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ON CULTURAL ISSUES, HUMAN RIGHTS AND SECURITY

**A COMPARATIVE ANALYSIS OF ECTHR CONVICTIONS FOR VIOLATIONS OF
ARTICLE 3 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS—
PROHIBITING TORTURE, INHUMAN, OR DEGRADING TREATMENT OR
PUNISHMENT.**

REVEALS NOTABLE TRENDS BETWEEN 1959–2019 AND 2020–2024

By Botnarenco Mihaela

Abstract

Torture and ill-treatment have become increasingly common in recent times; this paper analyzes the issue of violating the provisions of Article 3 of the European Convention on Human Rights. The scientific approach uses the method of comparative analysis of relevant legal and criminal norms, aiming to identify convergences and divergences in the regulation of acts of torture and inhuman or degrading treatment. The results highlight a significant conceptual and normative differentiation between the two systems. The conclusion emphasizes the need to strengthen legislative alignment with the requirements of the jurisprudence of the European Court of Human Rights in matters of protection of human dignity.

Keywords

Criminalization, Criminal Sanction, Legal Liability, Mandatory Norm, International Jurisdiction

Introduction

Torture has been, throughout history, a means of obtaining information, of exercising coercion and of manifesting state power. From the methods applied in Ancient Rome, used to extract confessions from enemies or as a means of public entertainment, to the medieval practices of the Inquisition and the Salem witch trials, torture has been the preferred instrument of the authorities to maintain order and control. These manifestations have shaped the legal and moral perception of the use of excessive force, generating the need for strict international regulation to prohibit these practices.

The gradual evolution of society, marked by the Enlightenment and the emergence of the modern state governed by the rule of law, has fundamentally changed the perception of torture. Thinkers such as Cesare Beccaria and Montesquieu harshly criticized the use of inhuman and degrading punishments, laying the foundations of modern criminal law, based on proportionality and respect for human dignity. The transition from absolutist regimes to constitutional states brought with it the progressive recognition of individual rights, which culminated in the adoption of international treaties aimed at establishing minimum standards of protection for the individual against abuses by state authorities.

In this sense, the adoption of the European Convention on Human Rights in 1950 marked a crucial moment in guaranteeing the fundamental rights of the individual, enshrining in Article 3 the principle of the absolute prohibition of torture, as well as of inhuman or degrading treatment or punishment. The imperative nature of this article reflects the commitment of the signatory states to the protection of human dignity and to ensuring a minimum standard of treatment of individuals, regardless of the circumstances invoked. Unlike other



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provisions of the Convention, Article 3 does not allow derogations, even in times of war or public emergency, which highlights its centrality in the system of human rights protection in Europe.

The European Court of Human Rights has interpreted Article 3 in an evolutionary way, adapting it to contemporary social and legal realities, thus strengthening the principle of the inalienability of the right of individuals not to be subjected to torture or degrading treatment. Through its case law, the Strasbourg Court has clarified not only the forms of treatment that fall within the scope of Article 3, but also the positive obligations of states to prevent such abuses, investigate allegations of ill-treatment and punish those responsible. The jurisprudence has thus created a binding reference framework for the member states, establishing strict criteria for assessing violations of this fundamental right and contributing to the harmonization of domestic practices with international standards.

This paper aims to analyze the convictions pronounced by the ECHR against European states and not only for the violation of Article 3, focusing on the incidence of these convictions and their impact on national legislation. Through a statistical analysis of relevant decisions from the period 1959–2019 and 2020–2024, the aim is to highlight the frequency of these convictions, the increase in the number of convictions in the last 5 years, the geographical distribution of the states concerned and the implications for the criminal and administrative policies of the respective countries. At the same time, the research seeks to underline the correlation between political, historical and institutional factors and the persistence of violations, as well as to evaluate the degree of efficiency of the reforms adopted at national level following the condemnations issued by the Strasbourg Court.

