

COMMUNICATING ABOUT HEALTHCARE REFORM AS PART OF GOOD GOVERNANCE DURING THE COVID-19 PANDEMIC. EXPERIENCES FROM FINLAND AND POLAND

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Abstract The right to information, understood as a citizen's right of access to data used in the process of making and enforcing laws, is a natural component of democratic systems. In the rich societies of Western Europe, which for years have been supporting civic education, society consciously uses the right to information. It is the interaction of citizens with decision-makers among others in the process of public information flow that changes ordinary public governance into good governance. The authors refer to the contextual understanding of good governance within the framework of multi-level interactions at the level of central and local government. Good governance should be understood as the achievement of 'public value' – i.e., the shared needs of many citizens but within the context of innovation and the economic development of societies. Informing means strengthening trust in public authorities, which in democratic states should have nothing to hide (even in a crisis).

Keywords

good governance,
healthcare reform,
pandemic crisis,
informing,
open government

1 Introduction

1.1 The Evolution of Public Governance

A term from management sciences and in administration sciences has also been used for years in legal scholarship – ‘good governance’. This expression comes up not only in academic discussions, but also in public discourse, especially in the context of modernizing central and local administration. ‘Good governance’ has become so commonplace that theoretical issues related to understanding what it means no longer evoke as much interest as they did even only a few years ago (for example Möllers, 2006, pp. 313-336; Seckelmann, 2007, pp. 30-40; Nanda, 2006, pp. 269 ff.; Esty, 2006, pp. 1490 ff.).

However, people’s understanding of this concept has changed, mainly for one basic reason. The idea of ‘good governance’ – governance that is effective, efficient, thoughtful, and responsive to the needs of citizens – is not only a laudable goal of policymakers shaping administrative structures in various public sectors, but more importantly, in the current situation related to the Covid-19 pandemic, it is often the foundation of reforms for improving existing arrangements in the public service (Țiclău, Hințea & Andrianu, 2020).

To ‘improve’ governance, various shortcomings must be removed, and these are particularly glaring in times of crisis. The pandemic crisis is just one example among many of the particular legitimacy gained by reforms that under more stable circumstances would not be carried out as quickly and comprehensively as they are in a difficult situation that requires dynamic, extraordinary solutions. A crisis accelerates socio-economic changes that would normally occur much more slowly, and usually with certain regularities conditioned by economic cycles and changes of a demographic nature (Schelkle, 2012; Peters, 2021, pp. 9 ff.).

There are three main elements most often considered when discussing changes in public governance mechanisms (European Social Fund, 2014; Szumowski, 2016; Gisselquist, 2012).

Firstly, the level of citizen awareness. With the development of tools of communication, an increasing amount of information is reaching many social groups at an ever-faster pace. Citizens are therefore increasingly aware not only of their rights, but also of the opportunities that a modern democratic state under the rule of law should offer. This increasing level of knowledge among citizens directly relates to the increasing proportion of people with secondary and higher education in the societies of developed countries, including all the EU Member States. Increased knowledge and easier access to information is causing societies to demand certain changes in the public sector through various means of participation in the decision-making process. Public awareness varies across the EU Member States. It is generally assumed to be higher in the so-called 'old democracies', which include the countries of Western Europe (Perrin & Gillis, 2019).

Secondly, the development of technology has made it possible for both bodies of the public administration and citizens to participate in various public tasks in a dynamic, almost instantaneous way. In digitalized societies, where high-speed broadband Internet access is guaranteed or actively supported by the public authorities, most public administrative services, especially those of particular importance for citizens such as healthcare, can be provided electronically. A good example can be found in the Nordic countries, including Finland, where instruments to control the development of broadband networks have been in place now for decades (Ministry of Transport and Communications, 2018). Innovation, understood as a part of the identity of Nordic societies, is primarily of functional importance. Societies are supposed to develop in a balanced, rational way, with the broadest possible state support in various spheres of social life. Technological development is supposed to facilitate communication and the fulfillment of various needs of citizens. Access to modern technologies guaranteed to all, regardless of social status, earnings, education, or place of residence is to be provided in parallel with processes that strengthen institutional and administrative capacity, reduce the administrative burden, and improve the quality of legislation. These processes serve to foster economic growth and employment (European Social Fund, 2014, p. 4; Chaminade & Lundvall, 2019).

