This book surveys some of the most significant topics in recent health systems analysis (the role of rights in health care provision, the fluctuating level and type of health insurance coverage across states, and important shifts in legal frameworks impacting the provision of health care). The contributions to the volume document how these trends converge or diverge across jurisdictions, but they also probe the interplay of these variables (does the existence of a justiciable "right" to health care lead to better insurance coverage, or to a more thoroughgoing focus on public health measures. While some major Western European states (United Kingdom, Italy, Spain) are represented in this discussion, the work includes other Eastern European and Euro-Asian nations that have been neglected in much of the literature on comparative health systems. Thus, it is focused on newly democratic Eastern states, as they are still in the process of significant reform, and are still finding their way. In this regard, the publication includes analyses of Russia, Ukraine, Poland, Serbia, Slovenia, Bulgaria, Greece, Macedonia, Kazahkstan, Azerbaijan, and Georgia, written by legal advisors and early-career researchers who are intimately familiar not only with the state's laws and policies, but also the wider social and political context which gives these health care systems their particular characteristics. To this mix, Brazil has also been added as a particularly useful complement to the discussion since it is one of the few large states to acknowledge the existence of a justiciable health care right.

According to this approach, this volume shows an interesting way to bring together disciplines (health law/health policy), approaches (international/national) and career status of contributors (seniors/juniors).

These intersections provide a clear focal point for the comparative study of health law and policy, for the diffusion of high-quality information, and for the training of new scholars and policy analysts.

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C.M.: 72715

ISBN: 978-84-1308-137-3

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Chapter 20

Formation of Public Health Policy in Ukraine in the Context of European Integration

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1. THE HISTORY OF PUBLIC HEALTH IN UKRAINE

Due to recent scholarship in archival medical history, a fascinating picture of the development of Ukraine's public health system has emerged. At the beginning of the 20th century, after a series of revolutions and the subsequent decline of the Russian Empire, Ukraine began to develop its own governance structures, including a framework for public health. The reforms envisaged that the entire medical and sanitary structure would be based on democratic principles and grounded in public health care. Its basic principles were free and accessible medical care, prevention of ill health, and community participation in the development of the medical and sanitary aid system. The managerial structure was based on the precept of self-government. As these new institutions of medical care emerged in Ukraine, public health offices were established in conjunction with the activities of town councils and district county councils.

The novelty of these new institutions rested in their ability to incorporate modern public health principles with historical aspects of the practice

of medicine in Ukraine, where custodial medical institutions have been in existence as far back as the 15th century. Historically, the functions of public health measures were developed in response to the requirements of the times: the organisation of health care for the civilian population; the provision of sanitary care for the merchant fleet; the purchase of medications from foreign sources; and the promotion of repatriation of Ukrainian citizens, including not only direct aid for captives, but also the facilitation of the return of Ukrainian emigrants from West and Far East countries.

The early 1900s was the period of Ukrainian statehood formation. The attempt to ensure a system of medical care management throughout this period was impeded by conditions of civil war, widescale destruction of medical and sanitary networks, and epidemics. Moreover, local governance completely depended on the central state authority. As a result, there was a diarchy in medicine management in Ukraine.

In 1922, the USSR was founded, with Ukraine comprising one of 15 Soviet republics. This political consolidation let to problems in the coordination of health care systems. A main initiative at this time was the creation of network of polyclinics, women's and children's consultation offices, and the expansion of the preventive measures in the activities of both public health and primary care doctors. Polyclinics were given increasing importance in the organisation of treatment and preventive care for the population. However, years of civil war and foreign military intervention hindered the development of public health in Ukraine's cities and villages in Ukraine. A major problem was the lack of trained public health specialists.