Thus, the paper situates itself at the intersection of legal analysis and socio-political study, with the purpose of emphasizing the importance of Article 3 ECHR not only as a legal provision of absolute value, but also as a concrete instrument of accountability for states and as a mirror reflecting the level of protection of human dignity in contemporary Europe.

Theoretical Model and Research Methodology

The theoretical model of the research follows a legal-empirical approach, combining the doctrinal analysis of Article 3 of the European Convention on Human Rights with the examination of statistical data on convictions handed down by the ECHR against European states. This approach allows for an in-depth understanding of the application of this article in the Court's case law, bridging the gap between the normative dimension of the prohibition of torture and its concrete implementation in national legal systems. The integration of doctrinal and empirical perspectives also facilitates the identification of discrepancies between the legal standards formally assumed by states and the actual practices observed.

The novelty of the research lies in the comprehensive analysis of the evolution of convictions for violation of Article 3 during the period 1959–2019, but also in the focus on the increase in the number of convictions with the beginning of the military conflict in Ukraine and the subsequent period. This dual perspective, historical and contemporary, enables the contextualization of the phenomenon both in terms of long-term trends and considering recent events with a profound geopolitical impact. By considering both general tendencies and the particularities of each state, the study provides a nuanced picture of the persistence and transformation of practices contrary to the absolute prohibition of torture.

From a theoretical perspective, the research draws on two fundamental premises. First, Article 3 of the Convention establishes an absolute and non-derivable right, meaning that no exceptional circumstance, such



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as war or public emergency, can justify its violation. Second, the Strasbourg Court's case law has developed an evolutionary interpretation of this provision, clarifying both negative obligations (the prohibition of torture and degrading treatment) and positive obligations of the states (preventing, investigating, and sanctioning such acts). This duality of obligations represents the central axis of the legal analysis undertaken.

The objectives of this research are threefold:

1. Identification of the total number and distribution of convictions for violation of Article 3 of the European Convention on Human Rights at the European level.
2. Analysis of the typologies of violations and of the states that record the most convictions in this regard, with an emphasis on the correlation between structural, historical, and institutional factors and the persistence of abuses.
3. Assessment of the impact of these decisions on national legislation and policies, highlighting how the case law of the European Court of Human Rights influences the normative framework of the member states and the effectiveness of the reforms implemented.

The research method combines quantitative and qualitative analysis of the ECHR case law, based on the systematic examination of judgments delivered during the period 1959–2024. The quantitative dimension consists in the collection and statistical processing of data regarding the number of convictions per state, period, and type of violation. The qualitative dimension consists in the doctrinal interpretation of the most relevant judgments, aiming to identify legal arguments, interpretative standards, and their implications for national legal systems.

The methodological tools used include the documentary analysis of ECHR decisions, the consultation of official reports issued by the Court and the Council of Europe, as well as the examination of relevant studies in the field of international law and human rights. In addition, the research is supported by the comparative method, through which the practices of states with different historical and institutional backgrounds are evaluated.

The object of the research is represented by the judgments of the European Court of Human Rights concerning violations of Article 3, the unit of analysis being both the states and the number of convictions recorded during the reference period. By integrating statistical data with doctrinal interpretation, the study aspires to provide a multidimensional overview of the functioning of Article 3 in practice and its transformative impact on European legal systems.

Report's Analysis

To create a ranking of countries convicted of serious violations prohibited by the adoption of Art.3, we used the report published by the ECHR for the period 1959-2019 (FIG.1). Following the examination of the report, a detailed analysis of the judgments concerning the violation of Article 3 of the European Convention on Human Rights was carried out. According to official data, during the mentioned period, the ECHR found 3482 violations of Article 3, which reveals the persistence of serious problems in the application and observance of this legal standard. Statistical analysis of the judgments delivered by the European court indicates that the Russian Federation records the largest number of convictions, with 1159 cases resolved against it. Next in line are Turkey, with 589 convictions, Romania with 386 convictions, Ukraine, with 344 convictions, and the Republic of Moldova, with 153 convictions.