Thirdly, we can observe the increasing influence of international organizations. They inspire specific institutional and regulatory changes in the context of public governance in their member states. Through soft mechanisms of influence, such as white papers, recommendations, guidelines, codes of good practice and rule books, international institutions, including the Organization for Economic Co-operation and Development (hereinafter OECD), the European Union, the World Trade Organization, the World Health Organization and the World Bank, exert indirect influence not only over specific legislative intentions of member states, but increasingly over administrative bodies and specific practices of theirs as well (Abbott & Snidal, 2000, pp. 434-447; Aman, 2001, pp. 379 ff.; Kwiatkowski, 2017, pp. 95-100). These influences are particularly important in the case of countries in transition or developing countries that are looking for regulatory models for their public administration. Such countries can be found in Central and Eastern Europe, including Poland, whose development in the last twenty years has been largely conditioned by guidelines formulated by international organizations. This is particularly evident within the integrated EU administration, which has intensively affected the development of good practices and institutional structures in specific sectors, such as the marketing of pharmaceuticals and the synchronization of regulations on the use of specific medical products (Nolen & Stockebrandt, 2021; Hofmann & Türk, 2007, pp. 253-260).

1.2 Good Governance as Part of Public Governance: The Role of Public Communication

The main goal of this article is to analyze two completely different ways of informing the public about health reform: the Finnish and Polish models (in another context, see also the comparison of Radzik-Maruszak, Haveri & Pawlowska, 2020, pp. 86 ff.). These examples were chosen deliberately. For many years, Finland has been at the top of many rankings on transparency in the decision-making process, public trust in the state, the implementation of the rule of law by state authorities, and speed in responding to public demand at different levels of governance from central administration to local administration (eg. Jungerstam & Wentjärvi, 2019). Finland follows the century-old tradition of the Nordic welfare states, such as Sweden and Denmark, which have become models for developing decision-making chains and social ties involving broad participation of all interested stakeholders. The Nordic model has been adopted by many other countries, and has also inspired solutions

within international organizations, including the EU system (Gassen & Maurer, 2006; Hellman, Marjukka & Alanko, 2017, pp. 9-15).

Poland, on the other hand, is a country still undergoing social and economic transformation, which is a result of the country's history and its dependence on socialist solutions during the Cold War conflict (Wisla et al., 2020, pp. 41-57; Petrova & Aydin-Düzgit, 2021). It takes many decades to break away from 'old' habits and develop new participatory solutions. The need for intergenerational exchange is often mentioned in this context. The problem does not lie in formalizing the principles of good governance in specific normative acts; rather, it stems from certain established informal practices that result from long-standing habits. An additional element indicated by sociologists in this context is social 'immaturity', which means that citizens remain passive, i.e., for the most part they do not take an active interest in the activities of public administration bodies where these do not concern them directly. In this context, the general level connected with reforming certain sectors of public administration is interesting for specialists. Only a small percentage of 'ordinary' citizens are willing to participate in the consultation process (Doktór, 2010, pp. 18 ff.; Misztal, 1993, pp. 459-465).

Importantly, strong lines of communication between public authorities and citizens forms the foundation of good governance. The right to information is one of the basic rights of citizens guaranteed by the constitutional systems of most liberal democracies, including Finland and Poland. The right to information includes a right to seek, receive and impart information and ideas from the public authorities (Bhat, 2015, p. 185). Access to information, provided in a systematic, readable, understandable, and complete manner, is one of the elements that helps guarantee the development of civil society. Based on the principle of feedback, it also ensures growing public awareness and an evolution towards a 'mature', active society (Taylor, 2014; Rosell et al., 1984, pp. 12-27).