Nonetheless, by 1928 a network of sanitary epidemiological centres rapidly began to develop rapidly in Ukraine. At the beginning of 1941, the health care system of the Ukrainian Soviet Socialist Republic boasted 29,000 doctors and 91,000 mid-level medical workers employed at 16 medical institutes, 4 extension course institutes for medical practitioners and pharmacists, and 45 scientific and research institutes. At the same time, however, Stalin's administration was responsible for the repression of many distinguished scientists in the field of social medicine: their professional reputations were diminished and their activity was prohibited even as medical statistics indicated demographic problems stemming from the great famine (Holodomor), imprisonment of some part of the population at concentration camps, and exile from Ukraine. Many promising scientific institutions were closed, and it became prohibited to carry out statistical record-keeping of human morbidity and mortality. Fundamental social and medical research (and especially the study of morbidity and mortality trends in Ukraine, as well as the social and hygienic conditions of Ukrainian village) was replaced by apologetic, panegyric research in the

middle of the twentieth century. This approach glorified various health-related decisions of the communistic party and government, although the only clear evidence of the success of these decisions remained the constant growth of the number of doctors and hospital beds.

The ruin of social medicine resulted in the range of grave consequences for the Ukrainian health care system, which still have repercussions for the present system in remaining methodological weakness and uncertainties build on the paucity of longitudinal data. In the organisation of health care management, public health specialists and health care organisers were substituted by clinicians (including therapists, surgeons, and obstetrician-gynaecologists), who shaped the development of Ukrainian health care throughout the twentieth century.

After the Second World War, much work on the renewal of the material and technical basis of Ukraine's health care system was carried out. Almost all rural medical stations, 'feldshers' and feldsher obstetric centres,[1] mother and child protection institutions, and pharmacy chains rebuilt their activities. In the late 1950s, due to the improvements in water management and malaria treatment, real public health gains were observed.

A higher rate of emergency medical service for the population was achieved in the 1970s due to the amalgamation of emergency and hospital services within most large cities in Ukraine. In order to improve hospital care for rural population, specialised rooms (for 15-20 specialities) were created at the polyclinics of all central district hospitals. It brought many kinds of specialised treatment close to rural population. In order to bring paediatric aid close to rural children, central district hospitals and rural district ambulatories were provided with paediatricians in the early 1970s.

Many advances in health care provision and management were achieved under Soviet rule, as the nature of health care itself became increasingly complex. After the independence of Ukraine in 1991, the Ministry of Health faced the task of managing health care under conditions of economic crisis. These economic conditions required substantial reform of the health system. The restructuring of public health has become a key area of focus in this process of reorganisation. According to health officials, several strategic directions must be addressed. The first focus is on the prevention of ill health and the promotion of healthy life styles. Other

1. A 'feldsher' is a unique historical designation that is similar to a modern paramedic. Originating in 17th century Prussia (the term 'feldsher' is a derivative of the German term 'field barber') feldshers were medical professionals with limited training used in military campaigns to attend to wounded soldiers. Exported to Eastern Europe, feldshers later became paramedical personnel with limited training who worked in rural, remote, or poor areas where doctors were scarce.

aspects of health care reform include the facilitation of private health care options, better access to primary health care, the restructuring of health insurance, and revitalisation of medical education.[2]

2. THE ANALYSIS OF PUBLIC HEALTH SYSTEM FORMATION IN UKRAINE

2.1. INSTITUTIONAL FRAMEWORKS OF PUBLIC HEALTH DEVELOPMENT IN UKRAINE

The current public health regime is based upon the principles of health preservation and productive human life. Public health legislation is based on the Constitution of Ukraine and Laws of Ukraine, and especially three principal legislative acts:

- Fundamentals of Health Legislation of Ukraine.
- The Provision of Sanitary and Epidemic Well-being of the Population.
- Protection of the Population from Infectious Diseases.

