regarding its protection. The case law of the ECtHR has established principles, which require the state to put in place comprehensive legal and administrative mechanisms ensuring that patient autonomy is protected in practice and not only on paper. Such principles include maintaining databases of advance directives, mandatory training for healthcare providers, and measures protecting patients without decision-making capacity.

The research work addresses the jurisprudence of the ECtHR related to violations of patient autonomy rights through an examination of important cases from 2011 to 2026. The main objectives of this research work include: (1) identification of major legal standards developed by the Court in order to ensure patient autonomy rights; (2) application of these legal standards to various medical situations such as emergencies, euthanasia, and prenatal diagnosis; (3) assessment of compliance of the states with Court orders; and (4) development of recommendations for healthcare organizations.

2. Materials and Methods

2.1. Study Design

The research adopted the doctrinal approach to legal analysis which entailed an examination of the jurisprudence of the European Court of Human Rights regarding infringements on the rights of patients to autonomy. Legal doctrinal research entails a detailed study of legal sources such as case law, legislation, and regulations, in order to develop an understanding and synthesis of principles and standards of law [3].

2.2. Data Sources and Selection Criteria

The main sources of information included Grand Chamber and Chamber Judgments of the European Court of Human Rights published from January 2011 to January 2026. The selection of judgments was made based on systematic searches in the HUDOC database (the official database of the ECtHR case law) using such keywords as "patient autonomy," "informed consent," "medical treatment," "advance directive," "Article 8," "Article 3," and "Article 9" along with medical terms.

Case selection was guided by the following inclusion criteria: (1) cases concerning judgments on issues relating to violation of patients' autonomy/self-determination in medicine; (2) cases concerning the interpretation of Articles 3, 8 or 9 of the ECHR in the context of medicine; (3) cases setting out or defining the legal standards that apply to medical decision-making; and (4) cases from different European jurisdictions.

The four cases selected for a thorough analysis on account of the importance of the legal precedent and their consideration of different areas of patient autonomy are the following: Pindo Mulla v. Spain (2024) [4]; Mayboroda v. Ukraine (2023) [5]; R. R. v. Poland (2011) [6]; and S. O. v. Spain (2025) [7]. The cases differ by factual situations that include advance directives, emergency consent, prenatal diagnosis, and authorization of surgeries.

2.3. Analytical Framework

The selection process involved analyzing each judgment based on a set structure that considered: (1) the factual context under which the violation occurred; (2) the particular articles of the Convention cited by the applicant; (3) the interpretation of these articles by the Court; (4) the standards defined by the Court; (5) whether the state met the standards set by the Court; and (6) the remedial actions suggested.

2.4. Ethical Considerations

For this research project, there were no human subjects used; therefore, it is not necessary to have any ethical approvals as there was only the use of public legal documentation. It should be noted that the project adhered to general academic research ethics, which include truthful citation of legal sources and objective analysis of judicial decisions.

3. Results

3.1. Overview of Identified Cases

The literature search generated 47 ECtHR judgments dealing with patient autonomy concerns from 2011 to 2026. In this regard, 28 judgments (59.6%) related to the infringement of Article 8 (right to private and family life), 12 judgments (25.5%) referred to Article 3 (prohibition of torture and inhuman or degrading treatment), and 7 judgments (14.9%) referred to Article 9 (freedom of thought, conscience, and religion). Four judgments were chosen for further discussion because of their significant value and diversity of autonomy aspects considered in them.

3.2. Pindo Mulla v. Spain (2024): Advance Directives and Healthcare Provider Compliance

Factual Background: Ms. Pindo Mulla, the patient in question, was a Jehovah's Witness who had signed an advance directive that was legally binding and stated that she refused blood transfusions on religious grounds [4]. She came to a Spanish hospital with life-threatening bleeding from a uterine fibroid and required emergency surgery; she was transfused during the surgery, without her consent, after the doctors obtained authorization from a duty judge. Despite the fact that there is a legal advance directive registry in Spain, the doctors at the hospital did not check the registry.

Legal Analysis: The ECtHR found a violation of Article 8, read in the light of Article 9, because the positive duty of states to set up procedures for ensuring the fulfillment of advance directives in clinical practice has been violated. In addition, in the authors' interpretation, four particular criteria follow from the judgment: (1) states should have a registry of advance directives which is reliable and easy to access in order to be consulted when needed; (2) hospitals should have protocols which require such consultation before any

procedure on an unconscious person may be performed; (3) refusals made by patients prevail over the decisions made by medical staff even when lives are at stake; and (4) states should train medical personnel in respect of legal consequences of advance directives.

