

historical experience, which enables to gain some advantages even in the situation of making unpopular decisions. The confidence capital is the basis of all legal forms. Effectiveness of current legal norms depends on capital accumulation factors such as fairness of subjective estimates of positive consequences of passing norms (laws), value of confidence for different strata of a population (which depends on distinctions and contradictions between them), their interest in future results, a type of expected goods, risks of openness of actions of law-making process subjects.

Social construction of a civil society based on *institutional projects*, which are implemented owing to legislative and executive practices is the best way of realization of the confidence through legal procedures. The best conditions for institutional projecting exist in solidary societies, which function owing to the unity of interests, common insights about the future, and mutual understanding logics of actions of power structures. Preconditions of institutional projecting encompass coordination, strictness of understanding expectations and calculations of those groups, interests of which will be determined in the process of the law-making activity. Implementation of institutional projects is carried out owing to special sociological researches, which indicate a necessary rate of confidence in governmental authorities, the expectation of positive results, and determination of the social and time lag of the confidence.

UDCC 342.951:351.77

CONTRADICTIONARY ECONOMIC AND LEGAL APPROACHES TO COMPREHENSION OF THE MEDICAL SERVICES MARKET

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The medical services market is a separate segment of the national market, which exists as a form of a social formation of the economy at a particular level — local, national, regional, or world ones. Thus, it contains all the features being inherent to the market in general. The medical services market consists of governmental and private, commercial and non-commercial, official and informal medical services. There are services of primary, secondary, and tertiary sectors of health protection.

Nevertheless, lawyers avoid using a concept «market» for the governmental sector and apply exclusively a system of negotiated relations. The medical services market is referred to as only a private sector or those services rendered by state-funded institutions for sick persons for a fee.

A «medical service» and «medical care» are distinct in a remuneration criterion. The main legal documents, e.g. Article 49 of the Law of Ukraine «Basics of the Ukrainian Legislation on Health Protection», Article 4, 16, 25, 33, 37, 52, 58, 60, 78, also apply the concept «medical care». The Decision of Court of Ukraine of 29.05.2002 defines medical services as those «exceeding the bounds of medical care». The Decision states that «state-owned and community establishments of health protection» provide medical services for «all the citizens ... for free». As a result, there are some contradictions between economics and law.

There is no need to oppose governmental health protection to the medical services market. The very market evolution has led to public regulation of the services. In the modern developed mixed economy, the governmental function is performed in two ways: through indirect functions of governmental regulation of the economy (social, legislative, budgetary, tax ones, etc.) and through direct participation in the economy (in the form of the public sector). A system of negotiated relations is also concerned with the medical services market. Conversely, the market evolution indicates that the negotiated economy is its direct result. Growth of fierce and unfair competition, risks related to the competition, and transactional costs (for instance, for ownership rights protection, particularly from mafia) have historically led to dynamism of buy and sell agreements of goods and services. The negotiated economy has led to new quality — a contractual economy, where a government becomes one of parties of agreements, particularly on medical services providing. For example, in Great Britain, the contractual system forms the so-called «quasi-markets» or «internal» markets of governmental and private medical services, which develop as an alternative for superfluous bureaucracy and compete for a government contract. In Ukraine, such a practice was implemented as an experiment financed by the EU in particular regions.

A concept «medical care» expresses merely medical and clinical services of a patient and a medical staff regarding prescription and performing procedures. They are more visible and related to natural and technological peculiarities of a medical service. The concept «medical services» is more complex and, in addition, expresses social and economic relations accompanying the medical activity. Medical care cannot be free at all. Whether the mentioned relations are ignored, it becomes unclear who is paying for treatment. The world experience indicates that besides direct payments to doctors made by patients,

forms of financing include payroll taxation or general taxation. According to the SNA, calculation of the GDP by using the income approach takes into account selling not only goods, but also services. The calculation of the GDP by using the cost approach takes into account consumer costs and governmental purchases of goods and services. They are not included in the costs without determination of medical services value. Under the WHO recommendations, the GDP is the basis for calculation of amounts of financing health protection in the national economy. If the medical services value is not determined, the main macroeconomic index of the country is underrated. Medical services value is also reflected on accounts of current operations of the balance of payments. Medical services export positively affects balance and the inflow of foreign currency in the country.

We can understand lawyers, who forecast implementation of medicine with a high share of free services, which will ensure the constitutional principle of equal access of Ukrainian citizens to the medicine. The author can observe a durable reverse trend concerned with expansion of informal payments to a medical staff and transformation of state-funded establishments into an analogue of a private hospital. The right to choose a doctor declared in the «Basics of the Ukrainian Legislation on Health Protection» is not implemented in practice: if a patient chooses another hospital, he can be obliged to make payment to a charitable fund. Furthermore, current discussions regarding ways of reformation of the industry indicates a very small package of medical cares, which are planned to be free. Absolute and relative indices of governmental financing of the health protection in 2014–2015 decreased, taking into account inflation and devaluation.

In order to overcome the contradictions between the economic and legal approaches to comprehension of the medical services market, it is necessary to choose one of two solutions. The first one is radical increase of governmental financing of the industry and restraining non-production. Consequently, the criterion of free medical care is practically implemented. At the same time, free providing the care exists in the moment of direct providing a patient with the care. The second one is substitution of a definition of «medical care» with a medical service, determination of the service's value, ways of costs reimbursement, approving a package of governmentally guaranteed services, amounts of which should grow as the GDP increases. Such an approach is more effective from the standpoint of attraction of investments in health protection, implementation of insurance medicine, communication of health care establishments with local authorities, and organizing competition for a governmental contract.