The public health system in Ukraine is strongly influenced by the health policy of the European Union. While health care *per se* technically remains under the purview of independent states, public health is seen as a valid aspect of European governance due to the diffuse nature of pathogens in the modern world. Key EU policies include '*Health-2020: fundamentals of the European policy for support of the state and society actions in favour of health and well-being'*[3], and '*The European plan of actions on consolidation of the potential and services of public health'*[4], which served as an orientation point in public health development in the European region. Also important were the requirements of the Agreement on Association between Ukraine and EU.[5] Finally, national-level documents outlining a general course of

2. Historical survey of Oleksandr Vlodek <http://old.moz.gov.ua/ua/portal/mtbr_healthserviceshistory/>; A. E. Romanenko (ed.), *Health care and Medical Science in the Ukrainian SSR* (in Russian) (K 1987); B. Kryshtopa 'Governing bodies and health care management in the period of Ukrainian statehood' (2000) 12 *Ahapit 10;* O. Holiachenko, A. Serdiuk and O. Prykhodskyi, 'Social medicine, organization and economy of health care' (Dzhura 1997) (in Ukrainian) 8; A. Voloshyn, 'Are there any reforms in medicine?'(1999) 93 *Your Health* 1.
3. Health-2020: fundamentals of the European policy for support of the state and society actions in favour of health and well-being. – Copenhagen: European regional bureau of World Health Organization, 2012.
4. European plan of actions on consolidation of the potential and services of public health. – Copenhagen: European regional bureau of World Health Organization, 2012.
5. Agreement on association between Ukraine, as the party of the first part, and European Union, European community on nuclear power and their state members,

actions include '*Ukraine 2020: A Strategy of Sustainable Development'*[6] and '*A National Strategy for Reforming the Health Care System in Ukraine 2015-2020*'.

In terms of public health specifically, the document *Conceptualising Public Health Development*, which was adopted in 2016, is currently being implemented by the state.[7] The conception will help in the creation of an efficiently unified system. This means that leaders of each central and local body of executive power will take into account the consequences of their decisions for health of the population and give priority to measures that will help people to avoid diseases and injuries. The process of implementing the strategic plans include engaging stakeholders and developing epidemiological planning at national, regional, and local levels. The conceptual document establishes the basics for a rejuvenated health care system focusing on the reorientation from acute treatment to the policy of health promotion/ preservation and disease prevention.

To reduce the impact of non-infectious diseases, an approach has been implemented giving individuals an opportunity to become actively involved in health promotion strategies. It also will permit local self-government bodies to formulate public health policy supporting local priorities.

Implementation of the conceptual document will facilitate the more complex reforms of the health care system. The strategic plan, approved by the Cabinet of Ministers of Ukraine in 2017,[8] outlines the following issues:

- development and adoption of a communication strategy regarding the priority issues of public health;
- development of staff resources in the public health system including the amendment of the national occupational classification pertaining to public health;
- creation of referent laboratories;
- implementation of an electronic system of information management in the laboratory network of public health system;

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as the party of the second part: ratified with the claim by the Law of Ukraine of 16 September 2014 no1678-VII. (in Ukrainian) <https://zakon.rada.gov.ua/ laws/ show/984_011>.

6. On the Strategy of sustainable development 'Ukraine-2020': Order of the President of Ukraine of 12 January 2015 N° 5/2015. (in Ukrainian) <https://zakon.rada.gov.ua/ laws/show/5/2015> 4 February 2019.
7. On approval of the Conception of public health system development: Ordinance of the Cabinet of Ministers of Ukraine of 30 November 2016.N° 1002-p (in Ukrainian).
8. On adoption of the plan of measures on realization of the Conception of public health system development: Ordinance of the Cabinet of Ministers of Ukraine of 18 August 2017 N° 560-p (in Ukrainian).

- development and adoption of the statutes regarding the creation of regional centres of public health;
- development of the regional plans of complex measures and programmes regarding the prevention and treatment of the diseases which have the most negative socio-demographic and economic influence; and
- development and adoption of the model provision on regional (or district, in hospital districts) coordination councils regarding responses to public health emergencies.

