Criminal Liability for Violation of the Quarantine Regime in the Conditions of the COVID-19 Pandemic

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Abstract: Infectio us diseases is the subject of increased attention, which causes concern in society throughout the world. In this context, and in order to implement preventive measures, democratisation and protection of human rights are increasingly combined with measures of state coercion. The new challenge today is the COVID-19 pandemic, recognised by the World Health Organisation. Today is pandemic has forced a qualitative rethink of approaches to responding to the health challenges of both individuals and nations. States have gradually begun to use a variety of health measures, including policy and legal instruments, to control the spread and effects of COVID-19. Some states have resorted to criminal law to apply it to health care to prevent infection with COVID-19. A comparative analysis of the features of criminal liability for violating the quarantine regime in the European Union and Ukraine showed the variability of the structures of crimes, however, the unity of difficulties in qualifying socially dangerous acts and, as a result, the impossibility of effective prosecution. It was stated that there was an urgent need for States to recognise that the new coronavirus was a serious health emergency, but that the criminalisation related to COVID-19 was a worrying trend towards prolonging human rights restrictions. Experts are increasingly questioning, in particular, the feasibility and effectiveness of existing criminal law measures on health care and their fragmentary compliance with internationally declared human rights standards, which in the long run will be the basis for the abolition of new criminalised components of crimes.

Keywords: Infectious diseases, quarantine measures, preventive measures, mandatory isolation.

INTRODUCTION

Contracting infectious diseases is the subject of increased attention, which causes concern in society throughout the world. In this context, and in order to implement preventive measures, democratization and protection of human rights are increasingly combined with measures of state coercion. At the same time, the world community recognizes that the role of criminal law in the implementation of health care measures must be limited in the light of scientifically sound grounds and consistent with human rights. History has shown that when restrictions are imposed on situations that are qualified as "emergencies that threaten the life of the nation" (in good faith or in bad faith), they have an indecent way of penetrating the ordinary legal and political framework. For example, in 2015, France introduced emergency measures in response to the terrorist attacks in Paris – these measures have now found their way to "le droit commun" and have become not temporal preventive norms, but permanent regulations. In the context of health care, the misuse and excessive use of criminal law in emergencies sets an important precedent that could lead to these rules being used even after crisis management and risk minimisation.

Global health and international human rights law warn that, in most cases, unjustified isolation "violates human rights to freedom of movement, freedom of association and freedom from unjustified detention." However, health and human rights standards apply to rare cases that require involuntary isolation and treatment of patients. According to the World Health Organisation (WHO), in cases where sick people do not follow treatment, "either do not want to or cannot take measures to fight the infection ... the interests of other members of society may justify efforts to forcibly isolate the patient." (Report of the WHO-China… 2020). Thus, in accordance with international law and human rights standards, freedom of movement should be restricted exclusively in accordance with the law and based on the achievement of a legitimate aim (with due regard to WHO guidelines, when health care is a legitimate aim). The same standards should apply to measures related to COVID-19.

Thus, on March 11, 2020, the WHO officially recognised COVID-19 as a pandemic (Andersen *et al*. 2020). COVID-19 is a serious, highly contagious respiratory disease, with symptoms varying in severity. Most people will have mild symptoms, and some will not have any at all, others may experience severe respiratory distress, which can lead to death. COVID-19 has become an unprecedented health emergency, both due to the rapid spread of the disease and the

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rapid nature of some of the measures taken by States to respond to it. However, in responding urgently to this crisis, governments must not forget their human rights obligations. The Syracuse Principles (Patruno *et al*. 2020; Battaglia 2020; Li, Hu, and Liu 2020), which reflect the obligations codified in numerous international human rights instruments and customary international law – recognise that certain human rights may be restricted in health emergencies. Under international law, restrictions on human rights can only be justified if they meet certain criteria: they must be defined by law; pursue a legitimate goal; be strictly necessary; proportional; be rationally related to the pursued goal, including based on scientifically sound evidence; be limited in duration; and subject to review.