In the law-making process, information is one of the basic elements of holding the executive branch accountable. It constitutes a control mechanism by helping to expose what decision-makers' intentions are. Information is constituent element of legitimizing public administration. Good governance, as a kind of ideal concept of public services, assumes a way of governing that is (1) responsible, (2) accountable to citizens, (3) transparent, (4) inclusive, in that citizens take part in decision-making

processes, (5) able to provide for sustainable development and ensure the principles of social justice (Munshi, 2004, pp. 33 ff.; Davaney, 2016). Good governance is inextricably linked to the concept of the rule of law. The law should be made in an open, transparent, and readable way for citizens. It should also be stable, that is, it should guarantee that citizens can safely go about their business within a system of state administration that is efficient and coherent. Communication plays a key role in all these dimensions of good governance (Grzeszczak, 2015, pp. 450-452; Joerges, 2002, pp. 10ff.).

1.3 Research Methods

The present analysis is of a legal-administrative nature. The main research method is therefore the formal-dogmatic method characteristic for legal sciences. It is supplemented by an empirical study of materials provided by the central administrations of the countries under study; these are mainly government materials (ministries of health) that, in accordance with the definition of good governance, should be publicly available for the purposes of making a comparative analysis of the solutions used in the two countries. We considered materials published on websites as of January 2020, and we supplemented the Polish information research with materials made available to the authors of the text by organizations of local government representatives. This was necessitated by the scant information made available by the Polish Ministry of Health.

The methods used in this study are within the functional approach (according to the typology introduced by Marsh and Stoker, 2010) and include comparative methods (a compilation of information proposed by the central governments), a normative approach (including an analysis of reform programmes), and a functional approach (concerning decision analysis and an explanation of the interrelations between different elements of governmental processes).

2 Case Study: Finland

2.1 Background Considerations

Finland, within the administrative culture, has developed what is known as a consensual model of decision-making (Sjöblom, 2011). This model has been present in its mature form since the 1960s, when Finland experienced an intensive economic development and joined the group of wealthy welfare states, catching up with the other Nordic countries, most notably Sweden.

Previously, Finland's model of governance and political decision-making had been described as adversarial. Both variants stem from specific cultural characteristics rooted in the Protestant religion, which fosters an individualistic ethos within the culture of organizing social relations. The idea is that an individual's achievements are the result of his or her qualities, talents, and efforts. At the core of individualistic culture are free will and self-development, which are in line with the ideas developed in the legal states of modern liberal democracies which are supposed to function on the basis of what is known as open government, i.e., with the active participation of members of society (more on this later) (Bieleń, 2013, pp. 106-108).

Social affiliations, i.e., functioning within different social groups, including local communities, for which in Finland the primary reference point is the municipality (Fin. *kunta*), depend solely on the personal choices of each citizen. Equality is especially valued within this type of culture. Nordic egalitarianism, also present in Finnish administrative culture, has almost grown into a myth (Bendixen et al., 2018).

This model is the result of historical experience and the evolution of Finnish public administration, which has its roots in Swedish models and, in connection with Finland's integration in the Russian empire in 1809, Russian models. The Tsarist period in Finland did not retard the development of administrative structures. On the contrary, not only were the well-functioning institutions of administrative law introduced earlier by the Swedish authorities preserved, but also, gradually, from the mid-19th century onward, free market mechanisms were introduced, and society, including the mechanisms of governance, was liberalized in a broad sense. Finns believe that Tsar Alexander II contributed significantly to the modernization of

Finnish administration, and brought capitalism to Finland (Temmes & Salminen, 1999, pp. 7 ff.).