Significance: The ruling made clear that the simple presence of laws acknowledging the validity of advance directives was not enough; states needed to set up systems that would enable the use of advance directives. It became clear through the Court's rejection of claims that medical necessity would take precedence over patients' clearly stated wishes.

3.3. Mayboroda v. Ukraine (2023): Emergency Consent Regulations

Factual Background: Ms. Mayboroda, a citizen of Ukraine, had a kidney removed during an emergency operation in 2000, and she had not been informed of the removal. The issue was that at that particular moment, there were no specific rules regarding the process of giving consent for an emergency medical operation by Ukrainian legislation [5].

Legal Analysis: The ECtHR found a violation of Article 8 because states have an obligation to ensure that there is a legal framework in place concerning the procurement of consent in cases of emergency. In the authors' interpretation, the elements that need to be incorporated into such a legal framework include: (1) Definition of what constitutes emergency situations in which treatment can be done without consent; (2) Efforts should be exhausted before the absence of consent can be considered; (3) Involvement of the family when the patient is unable to communicate; (4) Documentation of the lack of consent; and (5) Notification of the patient about nonconsensual treatments.

Significance: The ruling has made it clear that the lack of rules regarding consent in cases of emergency is a systemic problem and a violation of patient autonomy. In its ruling, the Court has clearly indicated that while emergencies are situations where consent may not be necessary, they do change the way in which consent should be taken.

3.4. R. R. v. Poland (2011): Diagnostic Information and Provider Bias

Factual Background: The applicant, Ms. R. R., was a pregnant woman whose fetus had a serious genetic abnormality. Despite all requests for information and genetic testing, healthcare professionals kept delaying and eventually refused to perform the tests on the basis of their conscientious objections to termination of pregnancy [6].

Legal Analysis: The ECtHR found violations of both Article 3 and Article 8. The Court concluded that: (1) patients are entitled to receive adequate and timely information required to make well-informed medical choices; (2) it is not admissible to refrain from providing diagnostic information or denying access to legal medical procedures because of the healthcare practitioner's personal convictions; (3) there should be systems in place allowing for the provision of proper information and referral services for those who refuse to perform certain acts due to their conscientious objection; and (4) the denial of diagnostic information is a form of degrading treatment.

Significance: Through this ruling, it was made clear that patient autonomy also includes the right to be given comprehensive information regarding diagnosis despite the fact that this can lead patients into making choices that healthcare professionals personally view as unethical. The Court understood that denying information is an especially sinister act of violating the patient's autonomy since it violates the essence of informed decision-making.

3.5. S. O. v. Spain (2025): Surgical Authorization and Scope of Consent

Factual Background: The applicant, diagnosed with breast cancer, signed an informed consent form, agreeing to breast-conserving surgery as proposed by her hospital [7]. During the operation, intraoperative analysis of two breast tissue samples led the surgeons to additionally remove the nipple-areola complex (NAC), a step not explicitly covered by her original consent. The Court had to assess whether the consent given by the applicant could be considered sufficient to cover the modification of surgical technique which had resulted in removal of the NAC.

Legal Analysis: In its Chamber judgment of, June 26, 2025, which is not yet final because the case has been referred to the Grand Chamber, the ECtHR found a breach of Article 8 and established that: (1) surgical operations should be confined only to those procedures for which consent has been received; (2) additional pathology during surgery does not in itself warrant the continuation of surgery without seeking further consent; (3) doctors should make reasonable efforts to seek further consent prior to carrying out an extended operation, including suspending surgery to discuss the matter with the patient or his or her representative where possible; (4) states should formulate appropriate procedures for securing additional consent during surgery; and (5) patients should be made aware of any risks involved in the procedure.

Significance: This case law determined that the extent of consent of the patient is confined strictly to interventions authorized. The Court did not accept any claim that there could be an assumption of implied consent to other interventions made during surgery, since respecting autonomy entails having consent to all distinct interventions.

3.6. Comparative Analysis of Legal Standards

Table 1 presents a comparative analysis of the legal standards established across the four landmark cases.

Table 1. Comparative Analysis of ECtHR Standards on Patient Autonomy

Case	Year	Convention Articles	Context	Principal Standard Established
R. R. v. Poland [6]	2011	Article 3, Article 8	Prenatal diagnosis and information access	Right to receive complete diagnostic information; provider bias cannot justify information withholding
Mayboroda v. Ukraine [5]	2023	Article 8	Emergency consent regulations	States must establish clear legal frameworks for emergency consent procedures
Pindo Mulla v. Spain [4]	2024	Article 8 (read in the light of Article 9)	Advance directives and healthcare compliance	Documented patient refusals take precedence over medical judgment; states must create operational advance directive systems
S. O. v. Spain [7]	2025	Article 8	Surgical authorization and scope of consent	Surgical interventions limited to specifically authorized procedures; additional consent required for extensions

4. Discussion

4.1. Evolution of the Court's Approach to Patient Autonomy

The review of ECtHR judgments during the period of 2011 to 2026 shows that there is a definite trend of developing stronger patient autonomy protection. Thus, the ECtHR has started moving from laying down basic principles to formulating standards that can be enforced by the states in practice. The reason for

such development is the understanding that patient autonomy protection cannot be achieved only by legal means.

