

LEGAL MEASURES IN UKRAINE TO RESTRAIN THE SPREAD OF THE CORONAVIRUS DISEASE / Volodymyr Zarosylo, Halyna

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Abstract: *The article is devoted to the analysis of administrative and other measures in Ukraine aimed at reducing the number of coronavirus disease. Considerable attention is paid to administrative proceedings in the context of the spread of coronavirus disease. The state of the legislation that exists today in Ukraine is analysed. It is noted that most of the regulations are quite positive and in compliance with their requirements, it was possible to stop the spread of coronavirus disease. However, despite the fact that the number of infected people has decreased significantly compared to previous years, the risk that the coronavirus will gain momentum remains high. The reasons for this phenomenon in most cases are, firstly, non-compliance with the requirements of quarantine, wearing masks and other measures, and secondly, the small number of people who are vaccinated and thus spread the coronavirus. This problem is global, it is probably necessary to develop appropriate regulations at the United Nations level and implement the requirements of such regulations in the legislation of all countries.*

Key words: *Human Rights; Coronavirus; Violation of Rules; Administrative Fines; Anti-vaccination Movement; Ukrainian Jurisdiction*

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1. INTRODUCTION

Coronavirus in the world has become, to some extent, the starting point between the respect for the rights and freedoms of individuals and legal entities and the struggle for the simple survival of citizens. To date, most countries have formulated fairly clear requirements for the rights and freedoms of individuals and legal entities that cannot be violated. These requirements are included in the constitutions of many countries, including the Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996). At the same time, modern research in both Europe and Ukraine shows that a number of freedoms, such as freedom of movement, freedom to attend various meetings, freedom of choice of residence, and others, are in most cases fundamental human rights (Bruzelius, 2015; Holovatyi, 2015).

The researchers (Bruzelius, 2015; Holovatyi, 2015) distinguish several generations of human rights. The first generation includes the so-called inalienable personal and political rights. It is believed that the rights of the first generation - are the basis of the human rights institution, they include the right to life, the right to liberty and security of person, the right to dignity, the right to privacy, freedom of conscience, and freedom of thought, the right to freedom of movement and at the choice of place of residence etc. They are interpreted by international documents as inalienable and not subject to restriction. Some Western experts (Bruzelius, 2015) are inclined to believe that these rights should be considered as "human rights", believing that the rights of other generations are just "social harassment".

These rights were enshrined in the following documents: Grand Charter of Freedoms (1215); Petition of Rights (1628); Habeas Corpus Act (1679); Bill of Rights (1689); Declaration of Independence of the United States (1776); Constitution of the United States (1787); the Declaration of the Rights of Man and of the Citizen (National Assembly of France, 1789) and others. These rights, according to research by Ukrainian scientists (Holovatyi, 2015; Yaroshenko et al., 2018), belong to the so-called human rights of the first generation. In Ukraine, all these rights are enshrined primarily in the Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996) and in certain laws, such as the Law of Ukraine "On Freedom of Movement and Free Choice of Residence in Ukraine" (Verkhovna Rada of Ukraine, 2004) and many others. Violation of these rights is punishable under the Criminal Code of Ukraine (Verkhovna Rada of Ukraine, 2001). Article 33 of the Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996) stipulates that everyone who is on the territory of Ukraine is guaranteed freedom of movement, free choice of place of residence, as well as the right to leave the territory of Ukraine freely. Article 39 of the Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996) declares that citizens of Ukraine have the right to assemble peacefully without weapons and to hold rallies, marches, and demonstrations.

The coronavirus pandemic has made its rather tough adjustments in the area of human rights. Mankind is faced with the unequivocal question of whether to respect established rights and freedoms and be in mortal danger, or to survive, but limit these rights and freedoms. The virus is deadly and its routes of spread have not yet been fully elucidated. Moreover, the world today has not developed appropriate drugs for the treatment of coronavirus disease. Many vaccines and a number of drugs for the treatment of coronavirus have been developed, but they cannot guarantee recovery and no consequences. A separate topic that is currently being discussed in the scientific world is the topic of vaccination. However, there are also quite big problems with vaccination. Moreover, scientists say that even vaccination cannot guarantee complete protection against the virus. In practice, there are cases when people who have been

vaccinated also often get coronary heart disease. Developed antiviral vaccines today can, to some extent, be considered experimental. At the same time, research continues, but along with the fact that vaccination in some countries is carried out quite actively, there are many cases when even vaccinated people get coronavirus and die.

