

# 21

Presentation date: July, 2024  
Date of acceptance: October, 2024  
Publication date: December, 2024

## IMPACT OF REGIONAL

BODIES ON NATIONAL IMPLEMENTATION OF INTERNATIONAL  
HEALTHCARE NORMS

## IMPACTO DE LOS ORGANISMOS REGIONALES EN LA IMPLEMENTACIÓN NACIONAL DE LAS NORMAS INTERNACIONALES DE ATENCIÓN DE SALUD

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### Suggested citation (APA, seventh ed.)

Huseynova, F. (2024). Impact of Regional Bodies on National Implementation of International Healthcare Norms. *Universidad y Sociedad*, 16(S2), 198-204.

### ABSTRACT

The importance of this study lies in understanding the decisive influence regional convention bodies, operating under healthcare agreements, have on national legal implementations of international norms, especially given the complex interplay between diverse regional contexts and the binding force of international decisions. Existing research often overlooks how regional disparities and economic limitations in developing countries affect the practical realization of the right to health, revealing a significant gap in comprehending how international norms transition into enforceable national health policies. This study aims to analyze the role of these convention bodies in shaping and harmonizing health-related legal standards, addressing the challenges posed by economic and political variations among member states. Key findings indicate that, while these bodies enhance cooperation and standardization, their influence disproportionately affects developing economies, often imposing constraints on national policies. This research highlights the critical need for balanced international collaboration to ensure these norms support, rather than hinder, accessible healthcare in diverse economic contexts.

**Keywords:** International law, Healthcare, Regional convention bodies, National legal implementation.

### RESUMEN

La importancia de este estudio radica en comprender la influencia decisiva que tienen los órganos de convenciones regionales, que operan en el marco de acuerdos de atención de la salud, en la implementación legal nacional de las normas internacionales, especialmente dada la compleja interacción entre los diversos contextos regionales y la fuerza vinculante de las decisiones internacionales. Las investigaciones existentes a menudo pasan por alto cómo las disparidades regionales y las limitaciones económicas en los países en desarrollo afectan la realización práctica del derecho a la salud, lo que revela una brecha significativa en la comprensión de cómo las normas internacionales se transforman en políticas nacionales de salud ejecutables. Este estudio tiene como objetivo analizar el papel de estos órganos de convenciones en la configuración y armonización de las normas legales relacionadas con la salud, abordando los desafíos que plantean las variaciones económicas y políticas entre los Estados miembros. Los hallazgos clave indican que, si bien estos órganos mejoran la cooperación y la estandarización, su influencia afecta desproporcionadamente a las economías en desarrollo, a menudo imponiendo restricciones a las políticas nacionales. Esta investigación destaca la necesidad crítica de una colaboración internacional equilibrada para garantizar que estas normas respalden, en lugar de obstaculizar, la atención médica accesible en diversos contextos económicos.

**Palabras clave:** Derecho internacional, Atención sanitaria, Organismos de convenciones regionales, Implementación jurídica nacional.

## INTRODUCTION

A regional convention body is an organization that deals with issues affecting a particular region and may take several forms depending on the region involved. For example, human rights mechanisms of regional systems are based on treaties and conventions that develop international norms of human rights into regional contexts and, as such, serve as the fulcrum upon which human rights within the regions are hinged (Çali, 2024; Terekhova, 2022). The regional conventions create frameworks of collaboration or agreements in education that work toward improving quality, increasing transparency, and making constructive adaptations toward the dynamics of changing member state needs (Teter & Wang, 2021). On the other hand, regional conventions for some religious or community-based organizations, help to diffuse common belief systems and provide one united set of reflections and bonds, which is an important part of human rights (Chaibi, 2022). In general, the worth of such regional bodies lies in bringing together cooperation and support on region-specific issues with culturally and contextually sensitive approaches. By providing a forum to address social, political, and cultural challenges peculiar to their region, regional convention bodies provide avenues for cooperation and the elaboration of apt solutions aimed at solving common problems among member states (Beridze, 1996; Lavenex & Piper, 2022).

