ppi 201502ZU4645
Esta publicación científica en formato digital es continuidad de la revista impresa
ISSN-Versión Impresa 0798-1406 / ISSN-Versión on line 2542-3185Depósito legal pp
197402ZU34

CUESTIONES POLÍTICAS

Instituto de Estudios Políticos y Derecho Público "Dr. Humberto J. La Roche"
de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia
Maracaibo, Venezuela

Vol.41 *Nº 78*
Julio
Septiembre
2023

Cuestiones Políticas Vol. 41, Nº 78 (2023), 296-308
IEPDP-Facultad de Ciencias Jurídicas y Políticas - LUZ

Transformation of the State policy of Ukraine in the healthcare sector during martial law

DOI: https://doi.org/10.46398/cuestpol.4178.21

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Abstract

The purpose of the article was to highlight the essence and specific features of the transformation of the Ukrainian state policy in the health sector during the development of martial law. The methodological basis of this research grouped a set of general and special scientific methods of scientific cognition (deductive, comparative and legal, comparative, systems analysis method, formal and logical method, etc.). Everything indicates that, the destabilizing factors affecting the state policy include the reaction to the armed aggression of another state and the subsequent introduction of martial law. The authors have emphasized the regulatory legal acts of the national legislation of Ukraine, which establish the principles for the formation and implementation of state policy in the health sector. Specific features of the transformation of state policy in the health sector during martial law have been identified and revealed. It has been concluded that the state policy in the health sector is characterized by a dual nature, which consists in its stability, on the one hand, and at the same time, wide adaptability to changes and needs caused by martial law.

Keywords: martial law; state policy; health system; right to health; specificities and duality.

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Recibido el 22/03/23 Aceptado el 16/06/23

Transformación de la política de Estado de Ucrania en el sector de la salud durante la ley marcial

Resumen

El propósito del artículo fue resaltar la esencia y las características específicas de la transformación de la política estatal de Ucrania en el sector de la salud durante el desarrollo de la ley marcial. La base metodológica de esta investigación agrupo un conjunto de métodos científicos generales y especiales de cognición científica (deductivo, comparativo y legal, comparativo, método de análisis de sistemas, método formal y lógico, etc.). Todo indica que, los factores desestabilizadores que afectan la política estatal incluyen la reacción a la agresión armada de otro Estado y la posterior introducción de la ley marcial. Los autores han hecho hincapié en los actos jurídicos reglamentarios de la legislación nacional de Ucrania, que establecen los principios para la formación e implementación de la política estatal en el sector de la salud. Se han identificado y revelado características específicas de la transformación de la política estatal en el sector de la salud durante la ley marcial. Se ha concluido que la política de Estado en el sector salud se caracteriza por una doble naturaleza, que consiste en su estabilidad, por un lado, y al mismo tiempo, amplia adaptabilidad a los cambios y necesidades ocasionados por la ley marcial.

Palabras clave: ley marcial; política de Estado; sistema de salud; derecho a la salud; especificidades y dualidad.

Introduction

Effective state policy in the healthcare sector is the basis for the stable functioning of the health care system of any country in the world. At the same time, the proper state of health of the population has a direct relationship to the economic potential, defense capability, level of cultural and social well-being and other important components, which influence on the successful development of the state.

The formation and implementation of the state policy in the healthcare sector requires both legal and organizational influence on social relations, and timely response to internal and external factors. Such factors can have both positive and negative content, because their action can contribute to the improvement (electronic governance, increased funding, optimization, etc.) or destabilization (state of emergency, martial law, financial crisis, etc.) of a certain system.

The action of negative factors may often be combined, which can lead to greater destabilization of a certain system. For example, the level of

corruption risks may increase during simplified public procurement in the context of counteracting the spread of COVID-19 (Teremetskyi *et al*., 2021; Lohvynenko *et al*., 2022; Knysh and Yakymets, 2022). The ability of the state policy to timely transform and implement the necessary changes into the national health care system becomes extremely important under such circumstances. It becomes possible due to the timely response of national governments to the changing conditions, challenges and threats accompanying the healthcare sector.

