

LEGAL REGULATIONS REGARDING OF PUBLIC HEALTH ORGANIZATION UNDER THE ROMANIAN CONSTITUTION

Vasile VOINEA*

ABSTRACT:

THE END OF THE 18TH CENTURY, CHARACTERIZED BY THE DEVELOPMENT OF THE COMMERCIAL ACTIVITIES AND THE INCREASE OF THE POPULATION IN TOWNS, REQUIRED THE CREATION OF CERTAIN HEALTH PROTECTION ORGANIZATION REGULATIONS.

IN THIS PERIOD, THE HEALTH ACTION CONSISTED IN TAKING CERTAIN MEASURES FOR FIGHTING AGAINST THE OUTBREAKS OF INFECTIOUS DISEASES. THROUGH ROYAL ACTS, WE STIPULATED CERTAIN OBLIGATIONS FOR THE DOCTORS, WE SET THE PHARMACIES' SETTING UP AND FUNCTIONING MANNER AS WELL AS THE MANDATORY CHARACTER OF THE CHILDREN' IMMUNIZATION..

ALSO, IN THIS PERIOD, THERE IS A BEGINNING IN WHAT CONCERNS THE ELABORATION OF CERTAIN NORMS REGARDING THE REGULATION AND ORGANIZATION OF THE HEALTH PROTECTION. THUS, IN 1755, ALEXANDRU IPSILANTE SET UP THE „GUARDIANSHIP OF THE ARMIES”, A HEALTH AND SOCIAL ASSISTANCE INSTITUTION WHOSE EXPENSES WERE MET BY THE “CHARITY BOX” FED WITH FUNDS RESULTING FROM THE TAX MAINLY PAID BY BOYARS AND MONASTERIES.

KEY WORDS: CONSTITUTION, PUBLIC HEALTH, PROTECTION

INTRODUCTION

The end of the 18th century, characterized by the development of the commercial activities and the increase of the population in towns, required the creation of certain health protection organization regulations.

In this period, the health action consisted in taking certain measures for fighting against the outbreaks of infectious diseases. Through royal acts, we stipulated certain obligations for the doctors, we set the pharmacies' setting up and functioning manner as well as the mandatory character of the children' immunization¹.

Also, in this period, there is a beginning in what concerns the elaboration of certain norms regarding the regulation and organization of the health protection. Thus, in 1755, Alexandru Ipsilante set up the „Guardianship of the armies”, a health and social assistance institution whose expenses were met by the “charity box” fed with funds resulting from the tax mainly paid by boyars and monasteries. This institution had the obligation to take certain urban, hygiene and public sanitation measures and to carry out the doctors and pharmacists' control.

* Retired, Romania, andravoinea@yahoo.com

¹ G. Brătescu, *Health protection history* (Bucharest: Medical, 1957), 11 and next.

This actually represents the origin of the State organization of the medical care, since from the “charity box” we provided home care for poor patients, creating thus the premises for setting up the first jobs of urban public doctors in the Romanian provinces. In order to defend health, we set up in 1784, the job of official doctor of Bucharest city, who was responsible for supervising the people’s health and to provide medical care to poor patients. In Moldavia, we created three jobs of doctors of Iasi city, which had to provide medical assistance and set up a medical commission, having tasks related to the health activity management all over the country. In Transylvania, certain health organization norms² occur; in this manner, through the „health problems regulation plan” (*planum regulationis in re sanites*) we set up uniform norms concerning the medical activity and the doctors’ control; we created a health commission, having the competence of managing and controlling the health activity.

Through the established norms we implied the condition that the doctors have university studies and we established the doctors, surgeons and pharmacists’ rights and obligations. Yet, at the beginning of the 19th century, we still cannot talk about a real health organization in the Romanian provinces, as a permanent and uninterrupted State activity. There were only certain health institutions in bigger towns which worked in an isolated manner and had the responsibility of providing medical care and fighting against the outbursts of infectious diseases.

1. The Idea of Health in the Romanian Constitution of 1866

Adopting the first Constitution caused the need for elaborating the first law which organized the health service – the Law of the health service³. The general administration for health protection was, according to the law, granted to the Ministry of Internal Affairs, which had the following bodies:

- a. The Higher Health Council assisted by the Veterinary Commission and the Pharmaceutical Commission;
- b. The Higher Epizooty Council;
- c. The Institutes of Chemistry, Bacteriology and the State Vaccine Institute.

The local health bodies were:

- primary care physicians and the public hygiene councils pertaining to prefectures;
- the doctors pertaining to the sub-prefectures;
- doctors in the service of the communes, affiliated to town halls.

The special health bodies were annexed to the general administrations of the hospitals.

