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## **Implementation of International Legal Norms of Medical Law in the Field of Public Health in Ukraine**

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**Abstract:** The study summarises the experience of Ukraine in implementing international medical law in the field of public health. It is established that this process has become dynamic in the context of the implementation of Chapter 22 of the Association Agreement between Ukraine and the European Union (2014), which is devoted to public health issues. All these issues are compared with the healthcare paradigm of independent Ukraine. It is concluded that Ukraine's transformation of the Soviet "Semashko system" took decades, as legislative reforms were unsystematic and did not always correspond to the public health paradigm laid down in ratified international agreements. It is noted that during the public

health reform, Ukrainian legislation was supplemented by international public health standards, but at the same time, the old institutional system continued to operate, including the State Sanitary and Epidemiological Service of Ukraine, which was liquidated only in 2017.

**Keywords:** public health, “Semashko system”, healthcare paradigm, “Beveridge system”, healthcare reform, martial law.

## Introduction

Promoting health, preventing disease, and improving the quality and length of life is much more effective than merely treating a particular disease. This understanding forms the basis of the development of international public health standards in the modern world. In Ukraine, public health reform has become one of the longest and most inconsistent processes. Therefore, these crucial issues are specifically addressed in Chapter 22 of the Association Agreement between Ukraine and the European Union, concluded in 2014 and entering into force on September 1, 2017. Since then, Ukraine's public health system has been continuously monitored as part of the implementation of the Association Agreement between Ukraine and the European Union, reflected in the relevant annual reports. These issues have been repeatedly analyzed in the legal literature.

For example, the works of Berzina (2022), Demchenko (2018a, b), Kalyniuk and Haliian (2023), Terzi, Liakhova, Pluzhnikova (2019), and other scholars discuss these topics. Demchenko (2018a), in his study of international legal approaches to the definition of public health, concluded that “in Ukraine, the developers of legal acts use the approaches enshrined in WHO practice”. Terzi outlined the key aspects of successful public health reform in Ukraine, noting that “reforming the healthcare system of Ukraine should be carried out in connection with the implementation of the Association Agreement between Ukraine and the European Union, namely the provisions of Chapter 22 'Public Health' and other recommendations of the World Health Organization and the World Medical Association (an international non-governmental organization)” (Terzi, Liakhova, Pluzhnikova, 2019). Kalyniuk and Haliian (2023) argue for “the need to apply a systematic approach in rulemaking on the regulation of legal relations arising in the field of public health.” Meanwhile, Berzina (2022) concluded that “the involvement of society in the implementation of public health functions is another important element of building a public health system”. All these conclusions have become the starting point for this study of the implementation of international public health law in Ukraine, where the minimum obligations of the state in relation to public health include: “ensuring individual and collective rights in the field of health care; ensuring accessibility, facilities, goods and services in the field of health care; emphasis on social determinants of health; availability of state programme documents in the field of health care; recognition of the importance of reproductive health, maternal and child health; combating infectious diseases; prevention of morbidity” (Demchenko, 2018b). However, the official screening of Ukrainian legislation by the European Union has shown that many European legal norms in the field of public health still need to be implemented. Therefore, although official negotiations on Ukraine's accession to the European Union began on 24.06.2024, the issue of implementation of international legal norms of medical law in the field of public health in Ukraine remains relevant in the context of completion of the public health reform launched under martial law in Ukraine, when the experience gained in this area should be generalised and used for the benefit of the Ukrainian public health system, which was the purpose of this study.

## Results

The concepts of “ratification” and “implementation” are different processes related to the implementation of international obligations by national states. Thus, while ratification is the process of giving legal force to a certain document within the framework of international law, implementation is a certain set of actions by national states to fully implement the obligations assumed, which may take the form of adopting relevant laws to implement ratified international treaties, etc.

In other words, ratification and implementation of legal norms of international law reflect the concept of “soft law”, which means norms of international law that become binding within national states after the contracting parties have fulfilled a whole range of procedural issues. Ratification is only the beginning of the process of implementing international law within the legal order of a national state. All these processes are also typical for the implementation of international public health standards in Ukraine.

Public health became part of the protection of the international community, along with other collective human rights, which was legalised after the end of the Second World War. Since then, public health in the system of international law has undergone a long historical development. It seems that it has long gone beyond the boundaries of a specific right, as it has become a holistic concept that is perceived by the modern international community in four dimensions, which include public health as an art, health care system, public health and the corresponding obligations of the state. After Ukraine regained its independence in 1991, a reform of the old Soviet "Semashko system" in healthcare was launched. This system was based on the right of everyone to medical care at the expense of the state budget, where the key focus was on treating the patient rather than preventing disease. The experience of the State Sanitary and Epidemiological Service of Ukraine, which was responsible for ensuring public health until 2017, should be noted separately. However, this organization did not succeed in preventing diseases, improving the quality of life, or increasing life expectancy.

