

Cooperation between veterinary and sanitary public administration in Poland: In need of a legal basis for public health provision and confidence

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Summary

Providing an adequate level of public health is one of the priorities as well as constitutional obligations of public authorities. These tasks in Poland are divided among many different public administration bodies, primarily the Veterinary Inspectorate and the State Sanitary Inspectorate. This study aimed to determine the normative bases and premises that condition the cooperation between veterinary and sanitary public administration authorities in Poland and assess whether the legal regulations are sufficient and efficient. It was found that the cooperation between them is difficult. The analysis identified significant problems that may hinder practical cooperation between public services. The current legal situation narrows the overall scope of public health protection. It was found that the current method of normative regulation requires change. It is postulated that services dealing with various aspects of public health be integrated and unified in the spirit of the one health concept, as the bodies of such a new public institution should have adequate competencies and powers to operate effectively.

Keywords: one health, public safety policy, administrative law, veterinary law

One of important, but often ignored, aspects of veterinary sciences is veterinary law, which determines public health protection. This article aims to identify the normative basis and para-legal conditions for cooperation between veterinary and sanitary (medical and epidemiological) public administration authorities in Poland and assess whether these legal regulations are sufficient. The present analysis constitutes a fragment of investigation on whether the legal norms are adequate to the needs of veterinarians as members of society and on the relationship between law and achievements of veterinary medicine.

Material and methods

The research materials included Polish legal acts and administrative agreements concluded by Polish authorities; the legal status as of 1 September 2024 was adopted. Methods of analysis and interpretation of normative acts adopted in the present study (such as the linguistic, logical, systemic, functional and teleological methods) are specific to the methodology of legal sciences.

Results and discussion

Basic concepts of cooperation. Providing an adequate level of public health is one of the priorities

and constitutional obligations of public authorities (1, 5). The complex and interdisciplinary nature of this task and the multitude of factors that may pose a risk or threat to human and animal health undoubtedly require effective cooperation between specialists from various fields.

Cooperation can be defined as common acting, collaboration and multi-entity action (action of many entities) based on common goals (1-3). All actions undertaken by different cooperating entities aim to achieve the same goal. Various means can be used to achieve this goal, but they cannot interfere with each other. Necessary factors or aspects of cooperation are purposefully directed actions, synergy, adequacy of actions and teamwork (2).

Institutional cooperation must be directed towards the implementation of the state's constitutional obligations (1, 5), protection of the citizens' interests (including health), as well as compliance with obligations, such as those imposed by the common market of the European Union. Moreover, institutional cooperation is, in a sense, more complicated than simple cooperation between individuals because, in addition to the community of goals and interests of the authorities and the harmonious action of organizational apparatuses,

it still requires the compatibility of interests and actions of individuals.

A community of goals is considered the basis of all cooperation (1, 3). Legal regulations define the goals of public administration activities (1, 15). Administration can only act within the limits and on the basis of legal norms (5, 15). These norms are based on specific *rationes legis*, that is, values considered essential and worthy of public protection, which constitute the reason and justification for creating particular legal rules. Thus, *rationes legis* help correctly interpret the provisions of statutory acts so that they effectively perform their programmed function.

Regardless of factors identified as unfavourable, the authorities implementing legal norms should always remember the overriding goal of their activities. The aforementioned goal (the *ratio legis*) of cooperation between veterinary and sanitary services is the protection of public health and multi-faceted care for human well-being. The goal is not to merely try or aim to ensure public health, but to ensure it effectively and efficiently. It is worth noting that these goals are also the primary rules of veterinary deontology.

However, common goals only sometimes lead to effective cooperation or coordination of actions by multiple public authorities. The law is definitely not the only factor influencing this cooperation. The need for institutional cooperation may also give rise to numerous difficulties and even generate conflictual and antagonistic attitudes. Antagonistic attitudes are sometimes interpreted in the literature as forms of cooperation. This opinion is undoubtedly wrong. On the contrary: antagonistic actions may not only hinder cooperation between public authorities and reduce the effectiveness of their actions, but actually make them impossible.

Conflicting aspects were also identified in the present matter, and potential causes of this situation were determined. The most important causes are individual antipathies and personal animosities, but institutional rivalry also plays a role. Another critical factor are the unclear criteria of the division of competencies among various inspectorates. This factor is rooted in normative chaos, hyperinflation of legal provisions and their ambiguity, loopholes in the law and interpretational difficulties. All these manifest themselves in the lack of clear competencies, roles and tasks in public health protection. Even if it does not result in antagonistic actions between different inspectorates, it clearly favours the spread of conflict.

