
Comparison of Institutional Solutions in Sweden and Poland during the COVID-19 Pandemic: A Case Study

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Abstract:

Purpose: This article aims to introduce institutional differences during the COVID-19 pandemic from the institutional analysis proposed by D.C. North, an example of Poland and Sweden.

Design/Methodology/Approach: The research methodology includes both quantitative and qualitative methods. It is based on literature studies and a case study. The countries selected for analysis are Poland and Sweden. This choice is dictated by different institutional solutions in restrictions in society's daily functioning - resulting from the COVID-19 pandemic.

Findings: This study shows the action that is taken to reduce the adverse effects of the pandemic.

Practical Implications: This study shows the importance of formal and informal institutions in reducing the adverse effects of the pandemic. **Originality/Value:** The lack of research has drawn up different strategies to combat the COVID-19 pandemic from the New Institutional Economic perspective.

Originality/Value: The research delivers a comparison of Swedish and Polish regulations undertaken to prevent the negative effects of the COVID-19 pandemic and describes their results.

Keywords: COVID-19 pandemic, public health, institutions.

JEL Classification: D02, E14, I18

Research type: Case Study.

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1. Introduction

Last year brought many changes to the world as the COVID-19 pandemic began to unfold. Countries took up the fight against the virus within their local policies. The adopted strategies were fundamentally similar, but there are differences in how to combat spreading the coronavirus. Despite the expected pandemic COVID-19, national institutional arrangements varied across countries. The institutional system is divided into formal and informal aspects. The first is written rules, such as the constitution, legal norms, etc. Second, informal institutions are sanctions, taboos, customs, traditions, religion, and practices of conduct resulting from cultural heritage. From the historical point of view, informal institutions are shaped by being passed from one generation to the other through learning and imitation of knowledge, values, and other factors that influence human behavior. In addition to formal and informal restrictions, these institutions are also ways of enforcing them (North, 1991).

The institutions implemented to stop the spread of the virus were mainly formal. The relevance of informal institutions cannot be completely ruled out since the introduction of specific legal regulations influenced human beings' way of thinking and behaving in society. Informal institutions are formed spontaneously with operations based, in this case, on governments' operations (Sukiennik, Dokurno, and Fiedor, 2017). The pandemic's beginning can be dated to January 2020, when the World Health Organization (WHO) announced a mysterious type of pneumonia in the Chinese Wuhan associated with infection caused by an unknown coronavirus (Stróżyk, 2020). The primary purpose is to introduce institutional differences during the COVID-19 pandemic from the perspective of institutional analysis proposed by D.C. North. In this article, the author will present two different strategies that have been taken to prevent the coronavirus pandemic, on the example of Poland and Sweden.

2. Literature Review

Swedish formal and informal institutions during the COVID-19 pandemic: In Sweden, the first confirmed case of COVID-19 was in January 2020. It is worth determining the Swedish approach to the legal culture to understand better the informal institutions undertaken by Sweden to fight against the pandemic. It is a part of the Nordic legal tradition, so-called the Nordic legal family. Among its features is concentrating on written legislation as the expression of the democratically legitimate legislator's will. Therefore, the Swedish legal system is based on a high degree of trust in the wisdom and understanding of public bodies that pursue the nation's good (Letto-Vanamo, and Tamm, 2019). The historical development of Sweden has fostered a collectivist culture. It focuses is on the relationship between public authorities and citizens in which they can rely on each other. This trust is based not only on the letter of the law but also on the behavior compatible with good faith (Strömholm, 2010).

The state has been treated as a source of support for citizens rather than an enemy (Nergelius, 2015). The Swedish constitutional law consists of four separate documents, as follows:

1. the Act of Succession (1810),
2. the Freedom of the Press Act (1949),
3. the Instrument of Government (1974),
4. the Fundamental Law on Freedom of Expression (1991).