While in terms of broad cultural influences – including administrative and legal culture – Finland belongs to the group of Nordic countries and is similar to them in many respects, Finland's administrative structure has certain characteristics that differ from those of the other Nordic countries. These include, firstly, the lack of strongly developed 'real regions' which exist in other parts of Europe (e.g., Germany or France) and secondly, a specific administrative division, which, until the SOTE reform, that is, a reform changing the organization of public health care, social welfare and rescue services, did not include an intermediate level of government (only central and local administration, unlike Sweden, Norway, and Denmark). Finland was a decentralized state thanks to the strong role of local government in the form of municipalities, but with its two-tier structure of government it was considered by some to be a 'highly centralized, unitary state' compared with the other countries in the region (Niemi, 1991, pp. 39-42; Rizzo, 2006). A characteristic feature of this Finnish unitarianism is the unique status of the autonomous, demilitarized Åland islands, which enjoy wide-ranging law-making powers (Hepburn, 2014, pp. 470-480).

2.2 The SOTE Reform

Finland has been in the process of reforming its administrative system for several years. The apogee of this process has been in the pandemic period i.e., 2020-2021. Plans for changing the administrative structure had been in progress for about seven years, with the intention that full implementation would be possible in early 2021 (Kela's Information, 2019). The development and implementation of the new system was prolonged due to subsequent changes in government and the outbreak of the COVID-19 pandemic. Finland was inspired to institute these reforms by changes introduced in Sweden in 2010, where, among other things, that the new strategy was for 'public money [to] follow the patient' including in the private health care sector (Elmgren and Forsberg, 2015). In practice, this means that patients can choose their health care provider. Voices within the Conservative party, supported by lobbyists from the private health care industry, largely shaped the reform programme in its initial stages. They advocated that freedom of choice should be guaranteed in both primary care and specialist care settings. This solution was

strongly criticized in 2017 by expert circles involved in the Finnish health care system. Complex negotiations and consultations with stakeholders resulted in changes developed in 2020 that also included specialized care. However, a number of safeguards were put in place to prevent the danger of 'cream skimming', which means selecting patients based on profitability. In this way, the private sector could capture 'good patients' who generate high profits and low costs, while burdening the public sector with 'bad patients', whose treatment involves high risks and costs (Werbeck et al., 2020).

Finland's plans to modernize its health and social care system have involved significant political turmoil and led to the downfall of more than one government. Sanna Marin's current government is the fifth to undertake this large-scale health and social care reform. Particularly admirable is the current government's tireless pursuit of completing the reform process regardless of the party constellation in power. The culmination of the reform process is coming at a particularly difficult and volatile time, both nationally and globally, regarding the multilevel efforts being made by regional and international organizations to deal with the effects of the Covid-19 pandemic. This is important because the reform itself is not limited to management mechanisms and transferring certain powers from the municipal level to a new intermediate level (counties). Rather, its goal is to transform the system for providing public services, and in fact, in a broader European perspective the changes being introduced in Finland are considered as the largest ever social and health care reform (Fin. *Sosiaali- ja terveydenhuoltouudistus*, SOTE-reform).

The reform is comprehensive. On the one hand, it is designed to help reduce costs. It also responds to demographic changes in Finnish society, caused not only by the country's ageing population, declining birth rate, and changes in the distribution of the population within the country. An increasing number of Finnish municipalities, especially those located at the periphery of Europe, i.e., in the north of the country, are becoming depopulated. For many years, based on interdisciplinary research in economics, health care, sociology, public administration and other similar fields, Finnish decision-makers have contemplated a more thoughtful system of delivering public services that would respond effectively to the changing social reality and even anticipate changes; that system included specific regulatory changes to significantly modernize the public service delivery system, including health care services.

Repeatedly, proposed projects have failed to garner the necessary support from the Finnish Parliament, the Eduskunta. The SOTE reform is primarily designed as a way of effectively delivering various types of services to citizens while systematically reducing costs. The projected cost reduction in the long-run is expected to reach as much as €4 billion.