For now, instead of focusing on criminal measures, countries should consolidate their efforts to implement effective evidence-based and rights-based interventions in their COVID-19 responses. This includes transparent and clear health messages; extensive, affordable testing; providing support services, especially for vulnerable groups; and, as a last resort, coercive isolation and quarantine measures, combined with appropriate process guarantees to ensure compliance with national and international law. It is important to remember that there is no pandemic exemption from respect, protection and observance of human rights. Since the introduction of quarantine in Hubei Province in January 2020, many other states have complied with this decision by introducing some type of quarantine and/or social distance measures (Mejia *et al*. 2020; COVID-19: Pressure points… 2020). These actions range from issuing guidelines that recommend people to limit social interaction, to strict, mandatory orders to stay at home. The measures were taken both in large areas (for example, China is mass quarantine of 57 million people in Hubei Province) and in smaller ones (for example, the "containment zone" in New Rochelle, New York, USA).

Some states have resorted to criminal law to apply it to health care in their COVID-19 responses. In particular, Italy has prosecuted more than 40000 people for violating domestic quarantine rules. Norway, which announced partial quarantine measures for the country on March 12, confirmed that those violating quarantine or isolation rules would be subject to fines or imprisonment. Argentina has also announced that anyone who fails to comply with mandatory isolation or quarantine rules could face between six months and two years in prison. In the United Arab Emirates, which has established a 14-day quarantine for anyone entering the country, the Attorney General noted that those who violate the quarantine requirement commit a "punishable crime". In Israel, police have opened 86 criminal proceedings for quarantine violations. Given the above, it seems possible to determine a comparative study of criminal liability for violating the quarantine regime in a pandemic COVID-19 to form sound conclusions and forecasts for the future as the purpose of this article. In addition, the following research objectives were set: to make a comparative analysis of the legal regulation of criminal liability for violating the quarantine regime in the context of the COVID-19 pandemic in Ukraine and EU member states; to determine the prospects of legal regulation in the research area. Given the large number of scientific studies on a number of important issues of qualification of criminal liability for the spread of infectious diseases, today there is no consensus on the doctrine. Therefore, a comparative analysis of criminal liability for violating the quarantine regime in the context of the COVID-19 pandemic is an urgent need in the science of criminal law.

MATERIALS AND METHODS

Today is pandemic has forced a qualitative rethink of approaches to responding to the health challenges of both individuals and nations. States have gradually begun to use a variety of health measures, including policy and legal instruments, to control the spread and effects of COVID-19. All are accustomed to hearing terms such as "quarantine", "blocking", "isolation" and "social distance". It can be stated that the listed terms indicate clear and interrelated measures aimed at slowing down the transmission of the disease. "Isolation" is the separation of sick people in order to prevent or limit the transmission of the disease. "Quarantine" is the restriction of the movement of healthy people who may have been exposed to the virus, usually during the incubation period before symptoms or a positive test for the disease ("isolation" will be applied to individuals from now on). "Social distancing" is a set of measures, from societal behaviour to individual behaviour, to reduce contact between people, which includes actions such as closing schools, banning large gatherings, and encouraging people to increase their physical distance. "Blocking" is a colloquial term without a specific definition of health care, which is used to denote some or all of the previous terms, but is generally understood as a critical restriction of rights.

The given terminology is supported both by normative-legal acts, rules and recommendations in the

territories of the states, and the complex views formed by society to the situation around COVID-19. The methodological basis of the study is a dialectical approach to the knowledge of emergency legal regulation, which involves the struggle of opposite principles of social life, the logical nature of historical events and phenomena. In this case, the dialectical method is necessary for the analysis of the struggle of law and the extrajudicial mechanism for resolving emergencies, the legal beginning and the authoritarian, dictatorial approach to overcoming crises in society. The scientific tools of the article were based on the principles of objectivity, historicism and pluralism of cognition of the legal doctrine history. In addition, the article used general scientific methods of cognition – logical methods, systematic and functional to study the mechanism, elements and functions of emergency legal regulation. In addition, the genetic (historical) method of research on the conditions and causes of emergency criminal law regulation was used as a means of resolving extraordinary situations and pandemics.