Considering the aim of this article, only the Instrument of Government is of interest here since it regulates the constitutional system together with the state organs. It includes formal institutions regarding the protection of human rights, form of legislation, and constitutional control. This document relies not on the separation of powers concept but the idea of undivided popular sovereignty among people (Nergelius, 1974). To better understand the specificity of the Swedish public law in the context of the coronavirus pandemic, it is worth emphasizing the lack of the constitutional conceptualization of the roles of the state powers.

The principle of legality is crucial to think about constitutional and administrative law. The Swedish understanding of the law conveys "pragmatism" typical to the Nordic legal systems in that legal reasoning is based more on practical consideration than on the deduction of solutions from general principles (Krunke and Thorarensen, 2007). Therefore, the Swedish way of understanding the law may be situated between a pragmatic approach to problem-solving and a formalist adherence to written law. The Swedish measures to limit and prevent COVID-19 differ from the regulations implemented in other countries. Sweden's innovative approach to fighting against the coronavirus pandemic has attracted supporters and critics in the Scandinavian region and within the Western World. As opposed to the rest of the European countries, the Swedish government resisted the closure of the state, even during the second wave peak of infections. Sweden applied a strategy based to a substantial extent on individuals taking responsibility under non-binding recommendations. Swedes chose a course of action based not on orders or prohibitions but recommendations for social distancing. The Swedish government closed its international borders, including those with neighboring Norway, and allowed its internal society to remain open. As the idea of lockdown has not been sustainable, Sweden considered all aspects, from those connected with economic factors to those related to social life. Usually, Nordic countries adopt similar solutions concerning legal systems, but in this situation, they also differ from those adopted in Denmark, Finland, Iceland, or Norway (Communicable Diseases Act, 2004).

3. Discussion

General Recommendations as legally non-binding rules to prevent the COVID-19 pandemic – an example of Sweden: The main piece of legislation to combat the COVID-19 pandemic in Sweden is the Infectious Diseases Act 2004. The law is based

on respect for the equal rights of all people and personal integrity. The law's focus is on voluntary and preventive measures, with the responsibility resting on the individual. Although not covered by the Instrument of Government, the General Recommendations are also part of the Swedish legal system. These recommendations were created by the Public Health Agency about the individuals' responsibility to prevent transmission of coronavirus under the relevant Act (Communicable Diseases Act 2004). These regulations are directed to individuals as well as to administrative agencies. As they are not considered legally binding, the distinction between the two categories is not always straightforward (Påhlsson, 2006). Legal scholarship has described the General Recommendations as at least one step below the binding norms.

The relationship between the General Recommendations and the binding norms focuses on the rule that the General Recommendations must not go beyond the order of the binding norms (Påhlsson, 2006). The General Recommendations have to be printed and be available to society. They may be published together with the binding norm adopted by the administrative agency in that agency's Official Gazette. As seen during the COVID-19 pandemic, other kinds of non-binding documents prepared by administrative agencies provide guidance, e.g., posters, leaflets, webpages, etc. These documents fall under the same requirements on legality, objectivity, impartiality, and proportionality as the General Recommendations. The difference between them and the binding norms is that these documents do not cover the extent to which citizens should follow them. The General Recommendations include directions on (Communicable Diseases Act, 2004):

- washing hands often and at least for 20 seconds each time,
- keeping appropriate distance from other people,
- avoiding public transport where a seat reservation is not possible
- avoiding participation in major social events (parties, funerals, christenings, and weddings)
- working, if possible, from home,
- avoiding unnecessary travels.

The Ministry for Foreign Affairs has also introduced exceptional guidance regarding traveling as seen during the COVID-19 pandemic; there are also other kinds of non-binding documents prepared by administrative agencies that provide guidance, e.g., posters, leaflets, webpages, etc., providing to Swedes the necessary information according to the pandemic situation around the world to those going abroad. The main goal of such activities is to ensure the safety of their citizens. This also serves as advice for companies in the tourism industry, e.g., travel agencies or insurance companies, since they can consider this information while giving refunds on package tours (Ministry for Foreign Affairs, 2020). This non-binding norm should be legally explained by the broad mandate of the Ministry to protect the rights and interests of the nationals in foreign countries (Ordinance with Instruction to the Government Offices, 1996). At the beginning of March 2020, the Ministry issued a recommendation against non-essential travel to all countries.