On the other hand, health care governance must transition away from the municipal level to the intermediate level, which previously did not exist in Finland's administrative system. This is bringing the system closer to the models of other Nordic countries. The government has introduced what are known as wellbeing services counties. The government's proposal for legislation on establishing these and reforming the organisation of health care, social welfare and rescue services, submitted to Parliament on 8 December 2020, was adopted by the Eduskunta on 23 June 2021. The counties will be established as soon as possible after the adoption and approval of the relevant acts, which will enter into force in stages, from 1 July 2021 to 1 January 2023.

2.3 Informing the public about the Reform Process

Information on the SOTE reform has appeared regularly on the website of the Finnish Ministry of Health. The individual draft laws were made available in Finnish during the successive stages of the reform. The drafts are still accessible on a special website created by the government: *Sote-uudistus*. The most important element is the availability of all the legislative drafts leading up to the final bill (Fin. *Lakiluonnos*), from June and October 2020, as well as the final bill itself that was approved by the Eduskunta in June 2021. All the documents are made available as pdf files. They were also extensively discussed in the press and on television, with the Prime Minister of the country playing a leading role, responding to the concerns raised in the public debate. Other institutions important to health care have also been involved in the information process, most notably Kela, which provided information phones and e-mail addresses. Kela, the Social Insurance Institution of Finland, is a governmental agency that provides basic economic security for everyone living in Finland. Similar information channels were provided within the Ministry of Health and the reforms online platform.

The Finnish Parliament has also been involved in disseminating information about the reform process. Documents concerning the project were systematically published in advance on the Eduskunta's website. In addition to the dozens of tabs in Finnish and Swedish that have been checked as part of this analysis, the Soteudistus website contains five basic thematic blocks in English. There are no translations of the normative acts mentioned above, but full information on the reform is published together with a set of questions and answers. There is also an information package published on dozens of sites that have been regularly updated in recent months (since June 2020). Most of that information includes personal contact information.

3 Case Study: Poland

3.1 Background Considerations

Currently, several systemically important changes are being prepared within the Polish health care system. However, due to the limited scope of this article, it is not possible to analyze how information is provided in connection with all those changes. We chose one reform which is of special importance and has far-reaching consequences for society: the project for the reform of medical entities providing hospital services. Our analysis is supplemented by material provided by the Paweł Adamowicz Association of Polish Cities (Pol. *Unia Metropolii Polskich im. Pawła Adamowicza*), thanks to which it was possible to assess the scope of information made available by the central administration on the reforms under way in the hospital sector, as well as the manner in which consultations with stakeholders were carried out. Unlike Finland, the information made available to the public in Poland, e.g., via websites, is very limited. This difference in the implementation of one of the basic postulates of good governance, i.e., providing information about planned changes, is already evident at the stage of a preliminary analysis. And this issue is particularly important in a crisis. The Covid-19 pandemic has caused a surge in the interest citizens are taking in health care, suggesting that it would be natural for public administration bodies to provide extensive public information to maintain and strengthen citizens' trust and confidence in the state and specific legislative acts.

As mentioned in the introduction, in the decision-making processes of a democratic state, the provision of information and public consultations are of vital importance. Special emphasis should be placed on those processes that supplement the legal order with general and abstract norms, i.e., lawmaking activity as broadly understood. Here, the leading role is played by the legislature, although the supreme executive bodies are also extremely important, since they implement the law-making policy of the state, execute laws, supplement the national legal order with widely understood sources of international law, and issue executive acts (Banaszak and Bernaczyk, 2012). The doctrine of constitutional law stresses that, in the parliamentary system characteristic of liberal democracies, the government (in Poland: Council of Ministers, Pol. *Rada Ministrów*) implements state policy by exercising legislative initiative, which increasingly involves the transposition of EU law into the domestic normative order (Nowak, 2005). The ministry responsible for a given subject matter prepares a draft normative act. Responsibility for this extends not only to the draft legal act itself, but also to its underlying assumptions (Bodnar, 2018).