The purpose of the study is to analyse the restrictions and rules imposed in the context of the spread of coronavirus disease. In order to achieve this purpose, using a number of general and special methods of scientific knowledge, namely: analysis, synthesis, comparative legal method, method of analysis of legal documents, dialectical method, the authors have studied the legal measures introduced by both Ukraine and other states to slow down the spread of the disease. We studied the areas where such restrictions were imposed and the consequences of such restrictions. In particular, we analysed the legal acts aimed at ensuring compliance with the rules and restrictions imposed by the state to prevent an increase in the incidence of the disease in a pandemic.

2. THE IMPOSITION OF RESTRICTIONS AND VIOLATIONS OF HUMAN RIGHTS

Before the coronavirus pandemic, citizens of Ukraine, as well as citizens of most European countries, could move freely in Ukraine, and visit other countries, especially when the country received the so-called "visa-free regime", which allowed them to travel to Europe and communicate freely with other people (Rieznikov, 2019). Thus, the range of contacts between people was constantly increasing, which to some extent had a positive impact on the development of Ukrainian society as a whole. In addition, a large number of mass events were held in Ukraine, such as concerts, football matches, and other sporting and cultural events. Of course, during such events, certain directions were applied to some extent regarding the safety of their holding, but there was no mass ban on attending such events. Political events, such as rallies, demonstrations, pickets etc. were often held in Ukraine before and there were no prohibitions.

The coronavirus pandemic has forced all states, including Ukraine, to take appropriate measures to protect their citizens. From the point of view of most lawyers, the introduction of various restrictions on citizens is, to some extent, a violation of human rights. But these violations are forced by a coronavirus and, to some extent, are justified. The pandemic has led to mass violations of human rights, especially in the area of free movement, attendance at mass events, participation in political mass events, and so on both in Ukraine and around the world. The pandemic quickly raised the question of developing appropriate restrictions that all governments impose to save lives. In most countries of the world, a number of restrictions were initially introduced to reduce the risk of disease. These measures to some extent contributed to a reduction in the number of diseases. However, such restrictions began to be introduced after a large number of people died.

The practice has shown that the restrictions imposed by the governments of all countries in the early stages of the spread of the virus were not effective and the number of diseases and deaths increased. These restrictions included some restrictions on freedom of movement, attending public events, reducing various contacts between people, wearing masks in public places, and others. At the same time, the citizens themselves violated the established restrictions and were in mortal danger. This is evidenced by the negative experience of such developed countries as Italy, Germany, and France (Ministry of Finance of Ukraine, 2021). In Ukraine, the first restrictions were applied in March 2020, in accordance with Resolution No. 211 (Cabinet of Ministers of Ukraine, 2020a). These restrictions applied only to the number of visitors to mass events and training events. However, later Resolution No. 215 (Cabinet of Ministers of Ukraine,

2020b) introduced stricter restrictions on the freedom of movement of citizens. It was limited to:

- visiting educational institutions by its applicants until April 3, 2020;
- holding all mass (cultural, entertainment, sports, social, religious, advertising, and other) events in which more than 10 people participate, except for the measures necessary to ensure the work of public authorities and local governments;
- work of business entities, which provides for the reception of visitors, in particular, catering establishments (restaurants, cafes, etc.), shopping and entertainment centres, other entertainment establishments, fitness centres, cultural institutions, trade, and consumer services;
- regular and irregular transportation of passengers by road in suburban, long-distance intra-regional, and inter-regional communication (except for transportation by cars);
- transportation of more than 10 passengers simultaneously in one vehicle in the city electric (tram, trolleybus) and motor transport, which carries out regular passenger transportation on city routes in normal traffic;
- transportation of passengers by subways in Kyiv, Kharkiv, and Dnipro, respectively;
- transportation of passengers by rail in all types of domestic services (suburban, urban, regional, and long-distance) (Cabinet of Ministers of Ukraine, 2020b).