The gradual expansion of healthcare reform in independent Ukraine has put the issue of implementing international public health standards into Ukrainian legislation on the agenda. According to established practice, the latter are usually divided into global and regional standards.

An analysis of the international system of public health standards shows that there are few acts of international law that deal specifically with these issues. One of them is the International Health Regulations (2005), which were adopted by the Cabinet of Ministers of Ukraine by Resolution No. 173-r of 24 February 2023, approving the National Action Plan for the Implementation of this Standard in the field of public health.

For the most part, the relevant norms on public health in international law are included conceptually in general human rights instruments. These include: The Universal Declaration of Human Rights (right to health care (Article 25), the International Covenant on Economic, Social and Cultural Rights, the WHO Constitution (right of any State to the achievements of health promotion and protection to be enjoyed by all (preamble), the European Social Charter (right of older persons to the health care and services required by their state of health (Article 23), etc. All these documents are part of Ukrainian legislation.

The sphere of interest of the international community at the global and regional levels in public health issues includes a huge number of areas covered by the relevant international standards. This includes measures to combat tuberculosis, tobacco smoking, the spread of diseases caused by the human immunodeficiency virus (HIV), etc. Among the latest challenges in the world, it is worth mentioning the COVID-19 virus. For Ukraine, the issue of public health is even more pressing, as it is about maintaining the nation's health under martial law. Even before Russia's full-scale military invasion of Ukraine in February 2022, Ukraine had the lowest life expectancy among other European countries.

The reports on the implementation of the EU-Ukraine Association Agreement for the period from 2015 to 2023 on Ukraine's implementation of international public health standards contain important analytical and statistical information.

Thus, in the period from 2015 to 2020. Ukraine implemented 162 measures in the field of public health under 37 tasks, with an overall progress of 47% since the beginning of the Association Agreement (Report on the implementation of the Agreement, 2015-2020). An important decision of the period under review was the adoption of the Law of Ukraine “On State Financial Guarantees of Medical Care for the

Population” in 2017. As a result, the National Health Service of Ukraine (NHSU) was established in April 2018.

Regarding the results of the implementation of the Association Agreement in 2021, the overall progress of Ukraine's implementation of its public health commitments has now reached 64% (Agreement Implementation Report, 2021). In 2021, the issue of mutual recognition of digital COVID certificates of Ukraine and the European Union was settled.

Regarding the results of the implementation of the Association Agreement in 2022, the overall progress of Ukraine's implementation of its commitments in the field of public health was 54% (Progress Report, 2022), and later in the 2023 report this figure rose to 78% (Progress Report, 2023).

It was in 2023 that four European Union Directives on blood safety (2002/98/EC of 27 January 2003, 2004/33/EC of 22 March 2004, 2005/61/EC of 30 September 2005, 2005/62/EC of 30 September 2005) were implemented into Ukrainian legislation. To implement all these issues, regulations were adopted on: a coherent information policy and digital solutions in the field of blood donation and the storage, distribution and sale of donated blood and blood components, as well as during or after transfusion. Also, in October 2023, the Law of Ukraine “On the Public Health System” came into force. In this law, the term “public health” means the field of knowledge and organised activities of public health entities to promote health, prevent diseases, improve the quality and increase life expectancy (Law of Ukraine, 2022). However, it is still partially aligned with the EU acquis, in particular with regard to communicable and non-communicable diseases, as well as cross-border health threats. It is also important to mention the ratification by the Verkhovna Rada of Ukraine on 12 January 2023 of the Agreement between Ukraine and the EU on Ukraine's participation in the EU4Health programme on EU funding in the health sector.

Thus, the statistical information provided above does not confirm that Ukraine's relevant public health obligations have not been fully implemented. According to the Ministry of Health of Ukraine, as of 30.06.2023, out of all 243 EU acts in the field of public health, Ukraine has not implemented 182 acts, and the main areas for further cooperation in the field of public health should be: sanitary and phytosanitary measures; living environment; biological threats; tobacco, precursors and drugs; and worker health.

## Conclusions

The implementation of international legal norms of medical law in the field of public health in Ukraine is most clearly characterized by the concept of "incompleteness." The adoption of the Law of Ukraine "On the Public Health System," which entered into force on October 1, 2023, should be highly appreciated. This legal act serves as a legal instrument that will allow for the final integration of the Ukrainian public health system into the European model in the near future, where there is already a long-standing practice of implementing relevant international standards in this area.

To complete the public health reform launched under martial law in Ukraine, the mistakes made at the initial stage of this reform should be used as a valuable experience. Initially, the legislator believed that legislative reforms could be successful without synchronizing them with the legal paradigm of public health in Ukraine. This misconception needs to be corrected for the successful completion of the reform.

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