Similarly, measures focusing on eliminating impediments to public health include improving communication by means of informing individuals on healthy practices and motivating them to maintain optimal health; and improving public health advocacy more widely.

The first pilot projects on the development of regionalised public health districts in Ukraine were initiated in 2017 in 6 regions: Rivne, Poltava, Chernivtsi, Kherson and Sumy regions and in Kyiv city. The aim in these pilots was the development of corresponding organisational mechanisms. Within the field of medical education, the processes of European integration informed many changes in medical education curricula. The specialisation of 'public health' has been created at some higher educational institutions at the levels of Bachelors' –and Masters'– level study. Nonetheless, educational programming in public health still requires improvement, especially through the development and implementation of the European experience.[9] In order to coordinate such efforts at the national level, the Centre for Public Health within the Ministry of Health of Ukraine was founded. This institution implements the best European experience in Ukraine. One example has been a collaborative projects between the Centre and the Norwegian Institute of Public Health. This kind of cooperation facilitates the development and implementation of international medical and sanitary rules and systems of preparedness and response to emergency situations. Moreover, national systems of antimicrobial resistance and infection control will be implemented. With the participation of Norwegian partners, the system of public health registries and of environmental monitoring (air and water) are being improved. The experience of the Norwegan partners

9. N. Demikhova, O. Prykhodko, A. Loboda, V. Bumeister, Y. Smiianov, V. Lukianykhin and O. Demikhov, 'Using Problem-Based Learning (PBL) and interactive methods in teaching subjects in medical education' (2016) 4(1) *Journal of PBL in Higher Education* (in Russian) 81.

will also be useful for the reformation of other aspects of the public health system in Ukraine[10].

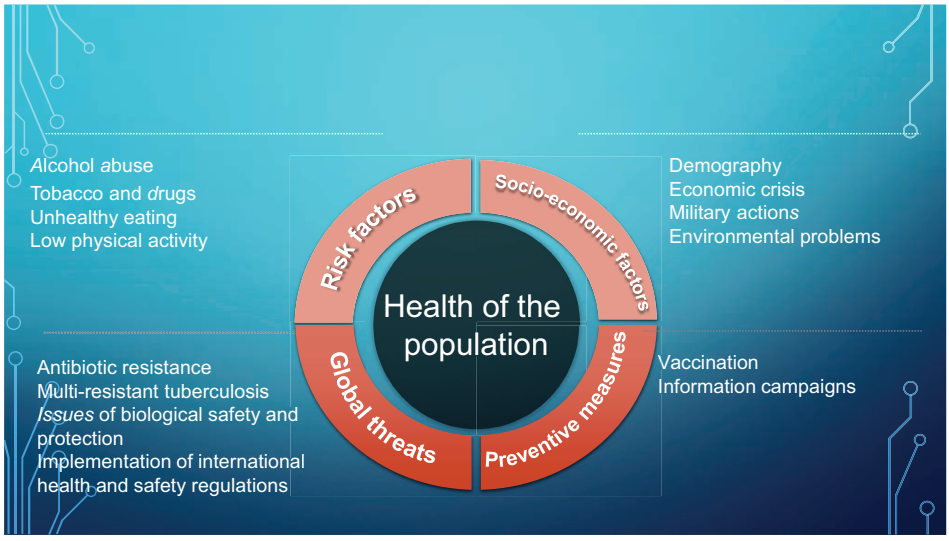
2.2. STRATEGIC PRIORITIES AND BASIC OPERATIONAL PUBLIC HEALTH FUNCTIONS IN UKRAINE

The main problems of public health in Ukraine are:

- declined life expectancy.
- the spread of HIV/AIDS (Ukraine has the highest rates in Europe).
- the prevalence of tuberculosis (Ukraine has amongst the highest rates in the world).
- antibiotic resistance.
- critically low rates of vaccination.
- high rates of mortality from non-infectious diseases (86% as of 2016).[11]

For non-infectious disease mortality, the main factors are diabetes, cancer, chronic obstructive pulmonary diseases, cardiovascular diseases. Key risk factors of non-infectious diseases are considered below (see scheme 1).

