
RESPONSIBILITY FOR VIOLATIONS OF QUARANTINE AND SANITARY RULES AND STANDARDS FOR PREVENTING THE SPREAD OF CORONAVIRUS INFECTION (COVID-19) BY LAW

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Summary. *The article analyzes the current state of legal support of quarantine requirements and sanitary rules and regulations for the prevention of infectious diseases in foreign countries and Ukraine. To achieve this goal, an analysis of the current legislation of some foreign countries and Ukraine on the grounds for establishing liability for violation of quarantine and sanitary norms and rules.*

It has been established that the COVID-19 pandemic has forced the governments of different states to introduce administrative and criminal liability in case of violation of quarantine and sanitary norms and rules. To ensure these measures, penalties for non-compliance with the quarantine regime have been introduced, with penalties ranging from warning to imprisonment and even the death penalty.

It is established that in Ukraine the issues of administrative and criminal liability for violation of quarantine and sanitary rules and regulations for the prevention of infectious diseases are regulated by Articles 42, 44-3 of the Code of Administrative Offenses and Article 325 of the Criminal Code of Ukraine.

It is determined that one of the problems of ineffective application of Articles 44-3, 42 3 of the Code of Administrative Offenses and Article 325 of the Criminal Code of Ukraine is an array of new rules for the prevention of COVID-19, which is constantly changing and introduced by various law enforcement agencies.

The study found that despite the adoption of regulations that established liability for violations of statutory rules and regulations introduced by both foreign countries and Ukraine to prevent COVID-19, they have a number of legal conflicts, inconsistencies and gaps.

Keywords: *quarantine, administrative responsibility, criminal responsibility, infectious diseases, coronavirus, prevention*

Introduction.

The article is devoted to the topical issue of legal support to prevent the spread of coronavirus infection

(COVID-19) in some foreign countries and Ukraine and the responsibility for violating quarantine and sanitary rules and regulations introduced to combat its spread.

Given the scale of coronavirus infection, the devastating effects of its spread in the world, the need for a response to it, as well as the lack of comprehensive research on legal support for such quarantine measures in Ukraine and in the world the problem of liability for quarantine and sanitation is relevant and needs proper research.

Analysis of recent research and publications.

The multifaceted impact of coronavirus infection (COVID-19) on society and the dynamics of changes in the legislative provision of measures to combat mass infectious diseases have led to the fact that the issue of liability for quarantine in a mass pandemic has not yet received extensive research in academia. Comprehensive research on the establishment of liability for violations of quarantine and sanitary rules and regulations in foreign countries and Ukraine is currently lacking, although some scholars have studied various aspects of administrative liability related to its legal regulation in the field of public health: Z.K. Gladun, O.S. Dotsenko, Y.O. Levnets, M.V. Spivak and others.

The purpose of the article is an assessment of the state of legal support for counteracting the spread and overcoming of COVID-19 in foreign countries and the use of the experience of these countries in substantiating proposals to improve the current legislation of Ukraine.

Results.

The rapid spread of the COVID-19 pandemic around the world has been a major challenge for every country. All countries are faced with the need to quickly find measures to effectively

combat the coronavirus. The most effective means was the introduction of criminal and administrative liability for concealing the symptoms of the disease and violating the quarantine regime.

COVID-19 was first registered in December 2019 in China, the results of the study showed that in this country the penalties were the most severe. Thus, in February, the state authorities introduced criminal prosecution in case of concealment of symptoms of coronavirus disease or travel history, and as punishment introduced imprisonment from 10 years to life or the death penalty (Yak shtrafuiut za..., 2020).