This advice was abolished for several European countries but still applied as of August 2020 to several other countries, including all countries outside of Europe (Ministry for Foreign Affairs, 2020). To not violate the constitution and the right to move freely, travel was not banned. However, the Ministry made General Recommendations regarding traveling without sanctions for non-compliance.

In the Swedish constitution, some laws could be limited as freedom of speech, assembly, demonstration, or freedom of movement or departure from the country. Common law can limit them after applying specific parliamentary procedures. Based on the Public Order Act 1993 that allows for a restriction of freedom of assembly and demonstration, the Swedish government adopted a regulation limiting the number of participants in public assemblies during the COVID-19 pandemic. It is worth adding that this restriction entered into force in November 2020, while most European countries had already enforced these restrictions in March 2020.

All citizens have easy access to the General Recommendations once published in the Official Gazette and on the Public Health Agency website, but the information is also spread through posters and leaflets that can be easily printed at home or the workplace. Additionally, the Public Health Agency took on the responsibility to assist people on queries related to the pandemic, i.e., how long to stay at home after an illness, where to report a suspected infection, etc. Citizens did not know whether the government or the agencies introduced the regulations, which caused criticism. However, this did not negatively affect Swedish society, and people followed the General Recommendations for the common good (Jonung and Nergelius, 2020). The research made by Julie Hassing Nielsen and Johannes Lindvall showed that the health authorities in Sweden played a much more critical role than the government (2021). This would confirm the effectiveness of the strategy adopted by the Swedes, based on recommendations and not on prohibitions and orders.

Additionally, the local government summarised the situation in April 2020, emphasizing that people in Sweden had a high level of trust in government agencies, which followed the government agencies' recommendations. Currently, Swedes are overall acting responsibly to reduce the spread of infection and individually feel responsible for the fate of their country (Government Offices, 2020). Beyond that, the Public Health Agency performed a survey showing that over 80 percent of the population have changed their behavior during the COVID-19 pandemic.

Formal and informal institutional solutions introduced during the COVID-19 pandemic in Poland: In Poland, the first confirmed case of COVID-19 was in March 2020 (Ministerstwo and Zdrowia, 2020). That caused the government to introduce the state of a pandemic threat after ten days. Shortly afterward, one week later, it announced the state of a pandemic. The primary legislation to combat the COVID-19 pandemic in Poland is the Law on preventing and combating infections and contagious diseases 2008. In Poland, the equivalent of the General Recommendations were

numerous regulations introduced firstly by the Minister of Health on 13 March 2020 related to (Rozporządzenie Ministra Zdrowia 2020, poz. 374):

- the freedom of movement,
- trading with a list of medical supplies,
- restrictions on the functioning of institutions,
- restrictions on workplaces,
- the ban on the organization of mass activities.

In the following weeks, a new regulation was issued to introduce new ways of behaving and exacerbate the existing restrictions. The new rule expanded the current restrictions and introduced new requirements related to the acquisition of properties and land following the pandemic (Rozporządzenie Ministra Zdrowia, 2020, poz. 491). A few days later, the regulations were not over, another regulation was entered regarding the freedom of movement to the workplace or participation in voluntary activities. The following prohibitions were also introduced (Rozporządzenie Ministra Zdrowia, 2020, poz. 522):

- a total ban on gatherings, except for family reunions,
- restrictions within the public transportation,
- limitations to religious ceremonies and gatherings.

Since the pandemic started, several dozen legal acts have appeared in Poland in the form of acts (8), ordinances of the Council of Ministers (6), ordinances of the Minister of Health (20). Additionally, regulations within voivodships were introduced.