3.2 The Concept of open government

A state that bases its functioning on the availability of information about its activities and the participation of citizens is a state that implements the concept of ‘open government’. As mentioned above, this concept is a permanent component of Finnish administrative culture. Its core element is to provide citizens with access to information and data held by public entities. Open government activities are characterized by a readiness to cooperate with social and institutional partners, both in external and internal relations, thereby contributing to increasing transparency in the public sector, efficiency, and public trust in public authorities. Indirectly, these changes also result in economic growth, as has been confirmed by empirical studies conducted periodically, including by the OECD (OECD, 2016).

From the Polish perspective, open government is of foreign origin, though it is not – considering Polish constitutional and legal solutions – something completely unknown. Nevertheless, there is no single consistent institution of constitutional law in this respect (OECD, 2015). Open government manifests as the principle of transparency of administrative activities. In practice, transparency means that the public has access to relevant and up-to-date information about the government’s

activities. Also of importance are the principles of accountability (whereby government officials are traceable and responsible for their actions), and of openness (in accordance with which the government listens to the opinions of citizens and businesses and takes them into account when creating and implementing government policy) (Candy & Vergez, 2003, p. 3).

Another view of open government assumes that the administration should apply pluralistic principles of governance. It should be open and should empower local communities and groups by applying the principle of subsidiarity, both at the local and societal levels. Through a process of including as many potentially interested groups as possible, links are developed between decision-makers and the public. Transparent public policymaking co-creates 'public value', which can be understood as a common good for all citizens, but also for public and private institutions, businesses, and various non-formalized groups participating in public governance in democratic states (Botterman et al., 2008, pp. 8-10; Wiśniewska, 2017, pp. 54 ff.; Herman & Konopka, 2013, p. 36). The essence of creating such 'public value' is broad participation and a 'communitization' of socially important phenomena, such as the need for reform or the optimization of health care services. These belong to the most important group of concerns, alongside, for example, education and science (Harlow & Rawlings, 2014, pp. 322 ff.).

Concerning health care reform, the key player is the Minister of Health, who has detailed competencies for shaping healthcare policy, defined at the statutory level. These include the power to direct, supervise, create, and control subordinate bodies. The Minister of Health takes legislative initiative in health care (Urbaniak, Wojtyła-Buciora & Klimberg, 2016, p. 49), and therefore, in relation to the concept of good governance, the dimension of designing normative acts is crucial; in democratic countries this should relate directly to citizens being informed, consulted, and empowered to participate (Mojak, 2002, p. 317).

3.3 Informing about the reform process

On 23 December 2020, the Minister of Health issued an 'Ordinance on the establishment of a team for the preparation of legislative solutions regarding restructuring of medical entities carrying out medical activities in the type of hospital services' (Ministerstwo Zdrowia, 2020). Pursuant to § 1(1), a team was appointed to

prepare legislative solutions concerning a restructuring of medical entities conducting medical activity in the type of hospital services. The team was tasked with developing and presenting assumptions on such a restructuring for the approval of the Minister of Health, and then drafting a bill with a justification (§ 3). Pursuant to the disposition of § 6(1), the Chairman of the team presented the assumptions in the form of a document: 'Reform of hospitals in Poland. Status of the project'. This material was submitted for consultation but was not published on the website of the Ministry of Health.

It is also a serious shortcoming that the team consisted exclusively of representatives of the Ministry of Health, the National Health Fund (Pol. *Narodowy Fundusz Zdrowia*, further: NFZ), Bank Gospodarstwa Krajowego (BGK) and the Agency for Industrial Development (Pol. *Agencja Rozwoju Przemysłu*), i.e., central administration bodies. This means that the team did not include any representatives of local government, which in most cases are the founding bodies of medical entities providing hospital services. However, a series of meetings were held with representatives of organizations that bring together local government units, including the Paweł Adamowicz Union of Polish Cities. These meetings, to some extent at least, ameliorated the non-inclusive nature of the team itself.