In the European Union, the focus of the COVID-19 outbreak in early 2020 was Italy. The rapid spread of COVID-19 can be explained by the fact that although Italy is a unitary state, local authorities in the regions have great autonomy and independence. In some regions, at the beginning of the pandemic, fairly severe restrictions and penalties were immediately imposed, and in others, the threat of coronavirus was not taken seriously (Maslova, 2020). However, quarantine was established in the country in March, and liability for violating quarantine was introduced. For moving through the country without good reason, a fine of 206 euros was imposed, for violating the quarantine of an infected person – up to 21 years in prison, and for false information about the reasons for moving outside the quarantine zone – from 1 to 6 years in prison (Yak shtrafuiut za..., 2020).

In France, the restrictions to contain the disease were initially of a recommendatory nature, but in mid-March the period of recommendations ended. A fine of 135 euros was imposed for violating the quarantine rules. If such a fine was paid late, the amount increased to 375

euros, and in case of repeated violation, the fine was already 1500 euros. Criminal liability has been established for particularly vicious violators in France (Vdovychenko & Vorotniuk, 2020).

As for South Korea, the first case of infection was detected on January 20, 2020, but the first measures to prevent the disease were taken on January 3, in the government worked to anticipate increased production capacity for the manufacture of masks. At the same time, sanctions were imposed on entrepreneurs who created an artificial shortage of masks or hand sanitizers, and were threatened with a fine of up to \$ 42,000 and two years in prison. For individuals in South Korea, up to one year in prison and a fine of about \$ 8,000 were imposed for quarantine violations.

From March 2020, Slovakia introduced mandatory two-week self-isolation for people returning to the country, and mandatory wearing of protective masks. The state has established liability for violating quarantine rules in the form of a fine of up to 1,650 euros (Somyna, 2020).

In the Czech Republic, where the largest number of infected people was registered in Central Europe in early April last year, authorities fined more than 100,000 euros for violating the quarantine regime and more than 120,000 for violating two weeks of self-isolation for returnees. dollars (3 million crowns) (Kravchenko, 2020).

The coronavirus pandemic has also hit the United States. To overcome the pandemic and prevent morbidity, liability has been established for those who violate quarantine legislation. Thus, according to paragraph 271 of the US Code, there is a liability for a person in the form of a fine of not more than \$ 1,000 or imprisonment for a term not ex-

ceeding 1 year, and these two sanctions can be applied simultaneously (42 U.S. Code § 271 – Penalties for violation of quarantine laws).

In January 2020, the first signs of the spread of a previously unknown disease (COVID-19) were detected in India. Unlike other countries that have passed new laws or transformed and supplemented existing ones, India has used the Anti-Epidemic Act passed in 1987 to combat COVID-19. According to this law, violation of quarantine rules is punishable by imprisonment for 6 months or a fine of 1,000 Indian rupees, amounting to 13 US dollars (Polianska & Rieznik, 2020).

Canada has a Quarantine Act, which may result in liability for violations of quarantine restrictions depending on the act: fines of no more than \$ 1,000,000, \$ 300,000, \$ 200,000, \$ 750,000, 500 thousand US dollars or imprisonment for a term not exceeding 6 months, not exceeding 3 years.

Partial restrictions have been set in the Netherlands. In this country, it is established that everyone should stay at a distance of 1.5 meters from other people, except those with whom he lives. If the safe distance is not observed, the violator is only threatened with a warning. Only in the case of repeated commission of this act is a fine of 390 euros (Government of the Netherlands. Dutch measures against coronavirus).

With regard to the Russian Federation, on April 1, the Federal Law № 100-FZ «On Amendments to the Criminal Code of the Russian Federation and Articles 31 and 151 of the Criminal Procedure Code of the Russian Federation» and the Federal Law № 99-FZ «On Amendments to the Russian Code Federation on Administrative Offenses». In Russia, administrative liability was introduced for violations of sanitary and

epidemiological rules (Article 6.3 of the Code of Administrative Offenses) and the rules of sale of drugs (Article 14.4.2 of the Code of Administrative Offenses) (Koronavirus..., 2021).