Regional convention bodies in healthcare are instrumental in shaping health policy, promoting best practices, and enhancing collaboration among professionals across regions. Acting as platforms for discussion, education, and advocacy, these organizations address unique health needs pertinent to their geographical areas. Their functions include developing policies tailored to regional health challenges and resources, creating networking opportunities that enable healthcare professionals to share knowledge and collaborate on research, and organizing educational events to advance provider skills. Additionally, they advocate for critical health issues impacting their communities, often influencing legislative and funding decisions. They also support region-specific research that encourages evidence-based practices and culturally sensitive health programs. For instance, WHO's regional offices and organizations like the European Public Health Association (EUPHA) and the Asia-Pacific Economic Cooperation (APEC) Health Working Group focus on improving health outcomes through region-specific initiatives and collaborations. Ultimately, these bodies are essential in addressing local health needs, ensuring effective resource allocation, and integrating global health strategies with

regional practices for a more cohesive approach to public health (Gadolin & Eriksson, 2023; Skrobek et al., 2014).

In the case of Azerbaijan, the unique model of national legal implementation in the field of healthcare tries to follow the standards of the European space. The Council of Europe approaches healthcare relations from the context of protecting basic human rights and freedoms. European associations related to the protection of fundamental rights have tended to expand continuously, especially in recent decades. The field of integrated healthcare attracts attention with its global nature. In general, today the term "global health" is preferred over the terms "international health" or "regional health." As J.G. Store noted, "global health" has rapidly surpassed the paradigm of "international health" as the principle of organizing cooperation in the field of health. According to him, the concept of global health for sovereign states includes health issues within and between states, as well as transnational challenges that are not defined by political borders (Store et al., 2003). Thus, global health recognizes multiple groups of actors in the field of health, including, but not limited to, regional actors taking steps to implement health norms more effectively in their respective countries.

The American scholar A.E. Yamin points out that the language of progressive realization and maximum available resources, which suggests different standards for different countries, does not fit easily with how people think about common rights in the United States. However, in practice, due process and other civil rights can be equally different (Yamin, 2005).

David P. Fidler writes that there is a growing demand for greater attention to international law in public health strategies. The importance of reforms in national public health legislation relates to the global role of international law. Globalization of the right to health is a new phenomenon in international relations (Fidler, 1999). Among the rights provided by the European Social Charter, the rights to health and related access to healthcare include: effective health facilities open to the entire population; disease prevention policy, especially ensuring a healthy environment; elimination of industrial risks through workplace health and safety laws and their practical implementation; and protection of motherhood (Council of Europe Legal Affairs, 2010).

The implementation of the European Social Charter, which is one of the main regional conventions, is carried out by the European Committee of Social Rights. The implementation of obligations undertaken by participating states under the Charter is under the control of the European Committee as a convention body. The committee consists

of 15 independent, impartial members who are elected by the CoE Committee of Ministers for six-year terms.

States acceding to the Charter submit annual national reports reflecting the implementation of specific provisions of this document. The provisions of the Charter are divided into four thematic groups, and States report on one group each year. As a result, all provisions are reviewed every four years for each state. The four thematic groups are: employment, training and equal opportunities; health, social security and social protection; labor rights; and children, families and migrants. The Committee evaluates reports and publishes findings on the implementation of the Charter's provisions by States (The European Committee of Social Rights, 2024).

Professor R. Lines compares the Committee's activity with UN treaty bodies. He writes that the lesser-known European Social Charter, which covers economic, social and cultural rights, is overseen by the European Committee on Social Rights, which operates similarly to UN treaty bodies (Lines, 2008). The Committee monitors compliance with the Charter through two complementary mechanisms: collective complaints filed by social partners and other non-governmental organizations (Collective Complaints Procedure) and national reports prepared by Contracting Parties (Reporting System). States parties undertake to cooperate with the Committee and follow its jurisprudence (both decisions and conclusions). This obligation arises from the application of the good faith principle to the implementation of all contractual obligations. For States Parties, ignoring or disregarding the Committee's decisions and conclusions is considered a breach of good faith in implementing Charter obligations (The European Committee of Social Rights, 2024). The implementation of the Charter in different countries shows that the Committee's decisions are taken into account at the national level. Through the monitoring system, States make necessary changes to their health legislation and practices to align their current situations with the Charter's provisions.

