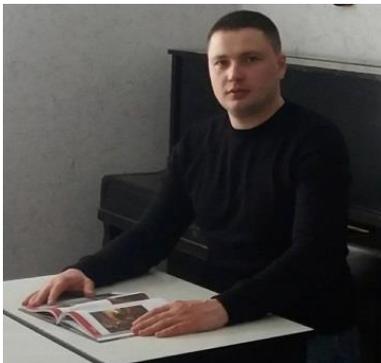


PUBLIC POLICY AND SOCIAL REGULATION OF THE MODUS OF HEALTH AND DISEASE IN UKRAINE



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Abstract: The health of the nation as a factor of state formation and security is a basic component of human capital and competitiveness of the country and is closely integrated with the economy, science and defense. The health of the population is also a guarantee of the favorable socio-moral atmosphere and trust in the state. The aim of the study is to analyze the international legal standards applied in Ukraine and national health programs. In this study we used the method of critical analysis of international legal standards applied in Ukraine and state programs of public health. Results show that only 45 national programs and 10 government-approved comprehensive measures aimed at health improving and prolongation the average life expectancy of citizens have been adopted in recent years, which to some extent duplicate or only complement each other. However, the implementation of the above programs is poor, since it requires financial and economic foundations of the public health system. Considering the results of our research, we emphasize that most of the international acts related to the medical care have not been ratified by Ukraine yet and the implementation of national programs has no sufficient financing that specifies the necessity to bring the national public health system to conformity with the European Union legislation as well as there must be the sufficient financing of the medical sector for the effective implementation of state programs to protect the public health.

Keywords: *public policy; health; public health; international legal standards.*

Introduction

One of the features of the modern state is its social function that ensures social human rights, in particular, the right to health (Rachovitsa, 2016). A universal indicator of the level of development of the society in any country worldwide is human health. The health of the nation as a factor of state formation and security is a basic component of human capital and competitiveness of the country and is closely integrated with the economy, science and defense (Sohn, 2012). The health of the

population is also a guarantee of the favorable socio-moral atmosphere and trust in the state (Svintsits'kyi, 2012).

Currently, the formation and development of the public health systems that would meet the growing needs of the population in affordable and quality medical care, while restraining the rapid growth of health care costs. In this case, the priority should be given to the creation of appropriate regulatory framework, adequate resource provision and modern effective management (Bilyns'ka, & Radysha, 2013; Gostin, et al., 2019).

The aim of the study is to analyze the international legal standards applied in Ukraine and national health programs.

Literature review. In defining the concept of the modus of health and disease, it should be noted that the health modus is a culturally and historically determined human viability for rehabilitation and productive activities in the society, a certain mode of service and social significance, the content of which is not reduced to such values as the "glory", "property", "power", etc (Kopa, 2010). A disease is some empirical reality in which a human exists (MacNaughton, & Hunt, 2009). It is not identical with the objective reality that exists for contemporary European individual. Objective reality is value-neutral; it is a space for our lives, for the improvement of the society (Friedman, & Gostin, 2015). A disease is located between two poles: on the one hand, it is not a real state of health, and on the other hand, it is not a true reality, which, ontologically and axiologically, is secondary to health (Kopa, 2004).

The social value of the health modus is determined by the level of development of the society and its practical intentions to meet the socio-cultural ideals of human life, as well as measures taken to combat and neutralize anomie processes, ensure personal security of the citizens and national security (Tulchinckiy, & Varavikova, 2014). International legal standards in the field of public health are based on progressive international legal regulations adopted by the authorized international bodies and the Ukrainian state, made up the constitutional and legal content of the health modus (Kopa, 2010).

Material and Methods. In this study we used the method of critical analysis of international legal standards applied in Ukraine and state programs of public health. At the first stage, information was collected and sources were studied; at the second – systematization of the collected information; at the third – check of the received results; at the fourth – create of the own conclusions.

Results. Numerous scientific publications are devoted to the issues of social and legal regulation of the health and disease modus. The works of D. Gomon (2015), Ya. Shehedyn (2016) are devoted to the study of the public health issues in Ukraine and implementation of the national policy in the field of public health in the context of the health reforms; W. Groot (2006) elucidated the issues of investing in public health; the relationship between public health and national security was considered by A. Klanz (2017); the legal component of the public policy on the formation of a healthy lifestyle in Ukraine was studied by O. Shukatka (2018), O. Khozhylo (2014), et al; N. Ashytok (2015), A. Kolupayeva (2009), et al. studied the pedagogy of health, namely the problems of inclusive education in the context of the disease modus.

Notably, the analysis of the international legal standards in the field of public health has shown that since 1919, a number of the regulatory legal acts have been adopted aimed at social protection and promotion of human health (Birn, 2009). Thus, the General Conference of the International Labor Organization (ILO), convened in Washington by the Government of the United States of America on October 29, 1919, adopted the Maternity Protection Convention (revised in 1952), which approved some proposals for the employment of women before and after childbirth and the issue of maternity benefits; The Medical Examination of Young Persons (Sea) Convention, adopted on October 25, 1921, contains a number of proposals with regard of compulsory medical examination of children and young persons, employed at sea, who shall be subject to medical examinations with further production of a medical certificate attesting their physical fitness for such works.

From 1944 to 1949 the following documents were adopted: Medical Care Recommendation No.69 (Philadelphia 12.05.1944, 26th session of the ILO General Conference); the Nuremberg Code (the First International "Code of Conduct for Human

Experiments", Nuremberg, August 1947); The Declaration of Geneva (The Physician's Pledge) was adopted in September 1948, amended in August 1968 and in October 1983, where one of the important provisions is "The health and well-being of my patient will be my first consideration"; International Code of Medical Ethics (adopted in October, 1949, amended in 1968, 1983, 1994), which contains the general responsibilities of physicians. In order to protect workers from any harm to their health related to their work or conditions in which it is performed, the Protection of Workers' Health Recommendations were adopted (No. 97 in 1953; No. 112 in 1959).