Based on the above, the study of the transformation of the state policy of Ukraine in the healthcare sector will be carried out in the context of the introduction and operation of a special legal regime of the martial law.

1. Methodology of the study

The scientific and theoretical basis of the research was the works of specialists focused on the legal, managerial, organizational, medical-social and military aspects of the formation of the state policy and the implementation of public administration in the healthcare sector. The informational and regulatory basis of the work consists of acts of national law that regulate relations in the healthcare sector within the normal period and under emergency conditions (martial law), political and legal journalism, scientific and journalistic works on public administration, open sources of documentary information, official registers and databases in the Internet.

The choice of the research methods is determined by the purpose, objectives and subject matter of the scientific article. The process of scientific search conditioned the mutual application of general scientific and special methods of scientific research. The indicated approach made it possible to form scientifically based conclusions.

Thus, the deductive method assisted to form the idea of the general principles of the state policy in the healthcare sector on the basis of the analysis of certain components and the dynamics of their changes in a particular period. The comparative and legal method made it possible to reveal specific features of legal regulation of the healthcare sector at the international and national levels. The comparative method contributed to determine the main components of the state policy in the healthcare sector in certain countries.

The application of the system analysis method made it possible to identify the main components of the state policy in the healthcare sector, which cause the need for its transformation during the martial law. The formal and logical method has been used to determine the perspectives

for improving the implementation of the state policy of Ukraine in the healthcare sector in a special period.

2. Results and Discussion

The sustainable development of any state is related to the successful formation and implementation of the state policy. Conventionally, it can be imagined as a certain cyclical process: a) formation of development perspectives; b) creation of a regulatory framework; c) organizational guaranteeing for implemented changes on the basis of adopted acts; d) assessment of results and formation of perspectives for the future. After that, everything starts again.

The healthcare sector in Ukraine is no exception. The inconsistency and unsystematic nature of the state policy is characteristic for this area, which was repeatedly emphasized by experts in the medical and legal field. Real reforms in the healthcare sector of Ukraine started very late. Those reforms are characterized by insufficient systematicity and continuity, as well as the absence of an approved reform strategy that takes into account existing and potential risks while implementing transformations (Lehan *et al.*, 2018). At the same time, the protection of citizens' medical rights requires more effective tools, especially in emergency situations, when rights become more vulnerable (Teremetskyi and Muliar, 2020).

National legislation is regulatory legal basis for the formation and implementation of the state policy of Ukraine in the healthcare sector. First of all, it is the Constitution of Ukraine, which refers definition of the principles of domestic and foreign policy, the implementation of the state's strategic course to acquire full membership of Ukraine in the European Union and the North Atlantic Treaty Organization to the powers of the Verkhovna Rada of Ukraine (c. 5 of the Art. 85 of the Constitution of Ukraine).

Besides, the Cabinet of Ministers of Ukraine ensures the implementation of the strategic course of the state for the acquisition of Ukraine's full membership in the European Union and the North Atlantic Treaty Organization, as well as the implementation of financial, pricing, investment and tax policies; policies in the spheres of labor and employment of the population, social protection, education, science and culture, nature protection, environmental safety and nature management (c. 11 and c. 3 of the Art. 116 of the Constitution of Ukraine).

The constitutional provisions on the formation and implementation of the state policy of Ukraine in the healthcare sector are detailed in the Fundamentals of the legislation of Ukraine on health care. They refer to

such a priority area of state activity as health care, the formation of the state health care policy, the implementation of the state health care policy, the system of standards in the healthcare sector and health care agencies (the Articles 12-15, Commentary on the Law "Fundamentals of the legislation of Ukraine on healthcare", 2021).

As it has been already mentioned, the state policy in the healthcare sector can be transformed under the influence of external factors. The latter include the declaration of a state of emergency related to the COVID-19 pandemic (Teremetskyi and Duliba, 2020) or counteraction to the armed aggression of another state and implementation of the martial law in this regard.

The martial law is a special legal regime. It is introduced in Ukraine or on some of its territories in case of any armed aggression or threat of attack, danger to the state independence of Ukraine, its territorial integrity. The martial law provides for the granting to the relevant public administration entities of the powers necessary to avert the threat, to repulse armed aggression and to ensure national security, to eliminate the threat of danger to the state independence of Ukraine, its territorial integrity.