Fines or imprisonment for violating quarantine rules have also been introduced in Germany, Taiwan, Norway (fines of up to \$ 2,000 or imprisonment for 15 days), Israel (imprisonment from 3 to 7 years), and Spain (fines can range from 658 to 33,000 US dollars, and imprisonment can be up to 4 years), Singapore and Australia (a fine of 30,000 US dollars). In Argentina, for negligent actions that led to the spread of the virus, a fine of \$ 5,000 to \$ 100,000, for intentional actions – imprisonment for a term of 3 to 15 years, and for violation of quarantine rules – from six months to 2 years in prison. In Uzbekistan, for violating the quarantine rules, you can go to prison for up to 8 years (Yak shtrafuiut za..., 2020).

In Ukraine, as stated in the Constitution, every citizen has the right to health care and to receive adequate medical care. With regard to the protection of the population from infectious diseases, on April 6, 2000, under № 1645-III, the basic Law of Ukraine «On Protection of the Population from Infectious Diseases» was adopted, which defined the legal, organizational and financial principles of executive authorities, local governments, enterprises, institutions and organizations aimed at preventing the spread and spread of infectious human diseases, localization and elimination of their outbreaks and epidemics, established the rights, duties and responsibilities of legal entities and individuals in the field of protection against infectious diseases (Zakon Ukrainy 06.04.2000 № 1645-III).

However, taking into account the consequences of the spread of coronavirus infection (COVID-19) in the world

and using their experience in combating this infection, as well as WHO recommendations (Rekomendatsii VOOZ ... COVID-19) on this issue, the Ukrainian government has introduced a number of organizational measures to combat the spread of infection, including the development of their legal support.

Thus, on March 11, 2020, the Cabinet of Ministers of Ukraine adopted Resolution №211 «On prevention of the spread of acute respiratory disease COVID-19 caused by the coronavirus SARS-CoV-2» (postanova Kabinetu Ministriv Ukrainy 11.03.2020 № 211), which from March 12, 2020 a quarantine regime was introduced throughout Ukraine.

It should be noted that an important measure in creating a state system to combat the spread of coronavirus infection in Ukraine was the restoration of the position of Chief State Sanitary Doctor of Ukraine (Pro pryznachennia Liashka..., 2020).

The rapid spread of coronavirus infection in Ukraine required concerted action by both government agencies to implement quarantine measures and legal entities and individuals, subject to mandatory enforcement and compliance. Therefore, the Law of Ukraine of 17.03.2020 № 530-IX «On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19)» increased liability for quarantine violations. Currently, the Code of Ukraine on Administrative Offenses has been supplemented by Article 44-3 «Violation of quarantine rules and regulations» (Kodeks Ukrainy pro administratyvni pravoporushennia, 1984), and Article 325 of the Criminal Code is set out in a new one (Zakon Ukrainy 17.03.2020 № 530).

Regarding administrative liability, according to Article 44-3 of the Code

of Administrative Offenses, its sanction provides for liability in the form of a fine: for citizens – from one to two thousand non-taxable minimum incomes; for officials – from two to ten non-taxable minimum incomes (Zakon Ukrainy 17.03.2020 № 530).

The norm of Article 44-3 of the Code of Administrative Offenses is a blanket one, which refers to a significant number of normative legal acts regulating the rules of quarantine of people, sanitary and hygienic, sanitary and anti-epidemic rules and norms of both national and local self-government bodies. subsequently led to significant difficulties in qualifying this type of offense (Kovalova, 2020). Therefore, one of the most important and comprehensive national regulations on this issue is the resolution of the Cabinet of Ministers of 11.03.2020 № 211 «On prevention of the spread of coronavirus COVID-19 in Ukraine» with changes and additions (postanova Kabinetu Ministriv Ukrainy 11.03.2020 № 211). Shortly afterwards, it was supplemented and changed by the Resolution of the Cabinet of Ministers of Ukraine № 215 on expanding the list of requirements and prohibitions, violation of which gives grounds for bringing to administrative responsibility under Art. 44-3 Codes of Administrative Offenses (Kovalova, 2020).