In the context of the study of criminological characteristics, a statistical method was used, which served as a basis for the analysis of data provided by the World Health Organisation. The use of the method of expert assessments contributed to the formation of a comprehensive view of measures aimed at improving the prevention of possible human rights violations. Among the special legal methods of research were used: historical and legal method aimed at studying the history of criminal law in foreign countries and Ukraine in a pandemic; comparative legal, related to the comparative analysis of criminal liability for violation of the quarantine regime in the context of the COVID-19 pandemic in Ukraine and foreign countries, the identification of general and special in them; formal-legal, which involves the analysis of sources of law that determine the mechanism of extraordinary legal regulation.

RESULTS AND DISCUSSION

Since the advent of the coronavirus, some states using criminal law try to avoid spread and infection with the COVID-19. They did so in at least two ways: through the specific offences of the regime imposed in connection with COVID-19 and through the general provisions of criminal legislation. Criminalisation of the spread and infection with the COVID-19 using criminal legislation rules is a matter of concern in terms of compliance with human rights. This is usually not effective and necessary to achieve health goals. When considering such criminalisation in the context of COVID-19, states must learn from another epidemic: HIV and AIDS. With the onset of the HIV epidemic, states enact laws that criminalise the illegal disclosure, infection, and transmission of HIV. However, over time, these laws began to violate human rights and health standards, as well as to contradict the principles of substantive criminal law. Instead of relying on scientific and medical evidence, such criminalisation was driven by fears and prejudices about the disease. Such criminalisation increases the stigma associated with HIV, reduces awareness of the latest scientific and medical data, and undermines health safety outcomes. For example, research shows that criminal sanctions and the associated stigma and discrimination about HIV disregard HIV testing (Perin 2020).

In today is world, the testing of criminal laws, ostensibly to limit the spread of COVID-19, resonates terribly with these problems. The application of criminal law is likely to contribute to the fear of COVID-19, increasing the stigma for people with COVID-19, or those who may have symptoms associated with the disease. Moreover, the possible punishments associated with these crimes also seem disproportionately severe, given the WHO is advice that the vast majority of people (over 80%) recover without any treatment. Existing gaps in knowledge and science about the COVID-19 mean that bringing people to justice for spread and infection with the COVID-19 causes difficulties during the qualification of this act. First, proving “guilt” seems extremely difficult. In addition, the criminalised “act” for the transfer of COVID-19 may be too vague and general to comply with the basic principles of criminal law. There are many questions about the transmission of COVID-19, including the possibility and rate of asymptomatic transmission (i.e. transmission of the virus by people who are ill but have no symptoms). Especially given that the new coronavirus is highly contagious, and that in many places it will be difficult, and sometimes impossible, to prove that one person received the virus from another identified and infected person.

In essence, criminalising the actions of a COVID-19 infected person (such as breaking the rules, unintentional infection, etc.) in addition to leading to social tensions in society can have the effect of endangering the health of the population. Criminal sanctions for people with COVID-19, as well as increased stigma due to criminalisation, can prevent people from seeking testing and other medical

services. Criminalisation related to COVID-19 also significantly increases harm to human life and health as a result of detention and/or imprisonment. People who are indoors are at risk of contracting COVID-19 due to the inability to apply social distancing measures and limited access to medical goods and services. Instead, some states have released people from detention, including prisoners. Others have postponed criminal and other trials, recognising that courts, like other public places, can facilitate the spread of COVID-19.