The provision expressing a blank legislative delegation became the basis for the Minister of Health to issue several regulations that set out the rules of operation during a pandemic and drastically limited constitutional freedoms and rights (Uziębło, 2020). In the period from 20 March 2020 until 31 December 2020, the Minister of Health introduced twenty regulations (DUW, 2021) related to (Rozporządzenie Ministra Zdrowia, 2020 poz. 433):

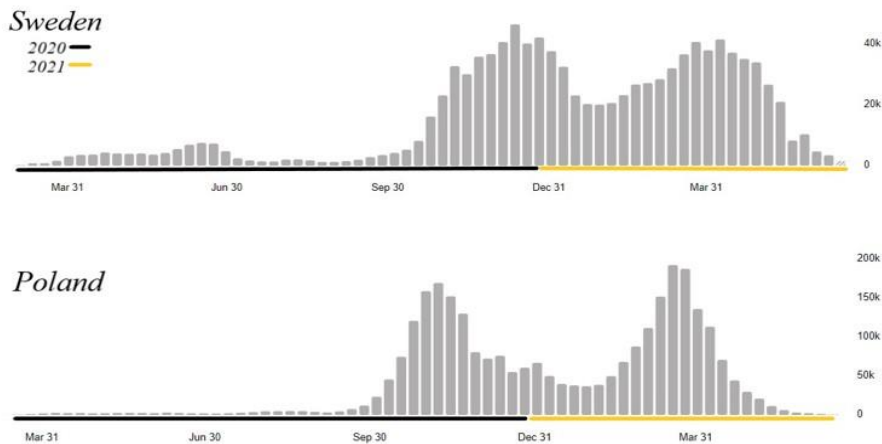
- restrictions on a particular way of moving,
- restrictions or prohibitions on the marketing and use of certain items,
- restrictions on the operation of specific organisations or workplaces,
- prohibition of organizing shows and other gatherings of the population,
- an order to make real estate, premises, and areas available under anti-epidemic plans.

These regulations mentioned above were not the only ones issuing regulations. The Council of Ministers issued many more of them.

Comparison of the situation in Poland and Sweden during the COVID-19 pandemic: When restrictions were introduced in Poland, and the first lockdown was introduced in March 2020 (Ministerstwo Zdrowia, 2020), Sweden remained open until February 2021 (World Health Organization, 2020).

Initially, the number of confirmed cases in Sweden was higher (Figure 1). Closer to the end of 2020, while the economy remained open, there was a noticeable increase in infections. The peak was observed on 14 December 2020 when the number of infections was 46,511, and it was 14.27% more than a week before. What happened after was the day after the Swedish national holiday in honor of Saint Lucy. The feast is characterized by a procession commemorating the Saint. This could be the reason for the increase in infections. In turn, in Poland, the peak of confirmed cases can be observed on 9 November, when the number of infections reached 169,478, 6.65% more than in the previous week. At the beginning of 2021, decreased infections in both countries were noted during the calendar spring's beginning (21 March). In Sweden, the peak was observed on 29 March 2021 when the number of infections was 40,723 and the second on 12 April when the number increased to 41,565. Speculation centers around the Easter Holidays which took place on 4 April 2021 in both countries. It does not show any connection with the increase of infections during this time since in Sweden and Poland, the number of confirmed cases started to decrease after this date.

Figure 1. Confirmed cases of infection with COVID-19 virus - based on the example of Sweden and Poland

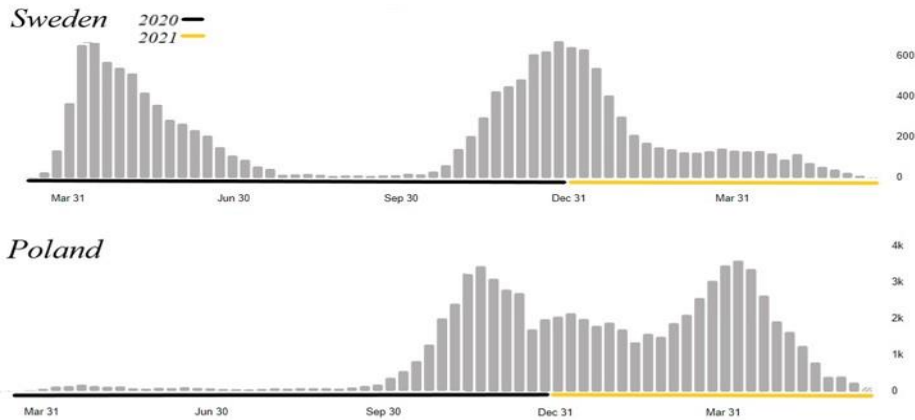


Source: World Health Organization.