Considering the above, the main objective of the research is to analyze the role of regional convention bodies in the national legal implementation of international legal norms related to healthcare. It aims to explore how these bodies influence the development and harmonization of health-related legal standards across different regions, taking into account the varying economic and political contexts of member states. The research also seeks to highlight the importance of cooperation among states and international organizations in ensuring access to quality healthcare and the effective implementation of health rights.

## DEVELOPMENT

### The European Convention on Bioethics

In the European region, the Convention on Human Rights and Biomedicine is presented as a major tool for influencing national laws. European institutions have a more important role in coordinating, harmonizing, and even integrating national laws in the field of public health. At the same time, it is more difficult to define a minimum standard in this field. For this, there are legally binding measures allowed under specific provisions of the European Union Treaties. On the other hand, the doctrine of auxiliary and complementary powers of the Union's activities in the field of public health remains quite dominant (Peterková et al., 2012). It should be noted that hopes for the national-legal implementation of the European Convention on Bioethics have not yet been fulfilled. Of course, discussions were held in the European Parliament regarding the implementation of this convention. The result was not encouraging, as no directives or recommendations were adopted regarding the implementation measures of the Bioethics Convention. Substantial disagreement on substantive issues, as in the Bioethics Convention, undermines the harmonization goals of such treaties, and subsequent reference back to national legislation simply indicates that the desired agreement does not exist. Thus, it seems doubtful that the Convention will enter into force soon, and it is equally doubtful that more detailed protocols will be drafted quickly. The Bioethics Convention is considered a disappointing first step in efforts to develop global public interest norms in bioethics (Riedel, 1997).

In terms of national legal implementation related to healthcare, the Council of Europe Convention on Artificial Intelligence also contains a number of provisions. The scope of the Convention is quite wide and includes some implementation measures related to the medical field. At the convention, ChatGPT covers applications such as assisted diagnostics, AI-based detection in aged care facilities, AI-assisted surgery and menstrual cycle trackers. In addition, automated disease surveillance covers most COVID-19 applications, artificial intelligence applications in many public health systems, and patient rights implementation. The convention requires that all artificial intelligence systems undergo a human rights assessment before their implementation. The Convention further recognizes the right to non-discrimination, which is essential to health equality. The Convention protects the rights to privacy and data protection. It places high demands on the protection of doctor-patient information, which is important for patients who often share intimate information with their doctor. The Convention also equips patients with the right to redress and requires robust frameworks for

accountability and responsibility. The transparency rights promoted by the Convention help to establish a relationship of trust between the patient and the doctor and ensure informed consent to medical treatment.

In general, the Convention has an important role in the protection of patients' health and human rights, and in the national legal implementation of its norms. The Council of Europe convention system has established a stronger protection of human rights in the field of medicine. This also includes healthcare management, organ donation, medical data protection, and more. can be attributed. In addition, the Council of Europe has published many recommendations on national legal implementation on medical-ethical issues. The Court of Human Rights, a special convention mechanism, has provided protection to patients against, among other things, forced medical treatment, breach of medical information and health discrimination. The Court also placed important obligations on states to actively protect the health of their citizens and the rights of patients (van Kolschooten, 2023). This has resulted in both national legal implementation and changes in healthcare practices and laws following Court decisions.

The Public Health Committee and the European Pharmacopoeia Commission have functions related to the implementation of the 1964 Convention on the Preparation of the European Pharmacopoeia. Both institutions were formed based on Article 2 of the Convention on the Preparation of the European Pharmacopoeia. The preparation of the European Pharmacopoeia is carried out by: a) the Public Health Committee, whose activity is conducted within the framework of the Council of Europe, in accordance with Resolution No. 23 mentioned in the Convention's preamble; and b) the European Pharmacopoeia Commission established for this purpose by the Public Health Committee (Council of Europe, 1964). These institutions have taken important steps in implementing national legal measures in the field of pharmacology.

Pharmacological issues, including patients' access to quality medicines, serve as an important element of national legal implementation in the field of health. Provisions regarding this were included in the Council of Europe's "Guidelines for Member States on Democracy, Rule of Law and Respect for Human Rights during the COVID-19 Health Crisis" dated April 7th, 2020. The guidelines state that the availability and accessibility of quality medicines to patients is more important than ever during the COVID-19 pandemic. The Council of Europe Convention on the preparation of the European Pharmacopoeia is intended to form a legal and scientific basis for the "European Pharmacopoeia" as a single reference document for ensuring the quality of medicinal products and

their components. Under the auspices of the European Pharmacopoeia Commission, 29 member states and the European Union, together with experts from 29 observer entities, including the World Health Organization, join forces to create quality standards that will be applied in all states that have signed the Convention and in 120 countries worldwide (Council of Europe, 2020). According to the Convention, states are obliged to inform the population about known risks related to the pandemic and about actions or measures aimed at preventing the spread of disease. All norms arising from that guidance document have been implemented without exception by the member states, including the Republic of Azerbaijan.