The forms and scales of cooperation may vary. Its many forms include assistance, substantive, financial or financial support, agreement, consent, understanding, opinion, notification, coordination, consolidation, taking a position on the matter and even administrative silence or simple factual non-interference.

The analysis revealed that cooperation between public administration authorities overseeing public health should be understood very broadly, as indicated by the

current constitutional and administrative law doctrine (1, 2). In the past, administrative cooperation was sometimes limited to issuing a decision dependent on an opinion or consent expressed by another official body (2, 15). Currently, such narrow definitions are no longer accepted, which would limit administrative cooperation to individual procedural provisions.

Cooperation should be treated by administrative authorities in a purposive and holistic manner, focusing on the long-term purpose of a given public service as well as the purpose and goal of a given action, rather than on particular interests or current conditions. Therefore, all legal provisions conditioning cooperation should also be subject to a purposive interpretation.

Constitutional basis for cooperation. Cooperation and collaboration between public authorities in achieving their goals is one of the fundamental constitutional principles of the Republic of Poland, although not directly expressed in the Polish Constitution (5). It is a principle developed by jurisprudence and jurisdiction (1, 2).

In addition, it was found that cooperation and harmonization in public health protection is also one of the fundamental principles of European law, as public health, animal health and food safety are among critical areas of the regulatory interest of the European Union.

Moreover, cooperation between administrative authorities is one of the basic principles of administrative procedure. As a general legal rule, it is established by Article 7B of the Polish Code of Administrative Procedure (2, 15).

This legal provision states that public administrative authorities must obligatorily cooperate in each administrative proceeding. The extent of this cooperation must take into account several premises: the purpose of precisely explaining the factual and legal status of the case following the principle of objective truth, protecting public interest and the legitimate interest of citizens, the efficiency and speed of the proceedings, as well as the use of all possible and available means adequate to the nature, circumstances and degree of complexity of the case (2). This is a procedural norm of a superior nature, that is, a general, non-specific rule, which must be observed in all activities of all administrative bodies in Poland. As already mentioned, the narrow definition of administrative cooperation is no longer valid due to Article 7B (2, 15).

Structural regulations. Nevertheless, administrative authorities overseeing the health security of society must focus on more than merely general procedural provisions and general constitutional principles. Administrative proceedings are only a way of implementing constitutional and substantive law.

Unlike normative regulations in many countries in the European Union and elsewhere, Polish law is based on the position of dispersed competencies of public administration authorities dealing with public health (4, 6, 12). They are accompanied by many different

bodies and offices, but the Veterinary Inspectorate and the State Sanitary Inspectorate are responsible for most actions (6, 12, 16, 18).

The State Sanitary Inspectorate is subordinate to the Minister of Health (16). This organization deals with many tasks related to public health protection, such as environmental hygiene, occupational health and safety, cleanliness and hygiene in restaurants, canteens, hotels, schools, boarding schools, bathing areas, etc. It supervises hygienic and sanitary conditions that should be met by medical personnel, equipment and premises in which health services are provided. A vital task of this body is to monitor, combat and prevent outbreaks of infectious diseases and other diseases caused by environmental conditions in humans. In addition, it monitors the safety of food of non-animal origin at the production stage and the safety of all food products (of animal and non-animal origin) in retail stores (6, 16).

The Polish Veterinary Inspectorate is subordinate to the Minister of Agriculture and Rural Development (18). It supervises veterinary requirements for animals, food of animal origin, and animal by-products (production, distribution, marketing, trade). It also monitors the production, trade and use of animal feed. It deals with the health of animals and combats infectious diseases (6, 18).

In addition, numerous related tasks are performed by other inspectorates, such as the State Inspectorate of Plant and Seed Protection, the Inspectorate of the Trade Quality of Agricultural and Food Products, the Environmental Inspectorate, the State Labour Inspectorate, or the National Revenue Administration (3, 6). Their activities are only indirectly related to the provision of public health in Poland. Although the analysis of the competencies of these bodies is not the subject of this study, the very names of some of them reveal the low quality of the relevant Polish law.

The research demonstrates that, from the substantive law perspective, cooperation between the veterinary and sanitary authorities is closely related to (and directly results from) the systemic division of these bodies, their different ministerial subordination, as well as the unclear division of their competences and, last but not least, the multi-source nature of the law in the scope analyzed here.

In particular, the research shows that the division of competencies among various inspectorates in Poland is not based on clear and logical criteria, nor is it clearly defined in normative acts. Their competencies, albeit divided among several inspectorates, often overlap and are not always completely clear for the general public, authorities and administration employees.

It was found that the division of tasks among many different inspectorates and the dispersion of their competencies are undeniable flaws of the Polish veterinary and medical law.