In addition, the Code of Administrative Offenses provides for administrative liability for violation of sanitary norms under Article 42 of the Code of Administrative Offenses. As for the bodies that have the right to consider this category of cases, in accordance with Art. 236 of the Code of Administrative Offenses, the authorized bodies of the State Sanitary and Epidemiological Service have the right to consider cases of administrative offenses related to violation of sanitary norms (Article 42 of the Code of Administrative

Offenses). However, the State Sanitary and Epidemiological Service of Ukraine, which according to the law has the right to prosecute violators under Article 42 of the Code of Administrative Offenses, was liquidated in March 2017. The legislator, having liquidated the Sanitary and Epidemiological Service, did not make appropriate changes to Article 236 of the Code of Administrative Offenses regarding granting the State Service of Ukraine for Food Safety and Consumer Protection the authority to consider cases and impose administrative penalties under Art. 42 of Code of Administrative Offenses (Kovalova, 2020).

Regarding criminal liability for violation of quarantine, it should be noted that even before the adoption of a number of regulations to prevent the spread of coronavirus infection (COVID-19) of the Criminal Code of Ukraine contained Art. 325, which provided for criminal liability for violation of sanitary rules and regulations for the prevention of infectious diseases and mass poisoning (Kodeks Ukrainy pro administrativni pravoporushennia). In 2020, due to the spread of coronavirus infection (COVID-19), the Law of Ukraine № 530-IX of 17.03.2020 only increased the punishment (Kovalova, 2020).

Conclusions and prospects.

The study showed that the current legislation of most foreign countries and Ukraine on liability for violations of quarantine and sanitary rules and regulations in general provides a proper solution to this problem. Quarantine measures and liability for their violation are implemented in almost all countries affected by the pandemic. Most of them are administrative and criminal liability. However, due to the need for timely adoption of relevant regu-

lations on this issue in a rapidly spreading coronavirus infection in the world, a number of provisions of these acts contain a number of legal conflicts, contradictions and gaps. Therefore, it is necessary to use the accumulated experience of all states in the legal regulation of liability for violations of quarantine and sanitary rules and regulations.

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Анотація. У статті аналізується сучасний стан правового забезпечення вимог дотримання карантину та санітарних правил і норм щодо запобігання інфекційним хворобам у зарубіжних державах та Україні. Для досягнення поставленої мети проведено аналіз діючого законодавства окремих зарубіжних держав та України щодо підстав встановлення відповідальності за порушення карантину та санітарних норм і правил.

Встановлено, що пандемія COVID-19 змусила уряди різних держав запровадити адміністративну та кримінальну відповідальності в разі порушення карантину та санітарних норм і правил. Для забезпечення цих заходів були введені покарання за недотримання карантинного режиму, покарання варіюють, починаючи від попередження до позбавлення волі і навіть смертної кари.

Встановлено, що в Україні питання адміністративної та кримінальної відповідальності за порушення карантину та санітарних правил і норм щодо запобігання інфекційним хворобам регулюються ст.ст. 42, 44-3 КУпАП та ст.325КК України.

Визначено, що однією з проблем неефективного застосування ст.ст.44-3, 42 з КУпАП та ст.325 КК України є масив нових правил щодо запобігання COVID-19, що постійно змінювався та запроваджувався різними суб'єктами правотворення.

За результатами дослідження встановлено, що незважаючи на прийняття нормативно-правових актів, які встановили відповідальності за порушення визначених законом правил і норм, запроваджених, як зарубіжними державами так і Україною, для запобігання COVID-19, вони мають ряд правових колізій, суперечностей та прогалин.

Ключові слова: карантин, адміністративна відповідальність, кримінальна відповідальність, інфекційні хвороби, коронавірус, запобігання