In Sweden, the number of deaths was the highest at the beginning of the pandemic. There were 683 deaths in Sweden in April 2020. For comparison, there were 139 such cases in Poland. Another significant increase can be observed in December 2020, around Christmas time, when the number of fatal cases in Sweden was 674. On the other hand, while Poland noted a decrease in deaths in December, the peak can be

observed in November 2020. When in Sweden, the number of deaths showed a downward trend, a re-peak could be observed in Poland in April 2021. On 12 April 2021, the deaths in Poland amounted to 3,611.

Figure 2. Deaths due to the infection with COVID-19 virus - based on the example of Sweden and Poland

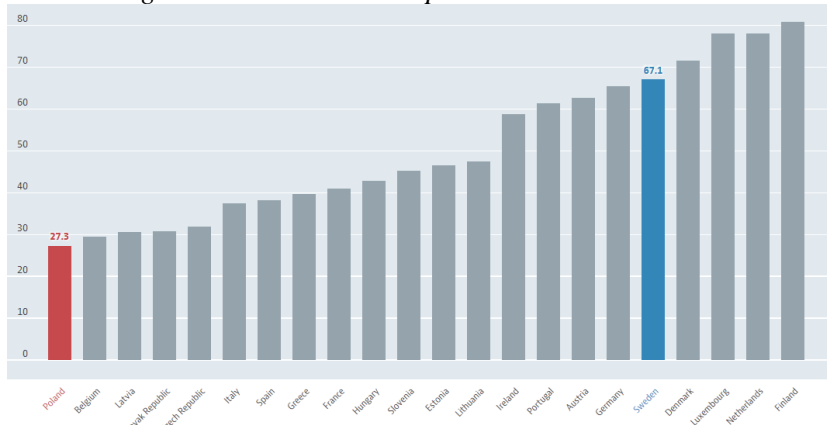


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Under the rule of the binding Constitution, the Polish legal order has not faced a similar situation before. Nowadays, the political system in Poland is subjected to conflict between the ruling party and the opposition. Instead of successfully tackling the pandemic and focusing on the nation's health rather than on conflict with each other, the new reality has been drawn into the ongoing political struggle (Domaradzki, 2020). Compared to Sweden, where the main aim for the society is to fight the virus, in Poland, the pandemic was another reason for quarrels between the supporters of various opposition parties in Poland. The Polish approach to the law seems to have a lot to do with the trust in the government. According to the Organisation for Economic Co-operation and Development (OECD) data collected in 2020, it appears that only 27 percent of Polish citizens trust the government, whereas, in Sweden, the number is much higher - 67,1 percent of citizens show confidence in the government.

Figure 3. Trust in government within European Union countries



Source: OCED data, <https://data.oecd.org/gga/trust-in-government.htm>.

While the country fought against the COVID-19 pandemic, the Polish government decided to organize presidential elections. Currently, it is difficult to determine their practical consequences for the Polish legal tradition and culture. Still, holding these elections at all costs added other negative experiences for the citizens of Poland (Robert Schuman Foundation). Although the Polish Constitution, which serves as the country's most important legal document, includes introducing a state of emergency, such a decision was not made in Poland.

An interesting comparison seems to be one of two countries discussed on the example of the European Union countries (Table 1). The table below shows the number of confirmed infections, deaths per the entire population, and 100,000 inhabitants to summarize the results obtained and the death factor (death cases in total/confirmed cases in total).