It is advisable to refer to the rules of the criminal law of EU member states. Thus, on January 31, 2020, the Italian government officially declared a state of emergency in accordance with Legislative Decree 1/2018 (Civil Protection Code), recognising that COVID-19 should be considered as "the emergency of national importance related to natural origin or man-made disasters, which, due to their intensity or expansion, require immediately intervene in life by extraordinary means and powers that should be used during the restriction and a certain period" (Iannuzzi 2020). The outbreak of COVID-19 forced the Italian government to take a number of measures to limit the spread of the virus in Italy. In this regard, it should be noted that paragraph 2 of Article 42 of Legislative Decree No. 18 of March 17, 2020, provides that: "In confirmed cases of coronavirus infections (SARS- CoV-2) at work, the certifying physician draws up the usual accident certificate and sends it electronically to the INAIL which ensures the protection of the injured person in accordance with the regulations in force. INAIL benefits in proven cases of coronavirus infections at work are also provided for the period of quarantine or fiduciary home stay of the injured person with the resulting abstention from work. The above accident events affect the management of the insurance business and are not included in the calculation of the average rate of fluctuations in the accident rate referred to in the Articles 19 et seq. of the Inter-Ministerial Decree of 27 February 2019. This provision shall apply to public and private employers." Thus, coronavirus infection is treated, in all respects, as a "trauma" and, as such, falls under Legislative Decree No. 81 of April 9, 2008 (Italy Legislative Decree… 2008), which regulates occupational safety and health.

As a result, in accordance with Articles 17, 28 and 29 of Legislative Decree No. 81 of April 9, 2008, companies whose activities have not been closed since April 10, 2020 (Decree of the president… 2020), together with companies that will resume business after the closure phase, are required to assess risks arising from COVID-19. Based on the above, if an employee was infected with COVID-19 while at work, an employer may be liable for the crime of injuring a person with negligence ("leioni personali colpose") (under Article 589 of the Italian Criminal Code) or, in the event of an employee is death, for murder ("omicidio colposo") (according to section 590 of the Italian Criminal Code). However, in order for an employer to be prosecuted, the following facts must be confirmed beyond a reasonable doubt: that an employer did not take measures – as stated in the "Protocollo condiviso di regolamentazione delle misure per il contrasto e il contenimento della diffusione del virus Covid-19 negli ambienti di lavoro" (Protocollo condiviso di regolamentazione… 2020) ("Protocol") – aimed at preventing coronavirus infection; that the failure to take such measures is due to the negligence of an employer (for example, due to breach of the obligation to conduct a risk assessment in accordance with Articles 17, 28 and 29 of Legislative Decree No. 81 of 9 April 2008); the existence of a causal link ("nesso causale") between the inability to take the above measure and the infection through Covid-19, where the infection, as a result of work, must be proven.

Finally, it should be noted that murder or personal injury due to negligence, as a consequence of violation of the rules of labour protection and safety at work, fall under the so-called predicative offences ("reati presupposto"). It should be noted that the violation of any measure to prevent the disease was initially a criminal offence: Decree Law of February, 23 2020, paragraph 6 provided that failure to comply with any of the precautionary measures is punishable by imprisonment for up to 3 months or a fine of up to 206.00 euros in accordance with Article 650 of the Italian Criminal Code. In addition, persons who have been tested for coronavirus and have not complied with the mandatory quarantine may be prosecuted under Articles 438 or 452 of the Criminal Code, which are punishable by life imprisonment. On March 25, the Council of Ministers approved a new Decree-Law imposing an administrative fine of up to 4.000 euro on those who fail to comply with emergency measures in a pandemic. Criminal sanctions were excluded. It can be stated that the containment measures taken by the Italian government are in fragmentation with Italy is human rights obligations, while the fight against the COVID-19 pandemic poses many problems in the field of human rights protection not only in this country.

In particular, the Coronavirus Act 2020 (Coronavirus Act 2020) and the Health Regulations 2020 ("Rules")

(The Health Protection… 2020) were adopted in the United Kingdom to combat the spread of Covid-19. They contain one of the most dramatic invasions of civil liberties since World War II. According to the provisions of Article 9 (1) of the Law, a person who violates Rule 7 without reasonable justification (i.e. participates in a meeting or event with three or more people), or who violates Rule 6 (i.e. is outside the place of residence without reasonable justification), commits an offence. Pursuant to Article 10(1), an authorised person may issue a notice of a penalty imposed on those who have committed an offence under the Regulations and are over 18 years of age. Such notification provides an opportunity to limit the penalty for the crime in the form of payment of a fixed fine to the local authority where an offence was committed. In cases where a penalty notice has been issued, the offence may not be instituted by the end of 28 days after the date of the notice, and the person may not be convicted of a crime if he pays a fixed fine before the end of that period.