Substantive legal provisions. It has been revealed that – paradoxically – provisions of generally applicable law which are supposedly sources of cooperation be-

tween the veterinary and sanitary inspectorates do not constitute the actual basis for this cooperation.

Neither systemic acts, such as the Veterinary Inspectorate Act of 2004 and the State Sanitary Inspectorate Act of 1985, nor acts concerning specific aspects of the work of these bodies or European regulations establish cooperation mechanisms (16, 18).

Mandatory cooperation is explicitly mentioned by Article 24 of the Act on the prevention and control of infections and infectious diseases in humans, 2008 (19), according to which the State Sanitary Inspectorate and Veterinary Inspectorate authorities must cooperate to prevent and control infections and contagious diseases (zoonoses and anthroozoonoses), recognize and monitor the epidemiological situation and provide a system of early notification of the country's epidemic threats. This provision directly indicates the goals set for these authorities, but does not specify methods or mechanisms for achieving these goals.

The forms and procedures for cooperation between the Veterinary Inspectorate, the Sanitary Inspectorate and other inspectorates in achieving these objectives are established by the Regulation of the Minister of Health on cooperation between the bodies of various inspectorates combating zoonoses and anthroozoonoses, 2013 (10).

This legal act defines a short, closed catalogue (*numerus clausus*) of types of cooperation between administrative authorities. The types of cooperation are divided into those in which authorities engage *ex officio* and those in which they engage at the request of another public authority. The former include obligatory agreements, mutual information, coordination of information activities towards the public, as well as statistics and reporting. The latter comprise assistance in epizootic/epidemic investigations, laboratory testing and verification of tests, and mutual training.

Similarly, the subject catalogue of cooperation based on this legal act is limited to selected, dangerous diseases, such as bird flu, rabies or anthrax.

Another relevant legal act is the regulation of the Polish Council of Ministers on the cooperation between various inspectorates in combating infectious animal diseases, including zoonoses, 2021 (11). It implements Article 62 of the Act on the protection of animal health and combating infectious animal diseases, 2004 (14). This statutory provision establishes the obligation of bodies of various inspectorates to cooperate in combating animal diseases. It states that the Veterinary Inspectorate and the State Sanitary Inspectorate authorities cooperate (i.e., must cooperate) in combating infectious animal diseases, including zoonoses (14).

As if in opposition to the aforementioned statutory norm, which directly defines the obligatory nature of cooperation, the above regulation (11) establishes an open catalogue of types of cooperation between various inspectorates.

The act contains an open catalogue (*numerus apertus*) of cooperation methods, listing examples such

as mutual information on the suspicion or occurrence of an infectious disease outbreak, sharing resources to combat infectious diseases, exchange of information and documents, coordination of information for the general public, joint training and exercises for employees, as well as developing and updating hazard procedures.

This regulation also lists forms of cooperation specific to cooperation between the bodies of the Veterinary Inspectorate and the Sanitary Inspectorate. They are concerned with carrying out disinfection, monitoring retail trade in products of animal origin, withdrawing such products from trade and informing the public.

It was found that this regulation, like the previous one, tends to be general and laconic and fails to provide detailed cooperation mechanisms.

The legal basis of cooperation with medical service providers is even less firmly established. The only act of generally applicable law that provides such a basis is the Crisis Management Act, 2007 (17). It should be noted, however, that this form of cooperation is only incidental, limited to crises, such as outbreaks of zoonotic diseases with cases of human and animal illness, or natural disasters, such as floods. Moreover, it is indirect, and the intermediaries are always other public administration bodies, primarily the local public administration authorities or the government representative plenipotentiaries.

Administrative agreements. As indicated, the generally applicable legal provisions do not fully determine the cooperation between veterinary and sanitary public administration authorities. The analysis revealed that the essential basis of cooperation is constituted by framework administrative agreements between the Chief Sanitary Inspector and the Chief Veterinary Officer on cooperation between the authorities of the two inspectorates, agreements between these two and other inspectorates, as well as local framework agreements at lower levels of the hierarchy of these institutions. The national administrative agreements from 2018 and 2019 that are currently in force are essential (8, 9).

The 2018 agreement (9) and its local equivalents have a much broader scope than the legal acts discussed above. In addition to combating zoonoses and anthroozoonoses, they also cover supervising and conducting official inspections of food and food production facilities, cooperation in inspections carried out by other countries and border inspections, supervising food and feed safety and managing inedible by-products. The 2019 agreement (8) covers border checks, which are carried out jointly by many inspectorates.

The administrative agreements divide competencies in supervision over establishments into veterinary supervision, sanitary supervision and joint-supervision. The agreements establish several obligatory actions undertaken by each inspectorate individually and collectively (8, 9). Considering the division of competencies and the scope of responsibilities, the majority of activities, competencies and responsibilities belong to

the Veterinary Inspectorate. In this respect, a particular privilege of the Sanitary Inspectorate can be observed.

