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The Evolution of European Union Legislative Framework Regarding Public Health

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Abstract: In this paper we have approached a very important subject, namely, the public health regulation at European Union level. WE considered useful to analyze this subject starting with health as it is a fundamental resource for both the individual, the community and society as a whole. Starting from the idea that health is the responsibility of both the state and the citizen's right, during the study, we revealed the fundamental role that it plays in the institutional organization of modern public health. I also realized the main documents outlining the evolution of the EU legal framework on public health.

Keywords: fundamental rights; health protection; community sectoral policies

1 Introduction

European funds are and must be considered an instrument to create public and private goods that contribute to the development of society.

No government strategy is known but there are serious difficulties in communication and information concerning all that is related to health and projects in this way, and in this respect and from here results the dilemma if politically the health financing is desired or not and especially if health is a priority or not!

The Budget allocated to Health by the European Union for 2014-2020 is of 2750 billion Euros. As it can be noticed, a generous budget at all if we think that it means 11 cents for every citizen of the Union.

2. Public Health Concept

The term of *public health* is used currently with two meanings. The first refers to the distinction public-private in the health systems. Usually, public health designates a set of resources – public services provided by non-profit public organizations that are free at the moment they are used, ex. Persons who need medical assistance have access to the services desired regardless of their capacity to pay (Vlădescu, 2002, p. 709).

The second meaning, which is also the most used, refers to what a society makes to provide community health, against the individual one involved by clinical medicine. The actions supposed by public health are based on the fact that health is fundamental resource for the individual, for community and for society, altogether.

Most definitions given to *health* emphasize the inseparability condition between individuals and their environment. Thus, health is related to life conditions that for the individual represent a series of physical,

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economic, social, cultural and ecologic conditions. This remark lead to a definition of *health* as being the *state responsibility and the right of citizen*, this approach being at the basis of institutional organization of the modern public health (Rosen, 1993, p. 232).

A public policy is a network of interconnected decisions regarding the choice of objectives, means and resources allocated to reach the objectives in a specific situation (Miroiu, 2001, p. 9). Professor Marius Profiroiu considers that a public policy represents an assembly of measures taken by a legal and responsible authority aiming at improving the living conditions of citizens or conceiving some economic stimulation measures. An aspect highlighted by this author is that the policy drafting process can be regarded both as an analytic process aiming at resolving a problem but also as a political process (Profiroiu & Iorga, 2009, p. 17).

Some elements are considered as essential for the social policies of each state:

- Social legislation – that decides the frame of social policies, responsibilities regarding financing, implementing and evaluating social policies;
- Financing – that assures the necessary resources for programs, projects and social benefits. Indicators as the weight of social expenses in gross domestic product can give us an image of the effort made by every state to finance the social policies;
- Human resources – made by specialists in social policies, social assistance, sociology, pedagogy, economy, etc.

As it is shown in the specialty literature, there are more factors determining the inherent political nature of health (Bambra, Fox, & Samuel, p. 187):

- *Unequal distribution*, some social groups getting more than others;
- *Health determinants* – the social ones, as the incomes and buildings, being susceptible of political interventions and depending on political intervention;
- *Organization* – any action proposed to avert the needs of health needs the commitment of *social machinery* or *the organized efforts of the society*;
- *Human rights* – the right to a proper life standard for health and welfare (UNO, 1948) has to be component of human rights and citizenship;
- *Globalization* – close interaction process of human activity in different domains, including policy, economy, and tridimensional culture: spatial, temporal and cognitive.

The health policy includes the action directions that affect institutions, organizations, services and financial regulations of the health system (Curta, 2008).

The public health policy is determined by a process of consultations, negotiation and research that lead to planning a set of actions establishing a vision upon the planned public health objectives.

In the context of public health, the policy is usually determined by the executive arm of the state. In this context, the *right of public health* cannot be omitted, which consists in legislative documents and court decisions that apply to the interventions in the field of health or to behaviors aiming at health (Martin, 2008, pp. 31-32).

3. The Health Policy at the Level of European Union

In the speech in September 2002, David Byrne, the European commissioner for health and consumer protection made a statement having a special significance: no Europe can exist without a Europe of health (Bryne, 2002).

By launching the concept of *Europe of health*, this statement can be considered as representing the beginning of a new perspective of European Union upon health.

Previous to 2002, the activities of EU in the field of health were developed based on some action plans that were concentrating on specific aspects, as it is the fight against cancer, HIV virus, infectious diseases, diseases caused by pollution, drugs addition, or information and education in what regards health.