The amount of the notice of a fixed penalty for the above infringements, if issued for the first time, is £ 60. However, in cases where £ 30 is paid by the end of 14 days, this amount is sufficient to exempt from further criminal proceedings. However, the amount of the second notice is £120, and this amount is doubled for each subsequent notice. The maximum amount is 960 pounds. If a notice of an imposed penalty is not issued, and a person is prosecuted for a crime in accordance with the Rules, then a crime is punished by a court sentence, which will determine the amount of the fine. It should be emphasised that a judge may impose any fine he deems necessary as soon as the financial capacity of a guilty person has been assessed. The police also retain the power to disperse in certain situations. Section 35 of the Law on Antisocial Behaviour, Crime and Offences of 2014 allows a specially authorised person – with a permission of an inspector – to force a person who is in a public place to leave the settlement and not return within 48 hours. Failure to follow the instructions is an offense. The authorities are subject to conditions under which there are reasonable grounds to suspect that the conduct of a person in that locality may or may not contribute to harassment, anxiety or obstruction of the public. A person may also be held criminally liable for causing the harassment, anxiety or disaster provided for in paragraph 5 of the Public Order Act 1986.

Probable presence of a person in the community who is known to be infected with the coronavirus and may cause public alarm or concern: this possibility becomes even more pronounced after recent reports of people intentionally coughing at vulnerable people and emergency workers – the action, which can at least be blamed for a normal attack. However, in cases where a person is simply found on the street without showing any reasonable signs of contracting the virus, it is unlikely that their very presence outside may cause anxiety or harassment to others. Thus, the Law and regulations fill a valuable gap in the current legislation. The powers granted to the authorities under the Act and its provisions are among the most intrusive since the Emergency Forces (Defence) Act 1939, but the abolition of civil liberties to overcome the threat of COVID-19 is widely supported by the population. The Law and the Regulations meet a specific legislative need; current criminal or civil law could not adequately address the current health emergency. It is to be hoped that, given public support, social exclusion and distancing, the implementation of rules 6 and 7 through fixed penalties will be rare and criminal prosecution will be less frequent. However, this public support depends on trust in the government is medical strategy. There is a risk that this credibility may be eroded if the level of infection and mortality in the UK does not remain or slow down.

Note that even in wartime, the scope of the Emergency Forces (Defence) Act 1939 was the subject of heated debate, the final expression of which was found in the famous Lord Atkin in Liversidge v Anderson (Liversidge, Appellant… 1942). While the COVID-19 bill was in second reading before the House of Commons, legal reform and the human rights organisation JUSTICE argued that the proportionality of any emergency legislation should be considered in relation to its intended duration, and that this crucial power would not remain place longer than the emergency itself. This organisation was concerned about the proposed condition for extending the newly adopted rules for two years (Coronavirus Bill House… 2020; In English: Prime Minister…2020). Despite the fact that the two-year term is retained in the Law, its prolongation takes place solely on the basis of parliamentary debates and voting on its extension, which takes place every six months.

It is also worth noting the very opposite position of the Swedish government. This country did not follow the example of many other European countries. No critical quarantine measures have been established in the country, no criminal liability has been imposed for violating the rules of conduct during a pandemic, and a state of emergency has not been imposed. At the

beginning of the pandemic, Prime Minister Stefan Lofven stated that "we must be adults and not spread panic or rumours". At the same time, all neighbouring countries – Denmark, Norway and Finland – have imposed severe restrictions on public life. Sweden has taken exclusively fragmentary social distancing measures, and many people have decided to reduce travel or switch to remote work from home. On March 29, 2020, gatherings of more than 50 people were banned, and on March 31, visits to nursing homes were banned. Experts are concerned that Sweden is refusal to take strict measures to "block" the spread of COVID-19 could lead to a sharp rise in mortality. In this context, it is advisable to provide official statistics (Rizzo 2020). Thus, as of June 8, 2020, 44,730 people fell ill in Sweden, 234,998 in Italy, and 286,194 in Great Britain. Undoubtedly, the level of morbidity depends on a large number of factors, however, these statistics give rise to quite critical positions on the validity of strict quarantine measures and criminal liability for violating the quarantine regime in the context of the COVID-19 pandemic.