Temporary restriction of the constitutional rights and freedoms of a person and a citizen, as well as the rights and legal interests of legal entities with the indication of the period of validity of these restrictions is allowed during the martial law due to the threat (Law of Ukraine "On the legal regime of the martial law", 2015).

As we know, the Constitution of Ukraine prohibits to restrict the rights and freedoms provided in the Articles 24, 25, 27, 28, 29, 40, 47, 51, 52, 55, 56, 57, 58, 59, 60, 61, 62, 63 (the Art. 64 of the Constitution of Ukraine, 1996) even in terms of the martial law. However, certain temporary restrictions may be imposed on the exercise of other rights and freedoms, in particular the right to health care.

In our opinion, the transformation of Ukraine's state policy in the healthcare sector during the martial law should take place taking into account the following features: 1) changes in strategic documentation, as well as amendments to the national legislation within the researched field; 2) greater attention to vulnerable population groups (children, persons with special needs, persons of the third age, internally displaced persons, etc.); 3) strengthening military-civilian cooperation on medical issues; 4) consolidation of health care standards under emergency conditions; 5) search for perspectives in order to improve the national health care system.

Considering each of the singled-out features in details, we note that regulatory legal framework that enshrines the right to health care is undergoing changes. Assistance in realizing the right to health care in emergency situations is the key aspect to such changes. It is related both to specific legislation in the healthcare sector and strategic documents.

It is not necessary to have a declaration for internally displaced persons during the martial law, it is allowed to refer to primary care physicians – pediatricians, therapists and family doctors, as well as narrow specialists (Ministry of Health of Ukraine, 2022). The functional subsystem of medical protection has been brought into readiness to perform assigned tasks in a special period, and the implementation of the Civil Protection Plan of the functional subsystem of medical protection for a special period has begun.

At the same time, the degree of readiness is defined as "Full readiness", which was approved by the Order of the Ministry of Health of Ukraine dated from February 25, 2022 No. 381 (Ministry of Health of Ukraine, 2022). In turn, the Order of the Ministry of Health of Ukraine dated from March 17, 2022 No. 496 approved the requirements for improving the quality of providing primary medical care in terms of the martial law, in particular, vaccination in accordance with the requirements of the preventive vaccination calendar (Ministry of Health of Ukraine, 2022).

We note legal regulation of administrative liability for violating quarantine under the martial law. In particular, Resolution of the Cabinet of Ministers of Ukraine dated from March 26, 2022 No. 372 "On Amendments to the Resolution of the Cabinet of Ministers of Ukraine dated from December 9, 2020 No. 1236" determined the specifics of quarantine to combat the coronavirus disease during the martial law in Ukraine (Cabinet of Ministers of Ukraine, 2020).

According to the amendments made, the "green", "yellow", "orange" or "red" levels of the epidemic danger of the spread of COVID-19 and the corresponding restrictive anti-epidemic measures during the martial law are not applied. Instead, the identified measures are related to counteracting COVID-19 in emergency situations, primarily prevention and vaccination (Chernetska, 2022).

As for increasing attention to vulnerable groups of population, it primarily concerns population groups or types of health care. Regarding population groups, the most important of them is children. A person is formed physically, mentally and intellectually during the childhood, and acquires all the necessary knowledge, skills and abilities. The future of the state, its successful development and perspectives for existence in general depend on the health of children.

Equally important is the organization of rehabilitation of victims to the conflict. Local self-government agencies and military-civilian administrations have received wide powers and financial opportunities in modern conditions in order to properly resolve the issue of the realization of human rights, in particular, regarding the medical and psychological rehabilitation of persons, who suffered as a result of the armed conflict.

Unfortunately, local initiatives for the formation of a rehabilitation system, which would take into account the challenges associated with the consequences of resisting the military aggression of the Russian Federation, do not find national recognition. In particular, ir is explained by the lack of the unified state register of persons who have received injuries or other harm of health from explosives, ammunition and military weapons, as well as a corresponding state program that would make it possible to introduce social protection measures for such persons and provide their financing at the regional level.