The supervision and control of the health services in the country and of all the people’s health were entrusted to the General Health Service Authority which relied on the Ministry of Internal Affairs. The health assistance was conducted in counties and towns by prefects and mayors. The law stipulated medical assistance measures in the villages, the doctors being forced to take measures against the contagious diseases and medical assistance for the patients, the expenses being met by the local budgets. The law included provisions concerning the public hygiene, the health police of food and drinks, of dwellings, of schools etc. The health law of 1874 was modified several times, namely through the laws of 1885, 1893, 1896, 1898, yet no change of conception and organization was recorded⁴. In 1910, a new health law is elaborated⁵ and it brought certain improvements in the health activity, by laying the stress on the medical

² In 1755, in Cluj, the first health school is created, which trained surgery masters and midwives by granting graduation diplomas, while in 1972 it becomes the Faculty of Medicine for training doctors in the fields of medicine and surgery.

³ The law of the health service of 16.06.1874 published in the Official Gazette n° 131 of 1874.

⁴ C. Rarincescu, *The theory of public service* (Bucharest: Ed. Cursurilor litografiate, 1941), 410-25.

⁵ The Health Law of 1910 (named the first law Cantacuzino, the Official Gazette n°211/23.12.1910).

assistance organization in the villages and on the fight against infectious diseases. The characteristic feature of this law is that it included provisions for organizing the entire health activity by choosing two main directions: curative medicine and preventive medicine. The law stipulated the creation of hospitals and isolation wards, rural sick rooms, we set up the Public Rural Health Fund, having the task of supervising and maintaining the drinking water supply, the slaughter of animals in conditions of hygiene. The health law of 1910 underwent modifications in 1911⁶, 1913⁷, 1918⁸. In the field of labour and health protection, we set up the Labour and Social Protection Department which, through the Law of 30.03.1920⁹ became the Ministry of Labour and Social Protection. This ministry was responsible for protecting the labour and social assistance, as well as for organising the medical assistance for the insured persons. The expenses with the medical assistance were met by the insured persons and the employer, in equal proportions. Through a special law of 1921¹⁰, all the health and social assistance services pertaining to all the other ministries were transferred under the control of the Ministry of Internal Affairs, through the General Health Service Authority. Through the Law of 1922¹¹ we set up the Ministry of Public Health, Labour and Social Protection, which took over all the private and public social protection and health services and institutions in the country, which depended on the Ministry of Internal Affairs and the Ministry of Labour and Social Protection.

2. *Public health in the Constitution of 1923*

The Constitution of 1923 did not contain special provisions concerning the public health protection¹². In art.21 it was stipulated that „the law will regulate the social insurance of the workers in case of disease, accidents and other such situations”. When developing this constitutional provisions, we adopted certain laws among which the law of 1928, concerning the women and minors’ work in the industrial enterprises. Through the law of 1923¹³ the Ministry of Public Health, Work and Social Protection is divided into: the Ministry of Labour, Cooperation and Insurances and the Ministry of Health and Social Protection. The new ministry of health took over the General Department of the Health System, the General Authority of Social Assistance and the National Office I.O.V. This form of organization was broadened through another law in 1926¹⁴, when, within this ministry, the General Balneal Inspectorate and the House of Public Health are set up. Afterwards, through the Law of 1927¹⁵, the Health Insurance Fund became a special institution of health action having legal personality, affiliated to the Ministry of Health and Social Protection. In the structure of this ministry we include the Institute for the mother and child’s protection and the assistance of the social dependants. In 1929, a law for organizing the ministries¹⁶ is adopted, through which the Ministry of Health and Social Protection is unified with the Ministry of Labour and Social Assurances becoming the Ministry of Labour, Health and Social Protection . The law of 1930 stipulated in art. 109 that hospitals could only function according to an approval granted by the

⁶ The Official Gazette of Romania n°28 of 8.05.1911.

⁷ The Official Gazette of Romania n°12 of 13.04.1913.

⁸ The Official Gazette of Romania nr°190 of 15.11.1918.

⁹The Official Gazette of Romania n°21 of 3.04.1920.

¹⁰ The Official Gazette of Romania n°63 of 24.06.1921.

¹¹ The Official Gazette of Romania n°16 of 15.04.1922.

¹² Doina Popescu-Ljungholm, *Sănătatea publică în România si Regatul Unit al Marii Britanii* (Craiova:Sitech, 2014), 43 and next

¹³ The Official Gazette of Romania n°173 of 4.11.1923.

¹⁴ The Official Gazette of Romania n°268 of 23.03.1926

¹⁵ The Official Gazette of Romania n°81 of 12.04.1927.

¹⁶ The Official Gazette of Romania n°196 of 2.08.1929.

ministry and provided that the medical staff had an endowment and premises appropriate to their purpose.

3. Public health in the Constitution of 1938

For the guidance and control of the medical and protection services the Law of 1939¹⁷ stipulated the creation of a general medical inspectorate in the ministry and 10 medical and social protection inspectorates divided into 10 areas of the country according to the administrative law of 1938. Through the Law of 1939 we set up for the Ministry of Health and Social Protection a central vast and complicated organization, the administrative services being preponderant as compared to those dealing with the medical technical side.

An attempt of remedial in the legal field, concerning the organization of the health protection established by this law, is represented by the law for the State's health organization of 1943¹⁸.

Through this law we tried to gather in a unitary ensemble all the provisions that referred to the health organization, by modifying in the same time the organization of the Ministry of Labour, Health and Social Protection in the sense of the task reduction. By introducing a large decentralization in the health administration we aimed at dismissing the central management and strengthening the health services and institutions in the area.