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A comparative analysis of the Member States of the European Union and those that have not yet joined this supranational body reveals a significant discrepancy in terms of compliance with the standards imposed by Article 3 of the European Convention on Human Rights. In particular, the states that were part of the former Soviet Union face increased vulnerability in this regard, recording a considerably higher number of convictions for inhuman and degrading treatment and acts of torture. This reality can be explained by the persistence of deficient institutional structures, influenced by the legacy of authoritarian regimes, in which the fundamental rights of the individual were systematically subordinated to the interests of the state. In addition, the standard of living below the European average encourages the perpetuation of coercive practices, based on the social perception that the use of torture or other forms of degrading treatment are legitimate means to achieve certain objectives, whether of a material or repressive nature.

Turkey's presence in second place in the ranking of states with the most convictions for violating Article 3 can be explained by cultural, historical and legal factors. Although Turkey is part of the European Union, its social and legal structure is deeply influenced by traditionalist elements and by a justice system in which certain coercive practices continue to be tolerated, either under the pretext of maintaining public order or in the context of combating threats to national security. Thus, the application of degrading treatment and the use of torture are, in certain sectors of society, perceived as necessary tools to achieve objectives considered to be of public or national interest.

An analysis of the case law of the European Court of Human Rights (ECHR) regarding violations of Article 3 of the European Convention on Human Rights, for the period 2020-2024 (FIG.2, reveals a significant increase in the number of decisions in which the existence of acts of torture, inhuman or degrading treatment was found. Thus, during this period, the European court found 1666 violations of the absolute prohibition provided for in this article.

In particular, the armed conflict between the Russian Federation and Ukraine has generated a worsening of the situation, reflected in a considerable increase in the number of convictions pronounced by the ECHR. The Russian Federation records 792 convictions, ranking first, while Ukraine, with 316 resolved cases, occupies the second position.

The following places in the ranking are Romania (161), Hungary (47) and Republic of Moldova (46), which confirms the persistence of structural deficiencies in the national systems of human rights protection. Comparing the data reflected in fig. 1 and fig. 2, an upward trend in the number of convictions for violations of Article 3 of the Convention is highlighted.

On the other hand, a positive aspect can be noted in the case of Turkey, where the number of convictions for acts of torture and inhuman or degrading treatment has experienced a considerable decrease. In the last five years, Turkey is no longer among the top 10 states with the most convictions, which may suggest an improvement in the regulatory framework and mechanisms for the protection of fundamental rights in this jurisdiction.

Another relevant factor that may explain the increase in the number of cases resolved by the ECHR in the matter of violations of Article 3 of the Convention is the increase in the population's trust in the protection mechanisms offered by the Strasbourg court. An upward trend is observed in terms of accessing international remedies, citizens demonstrating an increasingly strong conviction in the efficiency and impartiality of the



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ECHR jurisprudence. This development reflects a higher degree of awareness of fundamental rights, but also a decrease in resignation towards the impunity of perpetrators.¹

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At the same time, it is important to emphasize the role of non-governmental organizations and of the European Union institutions in monitoring and reporting cases of ill-treatment. The collaboration between local civil society and international monitoring mechanisms has amplified the visibility of abuses and contributed to strengthening external pressure on states with systemic problems in respecting human rights. Furthermore, the digitalization of legal instruments and the easier access of victims to the Strasbourg court have significantly reduced procedural barriers, encouraging a greater number of applications to be lodged.³

Finally, the persistence of a high number of convictions for violations of Article 3 highlights the need for a multidimensional approach: reforming national justice systems, raising awareness of the absolute prohibition of torture, improving detention conditions, and strengthening the independence of monitoring bodies. Without such structural reforms, the upward trend of violations is likely to continue, undermining both the credibility of states before the European Court and the protection of human dignity at the continental level.⁴

Conclusion

Following the analysis of the official reports issued by the European Court of Human Rights, a significant number of cases resolved under Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms was highlighted, in the period 1959–2019. Systematic research of the reports from the period 2020–2024 reveals a substantial increase in the number of judgments issued for violation of the absolute prohibition on torture, inhuman or degrading treatment. This increase can be mainly correlated with the armed

¹ ECtHR, *Annual Report, European Court of Human Rights*, 2023, p.34-35, <https://www.echr.coe.int/d/annual-report-2023-eng>.