Strengthening of military-civilian cooperation in terms of the martial law is carried out in many directions, where a prominent place among them is occupied by the medical one. One should agree with Skrynnikova (2022) that health care institutions function in an extremely complicated mode providing assistance, first of all, to military personnel.

The Verkhovna Rada of Ukraine in order to implement and properly coordinate the work, as well as to ensure the proper treatment of military personnel, made amendments to the Art. 11 of the Law of Ukraine "On social and legal protection of military personnel and their family members" (Law of Ukraine "On social and legal protection of military personnel and their family members", 1991). Those amendments improve the provision of medical care to military personnel under the martial law and provide treatment of military personnel both in military health care facilities and in other facilities located both on the territory of Ukraine and abroad (Skrynnikova, 2022).

In turn, Loboda and Mykhalchuk (2022) emphasize that it is the state that forms the implementation of regulatory legal framework of health services, the structures of the state security sector, and the civilian health care system; it provides financial and resource support for the needs of the civilian population during the martial law. The Ministry of Health of Ukraine together with the Ministry of Defense of Ukraine form and maintain a certain number of territorial hospital bases for medical support of the military and civilian population during the martial law.

Thus, departmental medicine was integrated into a single medical space in terms of the martial law, as it was earlier required by the concept of medical reform. That made it possible to implement the principle of patient-centeredness, to ensure the possibility of receiving high-quality medical services by all subjects of legal relations within the healthcare sector.

The above corresponds to the provisions of the Military Medical Doctrine of Ukraine approved by the Resolution of the Cabinet of Ministers of Ukraine dated from October 31, 2018 No. 910 (Cabinet of Ministers of Ukraine, 2018). The Doctrine defines the ways for forming and implementing unified approaches to preserving and strengthening the health of servicemen,

providing medical assistance, their treatment and rehabilitation, as well as combining the capabilities and efforts of military medical services and civilian healthcare to form the unified medical space, improve material and technical equipment of medical facilities.

Health care standards during the martial law also need to be reviewed and optimized. Accordingly, the national standards and basic principles, which should be the basis for the realization of the right to health care, must be the fundamentals of the state policy in the researched area. For example, it is applied to the standard of emergency medical care: "Medical triage during mass admission of victims at the early hospital stage".

At the same time, temporary measures are important, in particular regarding the readiness of health care institutions to provide medical assistance to victims of Russia's military aggression against Ukraine. It also includes the Order of the Ministry of Health of Ukraine dated from March 10, 2022 No. 458, which approved the Minimum requirements for ensuring the sanitary and epidemic well-being of the population during the emergency arrangement of places of temporary stay for persons who are forced to leave their places of permanent residence because of the military aggression of the Russian Federation (Ministry of Health of Ukraine, 2022). The specified changes at the sub statutory level make it possible to optimize the state's efforts to implement the state policy in the healthcare sector during the emergency period, to guarantee citizens the realization of the constitutional right to health care.

Transferring to the perspectives for improving the national health care system, we can point to the active participation of international partners in this process. It is related to the de-occupation and reintegration of the temporarily occupied territories of Ukraine, the restoration of the functioning of public administration agencies on such territories, as well as the proper guarantee of human and civil rights and freedoms.

The principles for restoration and transformation of the health care system in Ukraine suggested by the WHO European Regional Office can be cited in this case. The position of international experts takes into account the strategic directions of the post-war recovery of the health care system in the short- and long-term perspective, simultaneously with the continuation of the provision of basic services in the healthcare sector during the ongoing hostilities. The suggested principles can be used as criteria for evaluating potential investments into measures to ensure the provision of qualitative individual and public health services, but not just to rebuild what was destroyed during the war.

Those principles are defined as: 1) orientation for human beings; 2) equality and financial protection; 3) resilience (stress resistance); 4) efficiency and stability; 5) accountability. It is believed that the application

of the above principles within the framework of the recovery strategy will make it possible to align the investments and priorities of the post-war policy with the main directions of the health care reform in Ukraine, in particular, in relation to the requirements for joining the European Union and accelerating the transformation of the national health care system (World Health Organization. Regional Office for Europe, □2022).