4. The concept of public health in the socialist Constitutions

4.1. Public health in the Constitutions of 1948 and 1952

The health care system in Romania has been characterized by centralism, egalitarianism and limitation of the option limitation. The first measures taken after the installing of the communist party started in 1948¹⁹ when the privately owned hospitals and nursing homes, as well as the pharmacies, the laboratories and drug stores became state-owned properties, in order to create an unique centralized, politically supervised and monitored medical care system. Through the Decree n° 302/1948²⁰ we nationalized the privately owned medical institutions (hospitals, nursing homes, maternity hospitals); through the Decree n°134/1949²¹ we nationalized the urban pharmacies, laboratories, drug stores; through the Decree n° 418/1953²² we nationalized the buildings in the resorts. The financing of the medical system was provided, according to the art. 25 in the Constitution of 1948 and according to the art.79 in the Constitution of 1952 and was exclusively made from the State budget. The text of the Constitution of the World Health Organization has been criticized by the communist party, which considered that the states' obligation concerning the people's health protection has a vague character and is left to the appreciation of the signatory states.

The health protection was accomplished under the guidance, coordination and control of the Board of Ministers through the Ministry of Health, which put into practice the party policy in the health protection field.

The characteristic feature for the entire communist period was the fact that the socialist state used to organize, guide and manage, through the Ministry of Health, the administration of the public health and it was also the socialist state that carried out, through the State organisations subordinated to the Ministry of Health and people's councils, the health protection activity by providing medical assistance, according to the law.

¹⁷ The Official Gazette of Romania n°269 of 20.11.1929.

¹⁸ The Official Gazette of Romania n°71 in 23.03.1943.

¹⁹ Constitution of the Romanian Popular Republic, Gazette n°87/13.04.1948.

²⁰ Official Gazette of Romania n°256/3.11.1948.

²¹ Official Gazette of Romania n°6/16.05.1953.

²² Official Gazette of Romania n°18/16.05.1953

4.2. Public health in the Constitution of Romania in 1965

The Constitution of 1965 stipulated at art.20 that „the state provides medical assistance through health institutions”.The State guaranteed through it the right to health and assumed responsibility for providing public health, through ministries and medical and health institutions.The expenses for health and social provisions were exclusively met by the State budget, which was deducted to the level of the people’s councils. The health protection system relied on the principle of territoriality and the medical constituencies represented the main unit in the healthcare field, as it was believed that it was the only way we could obtain a connection between the doctor and the patients. The Ministry of Health as the central body of the State administration in the health field, according to the legislation in force²³In order to ensure the carrying out by the Ministry of Health of the tasks for protecting health, the State Health Inspectorate²⁴ was created. This institution was responsible for controlling, guiding and taking measures so as to unitarily apply the health and anti-epidemic norms and instructions, as well as to investigate the environment factors which may have an influence in the people’s health condition. The medical assistance was carried out through: polyclinics, hospitals and nursing homes. Basic medical assistance was provided through *polyclinics*. Polyclinics were structured in the following manner: polyclinics for adults, polyclinics for children, polyclinics for enterprises and polyclinics for students.

CONCLUSION

Before the first Constitution in Wallachia, was created a health regulation, which contained organization and functioning norms for the hospitals. Yet, this regulation has not been applied, as it has been annulled by the Organic Regulations. The Organic Regulations (which entered into force in 1831 in Wallachia and in 1832 in Moldavia), represents the first fundamental law in the Romanian provinces, through which we set State organization principles.In time realized how important is to organized the state according to the separation of powers’ principle (legislative, executive and courts) by creating the Ordinary People Assembly, as a legislative body, consecrating the reign’s life contingency character and foreseeing measures meant to ensure a certain independence for the judges.

Even we can talk about an evolution of the juridical norms concerning the State organization, who created a system of public health protection ,in all history it was many problems ,never enough money for this social system . The actually health system have the same problems because nobody can creat a perfect public health system.

²³ Law n°20/1967 published in the Official Gazette of Romania n°107/9.12.1967.

²⁴ Decree n° 974/30.12.1965 published in the Official Gazette of Romania n° 24/1965.

REFERENCES

1. **Rarincescu, C.** 1941. *Teoria serviciului public*. Bucharest: Ed. Cursurilor litografiate
2. **Brătescu, G.** 1957. *Istoria protecției sănătății*. Bucharest: Medical
3. **Popescu-Ljungholm, Doina.** 2014. *Sănătatea publică în România și Regatul Unit al Marii Britanii*. Craiova: Sitech
4. **Negulescu, Paul.** 1943. *Tratat de drept administrativ, vol.I*. Bucharest: Marvan
5. **Brătescu, G.** 1961. « Verificarea serviciilor sanitare în Țara Românească și Moldova ». *Revista Igiena*, Bucharest
6. *Istoria României, vol II*. 1964. Bucharest: Academiei
7. *Viața feudală în Țara Românească*. 1957. Bucharest: Științifică