Up to now, the European Union has adopted two strategic programs, one for the period 2003-2008 and one for 2008-2013.

The chart of the fundamental rights of European Union stands, along other fundamental rights such as the right to strike, liberty of expression, information and participation, exertion of profession and *the right to health care, social security and social assistance*. For this purpose, at the level of European Union, the coordinating institution for public health is the European Committee by means of General Directorate for health and consumer protection.

3.1. The Evolution of Legislative Framework of European Union Concerning Public Health

The treaty of Rome (1957), the foundation document of the European Economic Community does not provide any concrete reference to health or problems related to health, EEC developing its programs and economic policies without formulating any explicit requirement regarding their consequence upon health.

The treaty of Maastricht (1992) includes the first punctual references to the public health domain, stating, in article 129, the cooperation at community level in order to assure a high level of health for the citizens of the community. This article specified for the first time the need of actions for preventing illness and specifies the fact that protecting health must be an integral part of all the other community sector policies.

The treaty of Amsterdam (1997) reconfirms, in article 152, the need of cooperation and strategic intervention between sectors in all policies and upon all factors with a possible impact upon health, by providing a proper protection level of it. Also this article states that *the action of community in the field of public health shall respect precisely the responsibility of Member States in organizing and supplying health and medical assistance services*.

The specialists that have analyzed this text interpreted it by stating that *precise respect* should be understood as *total forbearance*, although the Treaty has articles legislating the Internal Market and competition, which, even if not explicitly, are connected to public health (Curta, 2008, p. 39).

The treaty of Lisbon replaces the organization treaty of European Community with the one concerning the Functioning of European Union, and article 168 is the one referring to health. EU has a new competence in encouraging the cooperation between the member states in what regards improving the complementarity of health services in the cross-border regions. EU also receives powers in what regards fighting against cross-border threats to health. EU will be also able to take measures to protect public health regarding tobacco and excessive consumption of alcohol, without adopting harmonization measures.

3.2. Community Action Programs in the Field of Public Health

The first community action program in the field of public health 2003-2008 (Adopted by Decision no 1786 of the European Parliament and of the Council on 23rd of September 2002) constituted one of the instruments for implementing the health policy in order to achieve the promotion of cooperation and coordination of member states. This program replaced the eight specific action plans that already existed.

The three primary objectives of this program were represented by:

- Improvement of information and knowledge for developing public health;
- Increase the capacity of coordinated and quick reaction against aggressions at health;
- Promotion of health and illness prevention by including the determinants of health state in all policies and actions.

The second Community action program 2008 – 2013 (adopted by Decision no 1350 of the European Parliament and of the Council on 23rd of October 2007) is meant to develop the achievements of the previous program of community action in the field of public health by contributing to reaching a high level of physical and mental health and to a better equality in the field of health at the level of the entire Community, by means of some actions directed to improve the health state in a Europe affected by the aging of population, citizen protection against threats to health and promotion of certain dynamic health systems and new technologies.

The first objective, improve the sanitary safety of citizens, includes the protection measures of citizens against transmissible and non-transmissible diseases, those meant to fight against threats to health such as bio-terrorism as well as the aspect of patients safety.

The second objective includes mainly the promotion of a healthy life style, focusing also on equality between sexes when speaking about health, respectively on the sanitary impact of social and environmental factors.

For the third objective that illustrates the continuity of the previous program, the accent is on the exchange of information and good practices regarding health, respectively dissemination of relevant information to the wide public, especially by means of the web portal *EU Health* (http://ec.europa.eu/health-en/index_ro.htm).

In what concerns the contribution of European Union, it is limited by ceilings to maximum 60% of costs for the actions contributing to achieving one objective in the Program or to maximum 80% in cases of exceptional utility.

The total budget allocated to the first community action program in the field of health (2003-2008) was of 353.77 million Euros, and the second program (2008-2013) benefits of the amount of 321.5 million Euros.

4 Conclusions

By the term of *social policy* most often we refer to the activities/actions developed by/ by means of the state (strategies, programs, projects, institutions, actions, legislation) whose purpose is to promote/ influence the welfare of the individual, family or community in a society, as well as the welfare of society in its entirety.

The research domain of public policies represents a border domain between more *classical* disciplines as political science, sociology, social psychology, juridical sciences or economy. The study of public policies is represented by the most recent breach of political science, and in what regards the research techniques and methods, they are borrowed from different social disciplines adapted to instrumentation needs for each and every study (Dascălu, 2011, p. 10).

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