² Nowak, M., *Torture and Other Cruel, Inhuman or Degrading Treatment*, *HUMAN RIGHTS QUARTERLY*, (Jul. 28, 2008), Vol. 41, No. 3, p.25.

³ Besson, S. & Tasioulas, J., *The Philosophy of International Law*, Oxford University Press (2010), p.624.

⁴ Dzehtsiarou, K. *European Consensus and the Legitimacy of the European Court of Human Rights*, Cambridge University Press, (May 2015).



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conflict that broke out in 2020, a situation reflected in the high number of cases resolved against the Russian Federation and Ukraine, states that occupy a prominent place in the statistics prepared by the Court.

At the same time, another possible explanatory factor for the increase in the volume of cases may be represented by the increased level of trust of litigants in the Court's mechanisms, which encourages individuals to resort to it to protect fundamental rights, in particular the right not to be subjected to torture. The democratization of access to justice, supported by the digitalization of complaint procedures and the greater visibility of the Strasbourg Court in public discourse, has made ECHR mechanisms more accessible and efficient. Likewise, the growing role of civil society organizations and human rights defenders in supporting victims of abuse has created a favorable environment for the identification, documentation, and sanctioning of acts contrary to Article 3.

From a broader perspective, the persistence of a high number of convictions indicates that structural reforms at the national level are still insufficient. Despite the binding nature of ECHR judgments, many states delay or partially implement corrective measures, which perpetuate systemic deficiencies. Deficiencies related to detention conditions, the excessive use of force by law enforcement, the absence of independent oversight bodies, and the lack of effective remedies for victims remain central issues in a significant number of European jurisdictions. This emphasizes the need for a dual approach: strengthening preventive mechanisms at the domestic level — through institutional reforms, judicial training, and public awareness campaigns — and consolidating the enforcement capacity of ECHR judgments at the international level, including through political and diplomatic pressure exercised by the Council of Europe and the European Union.

Moreover, the comparative analysis between EU Member States and those outside the Union shows a visible gap in terms of compliance with Article 3 standards. Former Soviet states and countries with authoritarian legacies continue to register disproportionately high numbers of violations, which highlights the long-term impact of institutional weaknesses and the persistence of practices incompatible with the democratic rule of law. However, the persistence of such discrepancies also reflects broader socio-economic inequalities, since states with lower levels of development often face difficulties in allocating sufficient resources to improve detention facilities, judicial independence, and police training.

Nevertheless, some positive developments can be observed. The decline in the number of convictions in Turkey over the last five years suggests that reforms at the legislative and administrative levels, combined with international monitoring, can lead to tangible progress. This example demonstrates that, although the elimination of torture and degrading treatment is a long-term process, consistent political will and international engagement can reduce violations. Such evolutions must be consolidated and extended to other states where systemic problems persist.

This research, although it has a predominantly analytical and normative character, aims to provide a relevant contribution to the specialized literature on the applicability of Art. 3 ECHR and its impact on national legal systems. At the same time, it is intended to encourage future research oriented towards the analysis of domestic judicial practice and the efficiency of mechanisms for the prevention of acts of torture. Interdisciplinary studies that combine legal analysis with political science, sociology, and criminology could bring valuable insights into the causes and dynamics of violations, as well as into the cultural and institutional transformations necessary to eradicate such practices.



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