In February and March 2021, at meetings of the joint parliamentary Committees on Local Self-Government and Regional Policy, Health Committee and the Committee on Local Self-Government and State Administration, the Minister of Health provided information on the preparation of legislative solutions concerning the restructuring of medical entities performing medical activities in the type of hospital services. Also, in March 2021, public hearings were held on the hospital reform included in the National Reconstruction Plan, during which representatives of local self-government made numerous critical comments to the document: 'Reform of Hospitals in Poland. Project Status'.

On 31 May 2021, the assumptions of the reform were presented in the form of another document entitled 'Assumptions of the reform of medical entities carrying out medical activities in the type of hospital services' (Ministerstwo Zdrowia, 2021b). This document was posted on the website of the Ministry of Health, even though what was posted constituted only assumptions that had not yet taken the form of legislative proposals. This happened despite the wording of § 6(2) of the above-

mentioned Ordinance of December 2020, according to which a complete bill was to be presented by no later than 31 May 2021. The reform assumptions were the only document presented on the ministerial website. In contrast to the Finnish example, it is therefore not possible to chronologically follow the successive stages of how citizens were informed about the planned changes (Ministerstwo Zdrowia, 2021a).

The information provided on the Ministry of Health website regarding the reform is only available in Polish. There are no ‘open’ consultation or information channels for those interested in detailed data on the specific intentions of policy makers. The transparency of the information process should therefore be assessed unfavorably. Also, the information provided is concise in nature. No communication channel is provided for those interested in the reform, as is the case in wealthy welfare states (Pedersen and Kuhnle, 2017). Another example apart from the Nordic countries could be Germany, where most often special office infolines and email boxes are provided when changes are proposed in areas of particular importance to citizens; to these detailed queries can be sent (Bundesministerium für Gesundheit, 2017).

Unfortunately, this way of communicating about health care reform does not correspond to the assumptions of good governance, in which openness plays a key role. The actions of public authorities should be seen through the prism of caring for the dignity of citizens, who are the subjects, and not the objects, of decision-makers. This fits in with the aforementioned concept of ‘public value’. The dignity of citizens can only be guaranteed if they have a choice, and the issues of a well-functioning health system play a key role in this context. In the words of U. Comite, it should be emphasized that it is ‘(...) the indicators related to our state of health (...) allow the country to enhance us: life expectancy at birth, the quality of life free from diseases and disabilities, the ability to keep a good state of health, psychological wellbeing, the possibility to express feelings and emotions, the attitude towards environmental preservation. Governments, therefore, need to invest in health systems in order to grant their citizens the freedom to fully realize objectives and ambitions, because the higher purpose of a healthcare service is to offer its users the best opportunities to choose the life they desire’ (Comite, 2020, p. 39). Changes to the health system that take place without or with limited public consultation diminish freedom of choice and violate the dignity of the individual, both of which are crucial for the development of societies. In such case, decisions are made ‘above’ or ‘alongside’ citizens (OECD, 2014, pp. 34 ff.; Parvin, 2018, pp. 34 ff.).

3.4 Controversies

The problem of the indebtedness of medical entities providing hospital services explains the government's motivation to reform the hospital system in Poland, and that problem is directly determining the government's information policy in this respect. In a judgment of 20 November 2019, ref. no. K 4/17, Poland's Constitutional Tribunal found that the provision of Article 59(2) of the Act of 15 April 2011 on medical activity (Act of 2011) is incompatible with the Constitution of the Republic Poland to the extent that it obligates a local government unit that is a creating entity of an Independent Healthcare Facility (Pol. *Samodzielny Publiczny Zakład Opieki Zdrowotnej*, further SPZOZ) to cover the SPZOZ's net loss resulting from the introduction of universally binding regulations (Constitutional Tribunal, 2019).

This provision expired 18 months after the date of publication of the judgment, on 29 May 2021. In that judgment, the judges of the Constitutional Tribunal stated explicitly that SPZOZs are in debt due to the defectiveness of the mechanism by which the National Health Fund (NFZ) finances services. This concerns both quantitative grounds (the number of services questioned by the NFZ) and qualitative grounds (the NFZ pays less than the actual costs of individual services). The judges also stated that the widespread indebtedness of SPZOZs running hospitals, the size of their debts, and the periodical provision of 'debt relief actions' (e.g., in 2005) are the 'crowning proof' that the funds the NFZ transfers to hospitals are inadequate to cover the costs of the services hospitals provide. Therefore, SPZOZs should not be obliged to cover those losses.