The foundational judgment of *R. R. v. Poland* (2011) highlighted the key principle of the right of patients to receive full information required for making an informed choice. The judgment was mainly focused on the issue of negative obligations—the state should not deprive a person of the possibility to get information about the procedure. In the following judgments, the Court extended the concept of obligations to include the issue of positive obligations as well.

Mayboroda v. Ukraine (2023) marked an important turning point in that it required states to put in place legal systems that regulate emergency consent. While before the Court sought to prohibit certain violations, now it imposes requirements regarding legal reform on the part of states. This is because the lack of a legal system that regulates something makes violations easier to commit.

The decision of *Pindo Mulla v. Spain* (2024) expanded upon this reasoning by demanding that it be more than just laws, but also systems in place that would ensure the actual execution thereof. The Court's emphasis on the existence of advance directive registries, professional training and institutional processes indicates that the Court realized that laws alone were not enough to make sure that those laws would be actually applied in clinical settings.

In *S. O. v. Spain* (2025), the case examined the scope of consent and held that any consent provided by the patient is limited only to what has been explicitly recorded. Such a ruling helps fill the gap through which healthcare practitioners may seek to exploit implied consent for other surgical procedures performed during an operation. It highlights the basic fact that autonomy demands clear consent to any procedure.

4.2. Implications for Healthcare Systems

The practice of the ECtHR has far-reaching consequences for healthcare organizations around the world. There are a number of actions that states need to take in order to meet the requirements of the Court. First of all, they have to develop databases of advance directives which will be immediately available to healthcare practitioners in emergencies. Such databases should be linked to the hospital information system.

The second aspect is that the healthcare organization should have the policy of consulting the advance directives registry and contacting the relatives of such a patient before any treatment is provided to the patient who is not able to communicate his/her wishes.

The third recommendation is that states should train healthcare practitioners in the legal implications of advance directives, as well as informed consent and the process of obtaining consent in emergencies. It is important that this training stresses the importance of patient autonomy over physician assessment and the fact that healthcare practitioners cannot make decisions regarding what is best for the patient.

Fourth, there should be legal mechanisms put in place by states which define the situations that constitute emergencies, conditions to show that all efforts have been exhausted in obtaining consent, and notification after treatment. These mechanisms will ensure that there is a balance between the medical intervention and patient rights.

Lastly, healthcare systems need to have measures in place to guarantee that patients will be provided with all relevant information regarding diagnosis, taking into account the measures to resolve any discrepancies between the need for information by the patients and the conscientious objections held by the healthcare providers.

4.3. Vulnerable Populations and Special Protections

A number of groups have been singled out in the Court's jurisprudence for particular protection from abuses of their autonomy. Religious minorities, especially the Jehovah's Witness community that rejects the use of blood transfusions, find themselves in an especially vulnerable position because the treatment choices run contrary to conventional medicine. This can be seen from the decision in Pindo Mulla.

Women who experience diagnosis problems during their pregnancy make up another vulnerable group, as evidenced in the case of *R. R. v. Poland*. In light of reproductive healthcare issues, the possibility of terminating pregnancy, and the conscientious objections of medical practitioners, there is a possibility of information not being provided. There must be measures put in place to ensure that all information is given.

The cases of the patients lacking capacity to communicate in critical medical procedures such as those who are in a coma, patients with mental problems, and patients under intensive care require certain measures to protect them. The cases of *Mayboroda* and *Pindo Mulla* have established that there is a need for the state to develop procedures of consultation for the patients' families.

4.4. Strengths and Limitations

The main strength of this study is that it analyzes the ECtHR's jurisprudence for fifteen years, allowing recognition of trends and changes in the Court's attitude toward patient autonomy. The choice of landmark cases taken from different European jurisdictions and different medical settings allows complete coverage of the standards used by the Court.

A number of constraints need to be considered here. Firstly, the analysis is based on only those ECtHR judgments which have been made public, without taking into account any pending cases or those solved by friendly settlements. Secondly, only four major cases are analyzed here without considering all the relevant decisions numerically. Thirdly, the implementation of judgments of the Court at the state level is not examined here, where there can be vast differences from state to state. Lastly, other regional or global human rights systems are not analyzed here.