Studying the practice of criminal liability for violating the quarantine regime in the COVID-19 pandemic in Ukraine, it is worth noting that the Resolution of the Cabinet of Ministers of Ukraine from 11.03.2020 No. 211 "On Preventing the Spread of Coronavirus COVID-19 on Ukraine" (Resolution of the Cabinet of Ministers… 2020) quarantine was established on March 12, 2020 throughout Ukraine. At the same time, on March 17, 2020, the Law of Ukraine No. 530-IX "On amendments to certain legislative acts of Ukraine aimed at preventing the occurrence and spread of coronavirus disease (COVID-19)" was adopted (Law of Ukraine… 2020a). This law enshrined the strengthening of criminal liability for violating the quarantine regime in the context of the COVID-19 pandemic. It should be emphasised that the current legislation of Ukraine criminalises contamination with infectious diseases long before the COVID-19 pandemic. Thus, Article 325 of the Criminal Code of Ukraine (Criminal Code of Ukraine 2001) provides criminal liability for violation of sanitary rules and regulations for the prevention of infectious diseases and mass poisoning, if such actions have caused or may have caused the spread of these diseases. And under Part 2, if the same acts caused the death of people or other serious consequences. The sanction of the article fixes the punishment in the form of: fine (from one thousand to three thousand non-taxable minimum incomes); arrest for up to six months; restriction of liberty for up to three years; imprisonment for up to three years; imprisonment for a term of five to eight years for committing a qualified crime.

Despite the existence of a rule providing for criminal liability, in practice in Ukraine it has not received effective testing, it is currently possible to talk about several sentences, however, they were passed until 2020 and are not related to the COVID-19 pandemic. As in other countries that have prosecuted those responsible for distributing COVID-19, the most difficult issue is to establish a causal link between the actions/inactions of offenders and the increase in morbidity. Also surprising is the disposition of the above article, in particular the wording of "actions that could have caused the spread of infection." It should be emphasised that an accusation based on this construction cannot be a ground for sentencing from a practical point of view. In particular, allegations that actions could have led to infection are solely the assumption of an investigator or prosecutor. And according to the Constitution of Ukraine, "the accusation cannot be based on assumptions". Therefore, the mentioned construction of the disposition of the article raises significant doubts about the possibility of its use in practice. At the same time, during the national quarantine the base of court decisions was replenished with other categories of cases: dissemination of false information, violation of the order of economic activity (for example, sale of household food without a license), a gross violation of labour legislation (illegal dismissal during quarantine), smuggling and falsification of medicines.

It should be emphasised that the state leadership has established the obligation to respect the rights of persons who will be prosecuted subject to quarantine, which is enshrined in the Law of Ukraine No. 540-IX of 30.03.2020 "On amendments to certain legislative acts of Ukraine aimed at providing additional social and economic guarantees in connection with the spread of coronavirus disease (COVID-19)" (Law of Ukraine… 2020b). The conducted comparative analysis showed that in the territory of the EU and Ukraine there are currently no substantiated positions on the expediency of criminal prosecution for violating quarantine regimes in the context of the COVID-19 pandemic. The procedure for proving a violation of the quarantine regime and the existence of a causal link is the most controversial. Moreover, the direct validity and justification of the purpose of the introduction of quarantine regimes and the state of emergency in the analysed countries are increasingly being questioned. Thus, in particular, numerous lawsuits have already

been filed in Ukraine regarding the state is unjustified restriction of the rights of citizens and business entities in a pandemic, as well as the counterproductivity of these restrictions, and legal proceedings are still pending.