The implementation of regional norms related to medical care provision, especially first aid, is a specific part of healthcare norms. The experiences of regional states regarding first aid or primary medical care have different characteristics. In the context of regional economic and political development, states can be grouped as follows: 1) Countries where changes in political and economic strategy affect medical care (China, Mongolia, etc.); 2) Post-war countries (Cambodia, Vietnam, Laos, etc.) that formed their political systems based on primary medical care policy; 3) Countries that began forming primary medical services twenty years ago and are striving for better results (Philippines, Marshall Islands, Samoa, etc.); 4) Countries that systematically develop their healthcare systems based on primary healthcare services (Malaysia, Fiji, etc.); 5) Countries with hospital-based healthcare models that are less affected by primary healthcare services (Japan, South Korea, etc.); 6) Market economy countries (USA, Canada, Australia, New Zealand, etc.) whose healthcare systems are under serious but indirect influence of primary healthcare service policy; 7) Western European countries (Germany, France, Belgium, etc.) where strong state support is implemented in primary healthcare services (Shiryaliyev, 2006).

According to the European Convention on Social and Medical Assistance of 1953 (Article 1), each Contracting Party undertakes to ensure that citizens of other Contracting Parties with insufficient resources have the same rights as their own citizens to medical assistance provided under the legislation in force in any part of its territory to which this Convention applies.

The Astana Declaration on Primary Health Care states that:

we strongly affirm our commitment to the fundamental right of every person to enjoy the highest attainable standard of healthcare without discrimination. We emphasize the importance of health for peace, security and

socio-economic development, and their interdependence. We reaffirm the fundamental role and responsibility of Governments at all levels in promoting and protecting the right of everyone to enjoy the highest attainable standard of health. We support individuals, families, communities and civil society through their participation in the development and implementation of policies and plans that affect health. (United Nations Human Rights Office of the High Commissioner, 2024).

In general, healthcare relations in the European region have the character of global healthcare relations, although they cover the geography of Europe and parts of Asia. Second, patients' rights derive from a general human rights approach. Third, European healthcare standards have the potential to improve health and patients' rights worldwide when they become national practice. For this reason, convention institutions and instruments related to health law are selected for their practical importance in the context of national legal implementation in this region.

#### CAREC Health Strategy 2030

International actors operating in the Asian region play an important role in implementing health-related norms. Since the Asian Development Bank's Central Asian Regional Economic Cooperation Program (CAREC) norms in the health field are considered useful for national legal implementation, analyzing these norms is important. On November 17th, 2021, a joint statement entitled "CAREC Health Strategy 2030" was adopted at the 20th Ministerial Conference on "Connectivity, cooperation and sustainability in the digital age" (State Tax Service of the Ministry of Economy of the Republic of Azerbaijan, 2021). Azerbaijan, which has been a CAREC member since 2003 and was the CAREC Program chair for 2021, has always supported implementing new realities and innovative initiatives of the modern era and has taken decisive steps to implement this program at the national level.

The CAREC Ministerial Conference is currently the body responsible for providing strategic guidance on aligning relevant institutional arrangements for the CAREC Health Strategy. The conference acts as the main high-level policy and decision-making body, ensuring effective implementation of decisions. This institution leads the planning and implementation of health cooperation projects and activities at national levels. It also develops and implements a supportive environment for regional health cooperation, considering the involvement of regional actors such as working groups, other regional networks, and academic, educational, or other groups (CAREC, 2021).