Approach by Zhovnirchyk *et al.* (2022) who suggest to use the positive experience of other states in solving the urgent problem of transforming the health care system is also very interesting. In their opinion, the health care of military personnel and the civilian population during the martial law does not meet the current domestic requirements regarding the guaranteed volume and quality of medical care, treatment and rehabilitation. Besides, scholars indicate the need to develop a military health care system.

We do not share the point of view regarding the development of the departmental health care system in the Armed Forces of Ukraine. On the contrary, in view of the treatment of a significant number of military personnel in health care institutions of various levels of subordination and institutional affiliation, the target-oriented improvement of the qualifications of medical employees is more perspective. It will preserve the unity of the medical space, as well as to ensure the proper level of medical services provision by qualified specialists.

We also emphasize the project of the Recovery Plan of Ukraine based on the materials of the "Health Care" working group. The main goal for the implementation of the Recovery Plan in the healthcare sector is the restoration and development of the health care system with new quality and availability of services to meet the needs of citizens. In order to realize this goal, the Plan provides a number of measures, in particular:

1. strengthening the management of the process for restoring the health care system;
2. ensuring the financial stability of the health care system;
3. restoration and transformation of the network of health care facilities;
4. strengthening medical services to meet the special needs of people caused by war;
5. strengthening and increasing personnel resources;
6. strengthening the public health system and readiness to emergency situations;
7. development of electronic health care and strengthening cyber security;

8. strengthening the quality management system at the national and local levels;
9. restoring the pharmaceutical sector, improving access and proper use of medicinal products (National Council for the Recovery of Ukraine from the War, 2022).

While supporting the vectors offered by the project for reforming the health care system of Ukraine in the post-war period, it should be emphasized that the conceptual principles should be developed and consolidated in the current legal acts.

The transformation of the state policy in the healthcare sector during the martial law surely requires a balanced approach. Some components of such a policy remain static (priority of preventive medicine, standards and programs of medical care, unified medical space, patient-centeredness, equality of medical care). At the same time, other components have a variable nature (psychiatric and psychological care, rehabilitation, quarantine restrictions, radiological safety measures, sanitary-epidemiological norms and rules, etc.).

Considering the above, it can be concluded that the state policy in the healthcare sector is characterized by a dual nature, which consists of its resistance to destabilizing factors, and at the same time, wide adaptability to changes and needs associated with the operation of a special legal regime of the martial law.

Conclusion

The authors of the article have analyzed the transformation of the state policy of Ukraine in the healthcare sector during the operation of the special legal regime of the martial law. It has been found out that the ability of the state policy to timely transform and implement the necessary changes into the national health care system becomes possible due to the timely response of national governments to the changing conditions, challenges and threats accompanying the healthcare sector.

It has been emphasized that the sustainable development of any state is related to the successful formation and implementation of the state policy that can be imagined as a certain cyclical process: a) formation of development perspectives; b) creation of a regulatory framework; c) organizational guaranteeing for implemented changes on the basis of adopted acts; d) assessment of the results and formation of future perspectives.

It has been concluded that the transformation of the state policy of Ukraine in the healthcare sector during the martial law should take place taking into account the following specific features: 1) changes in strategic documentation, as well as national legislation within the researched field; 2) greater attention to vulnerable population groups (children, persons with special needs, persons of the third age, internally displaced persons, etc.); 3) strengthening military-civilian cooperation on medical issues; 4) consolidation of health care standards under emergency conditions; 5) search for perspectives to improve the national health care system.

Certain components of the state policy remain static (priority of preventive medicine, standards and programs of medical care, single medical space, patient-centeredness, equality of medical care). Other components are variable (psychiatric and psychological assistance, rehabilitation, quarantine restrictions, radiological safety measures, sanitary-epidemiological norms and rules, etc.). Thus, the state policy in the healthcare sector is characterized by a dual nature, which consists in its resistance to destabilizing factors and, at the same time, wide adaptability to changes and needs in terms of the martial law.

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CUESTIONES POLÍTICAS

Vol.41 Nº 78

Esta revista fue editada en formato digital y publicada en julio de 2023, por el ***Fondo Editorial Serbiluz, Universidad del Zulia. Maracaibo-Venezuela***

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