For example, during this unprecedented COVID-19 pandemic, governments around the world are stepping up their efforts to combat the global spread of coronavirus by taking various measures to support public health systems, protect the economy, and maintain public order and security. A number of these measures significantly affect the situation with serious organised crime (Palmer 2020). It can be stated that the criminalisation of acts related to COVID-19 is beginning to become a leading factor in ignoring new variants in the criminal actions of individuals and groups that intensified during the pandemic. Criminals quickly took advantage of the crisis caused by the COVID-19 pandemic, which led to the formation of new criminal schemes and the commission of unusual for law enforcement officers new socially dangerous acts (O'Keeffe and Xiao 2020; COVID-19 Symposium… 2020). Such factors that caused the commission of other crimes, including terrorism include: high demand for certain goods, protective equipment and pharmaceuticals; reduced mobility and influx of people to countries; citizens stay at home and increasingly work at work, relying on digital technologies; quarantine restrictions create conditions for the latency of criminal acts and their relocation to home or online spaces; increased anxiety and fear, which become the root causes of vulnerability of the population to criminal acts; reduction of supplies of some goods to countries with quarantine.

The number of cyberattacks against organisations and individuals is significant and is expected to increase. Criminals used the COVID-19 pandemic to carry out pandemic-related social attacks to spread various packages of malware. Cybercriminals are also trying to use more and more vectors of attack, as a significant number of employers have started working with telecommunications and provide an opportunity to connect with the internal systems of their organisations. For example, the Czech Republic reported a cyberattack on the University Hospital in Brno, which forced the hospital to close its entire IT network, postpone urgent surgery and refer new acute patients to a nearby hospital. Fraudsters very quickly adapted known fraud schemes to take advantage of the anxieties and fears of victims throughout the pandemic. These include different types of adapted versions of telephone fraud schemes, supply scams and disinfectant scams. Thus, sales of counterfeit medical and sanitary products, as well as personal protective equipment and counterfeit pharmaceuticals have been growing since the outbreak of the pandemic. There is a risk that counterfeiters will continue to use shortages in the supply of some goods to increasingly provide counterfeit alternatives both offline and via the Internet.

The attackers adapted various types of theft schemes to take advantage of the situation. These include well-known frauds involving the impersonation of government officials. In particular, the premises of businesses and medical institutions will be increasingly focused on organised theft. Despite the gradual easing of further quarantine measures around the world, the threat of crime remains dynamic and new or adapted criminal activities will continue to emerge during and after the pandemic (Field 2020). It can be stated that the meticulous attention of the world community to the issues of criminal liability for violating the quarantine regime in the context of the COVID-19 pandemic should be correlated with an active response to other criminal encroachments on the rights of citizens and businesses entities.

CONCLUSION

The COVID-19 pandemic has caused significant human and economic losses around the world that were unpredictable just a few months ago. Moreover, the further scenario of the pandemic development remains uncertain due to the possibility of repeated outbreaks. States have begun to respond actively to the challenges of COVID-19, primarily by imposing quarantine restrictions and criminalising acts that violate statutory regimes. It is also worth noting the variability of terminology related to the composition of such crimes and the lack of uniformity in the application of international norms that provide for the protection of human rights in the face of epidemics and emergencies.

A comparative analysis of the features of criminal liability for violating the quarantine regime in the European Union and Ukraine showed the variability of the structures of crimes, however, there is the unity of difficulties in proving the commission of criminally punishable acts and, as a result, the impossibility of prosecuting perpetrators. It is of concern about the

constitutionality of Article 325 of the Criminal Code of Ukraine (2001), given the impossibility to establish a mandatory feature of the subjective side – guilt, solely on the assumptions of the pre-trial investigation authorities. It should be noted that some countries have already begun to abolish criminal liability for violating the quarantine regime, replacing it with administrative penalties. At the same time, it is quite negative for states to ignore new and adapted types of crimes that have become popular in the context of the introduction of quarantine restrictions. It can be stated that there is an urgent need for States to recognise that the new coronavirus is a serious health emergency, however, the criminalisation of COVID-19 is a worrying trend towards the prolongation of human rights restrictions. Experts are increasingly questioning, in particular, the appropriateness and effectiveness of current criminal health care measures and their fragmentary compliance with internationally declared human rights standards. Undoubtedly, any emergency legislation is always a risk to the rule of law and compliance with international legal obligations, in addition, the imperfection of the legislative process and the poor legislative texts can cause significant damage to individuals and the state as a whole.

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