Figure 1: Key risk factors of non-infectious diseases



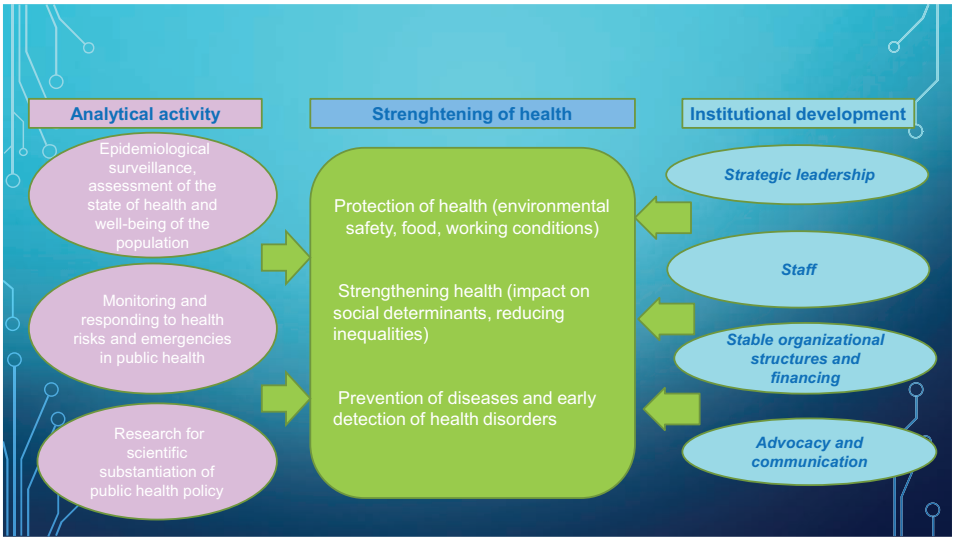
10. Website of the Centre of Public Health of the Ministry of Health of Ukraine <https://phc.org.ua /news/show>.
11. Website of the Ministry of Health of Ukraine <http://moz.gov.ua/article/news/>.

Taking into account the conditions noted above, the following target indicators for the National Action Plan for the Reduction of Non-infectious Disease Morbidity in Ukraine were chosen by public health specialists:

- 25% reduction of premature mortality from non-infectious diseases.
- at least 10% reduction of alcohol abuse.
- 10% improvement in physical activity.
- 30% reduction of average salt consumption.
- reduction in tobacco product consumption (15 years and above) to 18.5% index.
- termination of the growth in obesity and diabetes.

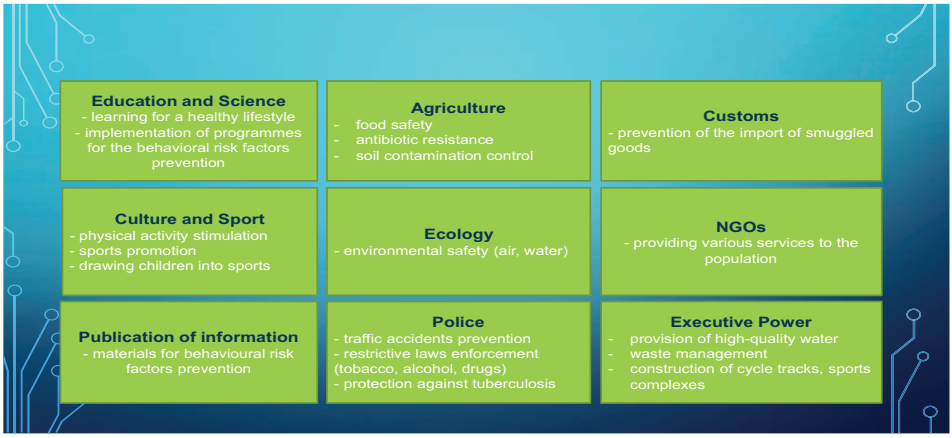
The question here is how to achieve these indicators through public health tools. Figure 2 sets out the operational public health functions that can be utilised to achieve these objectives:

Figure 2: Operational functions needed to achieve public health objectives



In our opinion, the increase of work efficiency in public health can be achieved by means of consolidation of the efforts of all relevant state and regional structures. This cooperation can be represented as inter-sectoral interaction (figure 3).