CAREC prioritizes regional cooperation with WHO, UNICEF, CDC, Global Fund to Fight AIDS, Tuberculosis

and Malaria, World Bank, ADB, China Agency for International Development, and USAID. Additionally, mutual partnerships and cooperation with other UN agencies, international financial institutions, bilateral development agencies, other development partners, civil society and community-based organizations, youth-led organizations, and academic institutions are important for national legal implementation. CAREC develops regular information sharing and joint partnership frameworks based on synergies and existing initiatives among these agencies. Cooperation with intergovernmental organizations can be strengthened through improved knowledge sharing and dialogue. Existing regional health initiatives can be expanded to include more CAREC countries or used as frameworks for health cooperation (CAREC, 2021).

As demonstrated, CAREC, as the main institutional mechanism in the Asian region, implements the harmonization of relevant legal regulations and norms for the Health Strategy's implementation. The CAREC Ministerial Conference, as a high-level policy and decision-making body, leads the planning and implementation of health cooperation projects and activities at national levels.

The right to health, including access to fair, quality healthcare, requires governments to first improve the effectiveness, accountability, and sustainability of health programs and systems that meet the most pressing public health needs. Second, including the private sector in national health and social systems, planning, and evaluation processes is essential. Third, measures to combat discriminatory policies, practices, laws, human rights violations, and stigma that lead to denial of health services are also included in national legal implementation measures. Additionally, states use diplomatic potential to solve problems at national and regional levels, and they must identify and remove legal, political, and other obstacles that hinder the process. While the state has a role in equalizing health-related social opportunities, some factors remain beyond state control. Furthermore, the highest attainable standard will evolve over time in response to medical innovations as well as demographic, epidemiological, and economic changes (Yamin, 2005).

The national legal implementation of existing international legal norms in healthcare in the American region warrants attention. The United States has approved the International Health Regulations. The State Government reserves the right to assume obligations under these Rules in accordance with fundamental principles of federalism. Regarding obligations relating to the development, enhancement, and maintenance of basic capacity requirements set out in Schedule I, these Regulations are implemented by the Federal Government or State Governments

as appropriate and in accordance with the Constitution. The implementation of these obligations falls within the Federal Government's legal jurisdiction. When such obligations fall within state governments' legal jurisdiction, the Federal Government brings them to the attention of appropriate state authorities with a positive recommendation (US Department of State, 2006).

Regional convention mechanisms have also defined international biosecurity obligations. Australia works with the international community to improve global health systems and reduce global human biosecurity risks. Australia must comply with the International Health Regulations, which help countries manage public health risks that may cross international borders by reporting on how to meet their standards. By adopting 66 recommendations to strengthen health security, Australia has contributed to national legal implementation through adopting a national health security action plan.

## CONCLUSIONS

If we consider the human right to health in relation to international law, it can be considered part of a branch of international law, while also being recognized as the dominant part of legal norms governing cooperation in healthcare between states. The following conclusions can be reached regarding the role of regional convention bodies in the national-legal implementation of international legal norms in healthcare:

Although different regions have different international legal standards related to health, all these legal resources serve public health as a whole. Regional differences, different economic development levels of countries, and health policies have an important influence on the national legal implementation of health-related norms.

States submit annual national reports to the European Committee of Social Rights on the implementation of the European Social Charter norms. The Charter's provisions are divided into four thematic groups, one of which concerns health, and states report annually on one group. The Committee evaluates these reports and publishes findings on the states' implementation of the Charter's provisions.

As the main institutional mechanism in the Asian region, CAREC implements the harmonization of relevant legal regulations and norms for the Health Strategy implementation. The CAREC Ministerial Conference leads the planning and implementation of health cooperation projects and activities at national levels. Healthcare relations in the European region have the character of global healthcare relations, although they cover the geography of Europe and partly Asia. Conventional institutions and instruments

related to health law in the European region stand out for their practical importance in national legal implementation compared to other regions.

Issues related to healthcare norm implementation in the African region are set out in the 1987 African Charter on Human and Peoples' Rights. There, the implementation of health and health rights is approached from two aspects - as an individual right and as a peoples' right. Every individual in Africa has the right to the highest attainable level of physical and mental health, and the African Commission monitors the implementation of this norm.

Regarding the implementation of the right to health according to the "San Salvador Protocol," which establishes health-related norms in the American region, the Participating States agree to recognize health as a public good and take measures to ensure this right. They submit relevant implementation reports. In this region, the Inter-American Economic and Social Council serves as the main implementation mechanism that monitors and examines norms related to the right to health and healthcare access.

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