In addition, the agreements result in non-binding recommendations regarding cooperation between the inspectorates and animal or food production companies with respect to their technological projects (9).

On the one hand, administrative agreements can be regarded as a positive phenomenon, activating civil society and constituting not only the basis, but also the effect of cooperation between administrative authorities. On the other hand, it was found that there are more desirable ways of regulating the issue under examination than agreements between public administration authorities, which has also been pointed out by the Polish Supreme Audit Office and the literature (6, 7, 13).

It was found that administrative agreements are not sources of universally applicable binding law. Their dogmatic and legal classification can be diverse (3, 7). They can be considered as sources of both internal law (as they establish administrative obligations for the authorities themselves and obligations for their employees and subordinates at various levels) and separate non-authoritative administrative activities (3). They do not imply administrative coercion for natural or legal persons. They are not transparent or readily accessible to citizens (7). Therefore, they do not give citizens adequate legal certainty regarding their health protection.

In addition, one may criticize the fact that the national agreement (9) contains obligations for provincial and district bodies and that all authorities at all lower levels are obligated to conclude local agreements (as introduced in the nationwide agreement).

Conclusions: problems identified, postulates and proposals for amendments. Significant problems that may hinder effective cooperation between veterinary and sanitary services were identified (6, 7, 13).

First, the structure of activities and the framework of cooperation are not transparent, as they are conditioned by many legal acts and documents produced by different authorities in connection with various tasks set for individual inspectorates, and the protection of public health is only one of them.

Second, different aspects of public health protection are sometimes understood and interpreted as mutually contradictory or exclusive. There are disputes over competencies and avoidance of assuming competencies by particular public authorities.

Third, there is a lack of systemic coordination of activities to provide public health. The possibilities of using personnel, equipment and financial resources are limited, both in the daily coordination of public health provision and in crisis situations. The lack of coherence and systemic cooperation mechanisms prevents quick and adequate response to threats. Other adverse effects include powerlessness to make decisions, offloading problems onto another institution and delaying response to threats. Insufficient coordination, combined with jurisdictional conflicts and discrepancies in the interpretation of statutory provisions, compound legal uncertainty.

This negative picture, however, is partially masked by social ignorance about the actual competencies of particular veterinary and sanitary authorities (especially the Veterinary Inspectorate) and by their other actions.

It can be concluded that cooperation in public health protection in Poland is complicated and highly ineffective (6, 7, 13). The main cause of this situation are the scattered and diversified legal foundations, the numerous loopholes in the law, the lack of coordination and systemic cooperation mechanisms, and the different hierarchical subordination of particular authorities.

The result of this legal and factual situation is a narrowing of the overall scope of protection (6). It can also be described as a failure to provide an adequate level of protection (especially health protection) for citizens, and thus a failure of the state apparatus to fulfil its obligations towards society.

The current method of legal regulation of cooperation between bodies responsible for public health protection in Poland requires change, as it may need to be more effective in implementing coordinated protective measures.

The results of the present analysis indicate that the coordination of their actions should be regulated uniformly by a single universally applicable legal act.

Various ideas for eliminating the fragmentation of public authorities, reducing their number and consolidating them have been advanced in administrative science, the sociology of the law and legislative work (6, 12, 13). A notable example was the 2017 Draft of the Act on the State Food Safety Inspectorate (12).

Nevertheless, these efforts focused solely on one aspect of public health protection, namely, food safety (6, 12, 13). Nothing has been done to fully coordinate the work of public administration in holistic public health protection.

Hereby, it is postulated that services dealing with various aspects of public health be integrated and unified not just in one of its aspects, but in the spirit of the one health concept. Indeed, the reform should not establish a Polish Food Safety Authority, but rather an administrative body carrying out all health safety tasks regarding humans, animals and the environment.

The necessary conditions for the postulated new legislation are

- first, the rethinking of the hierarchical subordination of the new institution (the literature suggests that it should be subordinate to the Minister of Health, and the author agrees with this view);

- second, an appropriate division of competencies within the new inspectorate itself, which would guarantee that employees of its departments have the requisite specialist knowledge and effectively cooperate with one another;

- third, providing this new public institution with adequate powers and resources to operate effectively and benefit society;

- fourth, the creation of legal norms that are well-thought-out as to their actual effect, general, abstract,

non-casuistic, as well as correctly and clearly formulated.

The fulfilment of these conditions should make public health protection more effective and more accessible. Unification and cooperation within a single organization tasked with public health protection will be a better solution than even the best attempts to regulate cooperation between many different entities and authorities that exist today.

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