In Sweden, there was a visibly different approach to enforcing the use of protective masks. The Swedish Health Minister, Lena Hallengren, emphasized that the government did not have a culture of making decisions regarding protective clothing like, e.g., masks and they would not revoke restrictions introduced by the Public Health Agency (Walravens and O'Shea, 2021).

The quality of healthcare may also play a role in fighting the coronavirus. According to the Global Health Security Index, which examines the extent of countries' preparation for a pandemic, neither of the countries was fully prepared for an epidemic or a pandemic. Nonetheless, Sweden ranked 7th with 72.1 (out of 100) points, while Poland was found much lower in this overview, in 32nd place with 55.4. One may speculate whether it had anything to do with the strategy adopted by the Swedes.

Table 1. Confirmed cases and deaths due to infection with COVID-19 virus within European Union countries

Country	Confirmed cases in total	Confirmed cases per 100,000 inhabitants	Death cases in total	Death cases per 100,000 inhabitants	Death factor
Austria	643 043	6,4304	10 383	0,1038	1,615%
Belgia	1 071 271	10,7127	25 041	0,2504	2,338%
Bulgaria	419 681	4,1968	17 854	0,1785	4,254%
Croatia	357 608	3,5761	8 091	0,0809	2,263%
Cyprus	72 859	0,7286	364	0,0036	0,500%
Czechia	1 663 998	16,6400	30 193	0,3019	1,814%
Denmark	286 948	2,8695	2 520	0,0252	0,878%
Estonia	130 242	1,3024	1 264	0,0126	0,971%
Finland	92 770	0,9277	959	0,0096	1,034%
France	5 611 217	56,1122	109 209	1,0921	1,946%
Germany	3 702 688	37,0269	89 384	0,8938	2,414%
Greece	410 166	4,1017	12 301	0,1230	2,999%
Hungary	806 206	8,0621	29 799	0,2980	3,696%
Ireland	264 379	2,6438	4 941	0,0494	1,869%
Italy	4 233 698	42,3370	126 588	1,2659	2,990%
Latvia	134 888	1,3489	2 413	0,0241	1,789%
Lithuania	276 759	2,7676	4 317	0,0432	1,560%
Luxembourg	70 256	0,7026	818	0,0082	1,164%
Malta	30 571	0,3057	419	0,0042	1,371%
Netherlands	1 664 427	16,6443	17 681	0,1768	1,062%
Poland	2 875 729	28,7573	74 255	0,7426	2,582%
Portugal	853 034	8,5303	17 036	0,1704	1,997%
Romania	1 078 952	10,7895	30 878	0,3088	2,862%
Slovakia	390 546	3,9055	12 423	0,1242	3,181%
Slovenia	255 432	2,5543	4 707	0,0471	1,843%
Spain	3 707 523	37,0752	80 236	0,8024	2,164%
Sweden	1 078 062	10,7806	14 523	0,1452	1,347%

Source: World Health Organization.

4. Conclusions

The beginning of 2020 has presented the world with a new challenge. The fight against the rapidly spreading virus has become one of the priorities of humanity. Many leaders of countries have faced the challenge of dealing with the developing pandemic. This article describes formal and informal institutions in countries characterized by different strategies introduced to combat the COVID-19 pandemic. Presented countries are characterized by two different but also extreme strategies against a pandemic. As an example of the Nordic legal family, Sweden initially did not introduce any restrictions but only closed its borders - leaving the internal economy open.

On the other hand, in Poland, as an example of the Germanic legal family, the Polish government introduced restrictions and then lockdown less than a month after the first infection was detected. To summarize, this article does not show us which of these strategies against COVID-19 was most effective. Actions undertaken should not be judged as irresponsible or unfair. They should be considered from the perspective of institutional differences and hence cultural diversity. It is too early to indicate which strategy was the most successful and define the parameter used to measure this success. It has been speculated that national holidays are related to the increase in the disease. This phenomenon allows for the formulation of a hypothesis for subsequent studies in which it is worth verifying this hypothesis using quantitative methods.

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