Three solutions should be noted when analyzing the options proposed as part of hospital reform in Poland. The first is that the State Treasury (Pol. *Skarb Państwa*), the National Health Fund or the Hospital Development Agency (Pol. *Agencja Rozwoju Szpitali*) will take over the supervision of all public hospitals and the assets they need to function, regardless of the current form of ownership (Ministerstwo Zdrowia, 2021b, p. 16). The second involves either a change of the creating entity, but without a takeover of assets, or an obligatory transformation of hospitals into capital companies in which the State Treasury acquires 51 percent of the shares (Ministerstwo Zdrowia, 2021b, p. 18). The third option envisages the possibility of

a newly-established Hospital Development Agency taking over the management of hospitals temporarily.

These proposals from May 2021 show that the opinions expressed in the public hearings held in March 2021 have not been considered, which means that those consultations were merely a facade. Once again, there has been a violation of the basic principles of 'good governance' proposed in the literature on administrative law and in the documents of international organizations. Significantly, taking hospitals away from counties and provinces would both undermine the already weakened constitutional position of local self-government in Poland and would violate the constitutionally granted principle of decentralization, as well as the provisions of the European Charter of Local Self-Government (especially Articles 3(1) and 7(2); Lipowicz, 2019).

4 Conclusions

The responsibility of those in power is exercised in part based on how they inform and consult the public about particular decisions, including above all those that involve legislative changes in areas of vital importance for society. A lack of information undermines the reputation of, and public trust in, public administration bodies, which are crucial to the legitimacy of reforms. Presently, it is widely accepted that an important element in legitimizing the functioning of public administration is its authority – that it consists of bodies that develop and implement reforms that are important for citizens in a credible, disciplined way. That authority cannot exist without having specialized officials and technocrats in the public administration system (Busuioac & Lodge, 2017, pp. 91 ff.).

Under the Polish Constitution, there are two types of public administration – central government administration and local self-government administration. Neither of them is 'more important' than the other. A minister such as the Minister of Health is not a superior of local government, but simply belongs to another section of public authority, and is obliged to cooperate with local government in good faith. Dictating fundamental changes based on false or incomplete data undermines citizens' trust in public authorities. Importantly, any fundamental reform of the health care system, as the pandemic has shown, is fraught with difficulties, and must be carried out carefully and with proper foresight. The experience of earlier fundamental systemic

reforms in Poland indicates that such reforms should take two to three years and should include wide-ranging consultations. Using the pandemic as a ruse to ‘push through’ draft legislation without proper public consultation is a violation of good governance.

The Finnish reform has been implemented in several stages over several years (the first assumptions were made in the early 2000s). This was not the original goal of those in power, and the implementation of the SOTE reform resulted in the resignation of several governments. The reason for this was the laborious elaboration of individual elements of the plan. Yet, such a long process has its advantages. It allows the public to become properly acquainted not only with the individual stages of the reform, but also with the concrete proposals of the government.

It was not the intention of the authors of this text to analyze the health care reform being conducted in Finland and Poland, because the health care systems in the two countries are built on different principles. Instead, the intention was to show practices that are part of European public management during a pandemic, when national governments decide to make revolutionary reforms in the health system, crucial for all citizens. In the case of Poland, one might reasonably conclude that the pandemic crisis has been used as an excuse for the authorities to carry out reforms ‘alongside’ the citizens, without informing them properly, whereas in Finland it seems that the pandemic has not changed the existing information practices of the central administration. On the contrary, based on citizens’ concerns about the crisis, efforts were made to make information publicly available through many channels and to address the concerns of as many groups as possible.

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