4.5. Future Research Directions

Further studies could be conducted to study the implementation of the ECtHR criteria at the national level, determining how effectively the states have introduced the mechanisms such as the advance directive registries, consent mechanisms for emergencies, and training programs for healthcare professionals that have been demanded by the Court.

Further research is needed into the effects of the ECtHR case law on clinical practice, to determine whether there have been any changes made to the way in which health professionals obtain consent, in light of the Court's decisions. Research into the experiences of patients and the perception of autonomy could also be undertaken.

5. Conclusions

The European Court of Human Rights has turned the notion of patient autonomy from an ethical ideal into a right that can be enforced by individuals against medical practitioners and state bodies. Through its rulings between 2011 and 2026, the Court has set out detailed standards obliging states to put in place mechanisms for ensuring patient autonomy is observed in clinical practice.

The following four cases provide illustrations of the Court's approach. The first one, *Pindo Mulla v. Spain* (2024), sets a precedent according to which a patient's written refusal is superior to the decision of medical personnel even in potentially life-saving cases and obliges the states to develop advance directive registries allowing immediate access to the information about patients' preferences. In *Mayboroda v. Ukraine* (2023), the Court obliged the states to develop legislative frameworks concerning the acquisition of consent in emergency situations. In *R. R. v. Poland* (2011), it was established that patients should receive full information about their diagnosis despite the conscientious objection of healthcare providers. In *S. O. v. Spain* (2025), the Court held that a patient's consent is confined to the interventions specifically authorized, so that additional consent is required before a surgery is extended.

There are certain steps which need to be taken by healthcare systems to meet these criteria. These include setting up advance directive registries that ensure immediate access to these documents, having protocols for informing the relatives about the emergencies, undertaking mandatory training for consent criteria, and setting up accountability mechanisms.

The principles that the ECtHR lays out not only have an impact within Europe but worldwide, since they apply not only to members of the EU but also to the 46 countries that are members of the Council of Europe and signatories of the European Convention on Human Rights. Additionally, the judicial practice of the ECtHR sets an example for regional human rights mechanisms and national courts that need to address questions related to patient autonomy. With the rapid development of modern medicine and numerous treatment options, patient autonomy is a crucial principle to uphold.

Acknowledgements: The authors acknowledge the support of the Faculty of Technical Medical Sciences at Western Balkans University for providing access to legal databases and research facilities. This research received no external funding.

Declaration of Generative AI and AI-Assisted Technologies: The authors declare that no generative AI or AI-assisted technologies were used in the preparation of this manuscript.

Conflict of Interest: The authors declare no conflicts of interest.

References

1. Beauchamp TL, Childress JF. Principles of biomedical ethics. 8th ed. New York: Oxford University Press; 2019.
2. Andorno R. The right not to know: an autonomy-based approach. *J Med Ethics*. 2004;30(5):435–9. doi:[10.1136/jme.2002.001578](https://doi.org/10.1136/jme.2002.001578)
3. Hutchinson T, Duncan N. Defining and describing what we do: doctrinal legal research. *Deakin Law Rev*. 2012;17(1):83–119. doi:[10.21153/dlr2012vol17no1art70](https://doi.org/10.21153/dlr2012vol17no1art70)
4. European Court of Human Rights. *Pindo Mulla v. Spain* [GC] (Application no. 15541/20) [Internet]. Strasbourg: European Court of Human Rights; 2024 Sep 17 [cited 2026 Oct 12]. Available from: <https://hudoc.echr.coe.int/eng?i=001-236065>
5. European Court of Human Rights. *Mayboroda v. Ukraine* (Application no. 14709/07) [Internet]. Strasbourg: European Court of Human Rights; 2023 Apr 13 [cited 2026 Oct 12]. Available from: <https://hudoc.echr.coe.int/eng?i=001-224077>
6. European Court of Human Rights. *R. R. v. Poland* (Application no. 27617/04) [Internet]. Strasbourg: European Court of Human Rights; 2011 May 26 [cited 2026 Oct 12]. Available from: <https://hudoc.echr.coe.int/eng?i=001-104911>

7. European Court of Human Rights. S. O. v. Spain (Application no. 5742/22) [Internet]. Strasbourg: European Court of Human Rights; 2025 Jun 26 [cited 2026 Oct 12]. Available from: <https://hudoc.echr.coe.int/eng/?i=001-243823>

How to cite: Çela E, Zllami B. European Court of Human Rights Practice on Violation of Patient Autonomy as an Ethical Principle in Medicine. Eur J Med Transl Biosci. 2026;1(1):91–99.