The important documents that are directly related to human rights and the right to health are the International Charter of Human Rights, which consists of five documents: the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), The International Covenant on Economic, Social and Cultural Rights (1966), the First Optional Protocol to the International Covenant on Civil and Political Rights (1966) and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

The European Social Charter (1961, revised in 1996) in one document embodies all rights, including affordable and effective healthcare for the whole population; disease prevention policies, including safeguards for a healthy environment; eliminating the risks of occupational diseases to ensure that health and safety at the workplace is provided by the law and guaranteed in practice; maternity protection (The Verkhovna Rada of Ukraine, 1996).

The main documents that contribute to the human health, adopted in the late twentieth century, are: the Declaration of Lisbon on the rights of the patient (1981), which describes some of the basic rights that patients must be guaranteed by the physicians; Twelve Principles of provision of health care in any national health care system (1983), which states that the health care system is designed to provide a state-of-the-art level of medical services with complete freedom of choice for both a physician and a patient; Declaration on Human Rights and Individual Freedom of Medical Practitioners (1985); Declaration on Physician Independence and Professional

Freedom (1986); the Declaration on Euthanasia (1987), which states that euthanasia and assisted suicide are morally and religiously erroneous and should be prohibited without exception; the Declaration on Human Organ Transplantation (1987); the Declaration of Madrid on professional autonomy and self-regulation (1987); the Convention on the Rights of the Child (1989), which states, in particular, in Article 24, that the child has the right to use the most advanced services of the health care system with priority given to the development of primary health care; the Declaration on the Abuse of the Elderly (1990); the Declaration on the Promotion of Patients' Rights in Europe (1994); the Convention on Human Rights and Biomedicine (1997).

At the beginning of the XXI century, the high level of morbidity and mortality from various diseases and the spread of socially dangerous infectious diseases are of the great concern to the world community due to the rates and speed of their spread in the society (Bennett, & Carney, 2010; Rodier, Greenspan, Hughes, & Heymann, 2007). This threatens not only the national security of each country, but also the development of humanity as a whole (Mezentseva, Batychenko, & Mezentsev, 2018). The EU countries have taken a number of important steps to develop patients' rights and have developed relevant European standards, which have become a benchmark for the reform in public health system, leading to substantial changes in its work (Mello et al., 2013; Malozhon, 2015). The most significant document is the European Charter of Patients' Rights, adopted at the meeting of the major EU civil society organizations in Rome in November 2002. In 2005, the International Health Regulations were adopted and entered into force on June 15, 2007, aimed at preventing international disease spread and control.

Discussion. The national health programs for Ukrainian population have been developed on the basis of recommendations of international and European organizations, as well as considering the existing problems in the national health sector and are aimed at preserving and strengthening the health of Ukrainian population, prevention and reduction of morbidity, disability and mortality, improving the quality and efficiency of health care, ensuring social justice and protecting the rights of citizens to health.

Thus, in particular, the Program of Activities of the Cabinet of Ministers "Ukrainian Breakthrough: For People, Not Politicians" (The Cabinet of Ministers of Ukraine, 2008) addresses the priorities of the executive authorities at all levels, namely the provision of high quality and affordable health services with the public health system targeted at prevention of diseases, safe and healthy environment for human life (working conditions, living, study, recreation, nutrition), a healthy lifestyle and improving the demographic situation. The concept of the National Program 'Health 2020: Ukrainian Dimension' (2011) is aimed at health maintaining and promotion, prevention and reduction of morbidity, disability and mortality, improving the quality and efficiency of health services, social justice and protection of the rights of citizens of Ukraine to health. The concept of public health system development (2016) defines the principles, directions, tasks, mechanisms and terms of public health system development in order to form and implement an effective public policy to preserve and strengthen public health, increase duration and improve quality of life, disease prevention, prolongation of active, working age and promotion of a healthy lifestyle by combining the efforts of society as

a whole (The Cabinet of Ministers of Ukraine, 2016).

In total, 45 national programs and 10 government-approved comprehensive measures aimed at health improving and prolongation the average life expectancy of citizens have been adopted in recent years, which to some extent duplicate or only complement each other (Pozhyvilova, 2011). Implementation of the norms of international law concerning health services into the national legislation of Ukraine is carried out mainly directly, i.e., through the mandatory decisions of the World Health Organization and the International Labor Organization, organizations of which Ukraine is a full member, and doctrinal, i.e., through the use of basic ideas and fundamental principles developed or being developed by the world community in the field of medical law (Recommendation No. 90 I (90)³ of the Committee of Ministers of the Council of Europe to the member states with regard of medical research on human beings, adopted on February 6, 1990 at the 43rd meeting of the Ministers' Deputies) (Zohyy, 2011). However, the implementation of the above programs is poor, since it requires financial and economic foundations of the public health system.

Conclusions

The results of our comparative analysis of the current literature and publications shows that most international legal acts concerning health care have not been ratified by Ukraine.

In our view, the state policy of Ukraine in the field of public health should be aimed, first of all, at bringing the national health care system legislation in line with the legislation of the European Union; there must be sufficient funding for the medical sector for the effective implementation of the national health programs.

The present paper mentions only some aspects of the state policy of Ukraine and public regulation of the modus of health and disease; consequently, in our opinion, this issue needs further research and analysis.

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