Figure 3: Inter-sectoral interaction in public health



Stimulating business in the health industry by the state and municipalities is also a promising strategy (see figure 4).

Figure 4: Stimulating business in the health industry

2.3. SUGGESTIONS ON LEGAL PROCEDURES UNDERLYING STATE IMPROVEMENT IN PUBLIC HEALTH IN UKRAINE

A study of the legal aspects required for the development of the public health system was conducted in Ukraine in 2017. This study was a collaborative undertaking on the part of researchers at the Center for

Health Services Studies at the University of Kent and the Kyiv Economics Institute at the Kyiv School of Economics. These researchers concluded that improvement of, and amendment to, texisting legislation along with the introduction of new professions and practices is an integral part of public health programmes. However, not much is known about the extent to which these activities have been implemented. Key informants interviewed for the study emphasised that the laws of Ukraine do not meet today's requirements, and that further changes are needed to the regulatory framework. Lack of supportive legislation was named as one of the main difficulties of the implementation of the programme combating the spread of dangerous infectious diseases in the Dnipropetrovsk region in 2008-2012 years. For instance, confidentiality of the patients' diagnosis is one of the debated topics. Family doctors and experts at specialised health care centres believe that the 'confidentiality' norm must be deleted from the law. According to the available legislation, doctors are criminally responsible for disclosure of information about HIV/AIDS positive people. To avoid criminal liability, according to some interviewees, doctors do not inform other professionals about HIV/AIDS status of their patients. This increases health risks of both HIV/AIDS positive and negative people, affects timely provision of specialised medical aid, and contributes to stigmatisation of HIV/AIDS positive people.

The available legislation also does not take into account *force majeure*. As a result, national programmes limit activities to local medical personnel and administration staff. The division of responsibilities for program implementation between local and national government lacks flexibility and does not consider unforeseeable circumstances that prevent the successful accomplishment of program activities. Where the national government fails to implement any part of the public health program it is responsible for, local government cannot simply take on this responsibility as it will be subject to criminal liability. For instance, in the framework of the National Program on Tuberculosis, the national government took on the legal responsibility for providing the BCG vaccine, but did not supply it in practice. In such circumstances the local governments were precluded from purchasing vaccine from their own budgets despite having the funds available. Allocation of local funds into activities not stipulated by the programme would have been subject to criminal liability in Ukraine.[12] In the context of globalisation, the human right to health care stops

12. Erica Gadsby, Stephen Peckham, Anna Kvit and Kateryna Ruskykh, *Public health programmes and policies in Ukraine: development, design and implementation* (Centre for Health Services Studies University of Kent, Kyiv Economics Institute, Kyiv School of Economics 2017) 21.

being merely an individual right. It becomes the most important value for the state and civil society. For this reason, it is crucial to eliminate inconsistencies between normal and legal principles.[13]

3. CONCLUSION

In conclusion, we would like to emphasise how important it is that public health activity is incorporated into all state and municipal bodies, as well as integrated into the business sector and the general community. Public health centres are expected to fulfil a mission consolidating many social objectives. In particular, mass media, religious organisations, schools, universities, large enterprises and small businesses, centres of mental health, transportation services, judicial and law enforcement authorities, charity organisations, grantors, ecological structures and communities themselves at the nieghborhood level are all under the aegis of the public health centres and should thus gradually unite into integrated systems of local partnerships. Only together can we not only ensure the health of our community, but also look forward to secure the health of our descendants.

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