

The Distinction between Negligence and Accident in Medical Criminal Law

Ketevan Mchelishvili-Hedrikh

*JUDr from Albert Ludwig University, Freiburg, Germany,
Master of Law from Friedrich Schiller University, Jena,
Germany,
Associate Professor at the University of Georgia*

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A medical worker can commit negligent misconduct (Part 2 of Article 10 of the Criminal Code of Georgia) and reckless negligence (Part 3 of Article 10 of the Criminal Code of Georgia).

To qualify the act of a medical worker as negligence, the standard of care must be taken into account, as well as the subjective aspect – to what extent a particular doctor could meet the requirements of the law at that particular moment.

When punishing for negligence, attention is also paid to the causal link between the act of negligence (action and inaction) of the doctor and the result obtained, which is justified with a high degree of probability close to the reality – 99.9%. Consequently, when it is impossible to establish such a causal link between the doctor's act of negligence and the result, there are gaps in punishment, since there is no negligent attempt.