It is safe to say that such restrictions were necessary due to the danger facing humanity. After all, the issues of safety, health, and life took priority over the issue of visiting certain places. In our opinion, in the circumstances that existed at the time of the pandemic, this was a fully justified and logical decision in response to the threat.

3. ADMINISTRATIVE MEASURES TO REDUCE THE SPREAD OF CORONAVIRUS IN UKRAINE

That is, it can be stated that several fundamental rights of citizens were limited. These administrative measures to some extent helped to reduce the spread of coronavirus disease in Ukraine. At the same time, the Verkhovna Rada of Ukraine amended the Code of Ukraine on Administrative Offenses (1984) regarding the administrative liability of citizens for violating these requirements. These additions included the introduction of a new article in the Code of Ukraine on Administrative Offenses (Verkhovna Rada of Ukraine, 1984) which provided for liability for violating the rules on quarantine of people. The article stipulated that violation of the rules on quarantine of people, sanitary and hygienic, sanitary and anti-epidemic rules and norms provided by the Law of Ukraine "On Protection of the population against infectious diseases" (Verkhovna Rada of Ukraine, 2000), other legislation, as well as decisions of local governments on infectious diseases, entails the imposition of a fine on citizens from one to two thousand non-taxable minimum incomes and officials - from two to ten thousand non-taxable minimum incomes (Verkhovna Rada of Ukraine, 2020). In Ukraine, administrative fines are calculated in the amount of non-taxable minimum incomes (State Tax Agency, 2020). In general, the total amount of the fine ranged from 1,700 to 3,400 hryvnias. However, in general, such fines were imposed on business owners, persons responsible for crowds (even small ones) or severe violators of the established rules, i.e., those who did not respond to requests to stop violating the law.

At the same time, by the same law, the Verkhovna Rada of Ukraine amended the Criminal Code of Ukraine (2001). Article 325 of the Criminal Code of Ukraine "Violation of sanitary rules and regulations for the prevention of infectious diseases and mass

poisoning" was amended (Verkhovna Rada of Ukraine, 2001). Violations of the rules and regulations established to prevent epidemic and other infectious diseases, and control them if such actions caused or are known to cause the spread of these diseases should be punished by a fine of one thousand to three thousands of non-taxable minimum incomes or arrest for up to six months, or restriction of liberty for up to three years, or imprisonment for the same period. Part 2 of this article provides for increased liability if the actions of the perpetrators caused death or other serious consequences. Such actions were punishable by imprisonment for a term of five to eight years (Verkhovna Rada of Ukraine, 2001). In general, these violations of the Article were manifested themselves in the following ways. Firstly, insufficient provision of medical means of protection to healthcare workers and other officials; failure to comply with isolation within the established timeframe and neglect of quarantine rules after contact with patients; organisation of various events without observing the established restrictions.

Both the Code of Ukraine on Administrative Offenses (Verkhovna Rada of Ukraine, 1984) and the Criminal Code of Ukraine (Verkhovna Rada of Ukraine, 2001) established approximately the same liability, which indicated a rather inadequate attitude of the country's leadership to the deadly disease. These incomplete measures in the sphere of protection of citizens in the future led to a sharp increase in the number of people infected with coronavirus in Ukraine. At the same time, such an attitude on the part of the leadership of the states was observed in most countries of the world. People simply did not realise the danger of a new disease. It is especially important that the adopted laws and other regulations were not implemented. If we analyse the application of these regulations, both administrative and criminal, we will see that their effectiveness was and is low.

According to the media (Radio Svoboda, 2021), in 2020, the courts considered 44,397 cases of violation of quarantine rules, fined 3,282 people. In 2020, courts-imposed fines totalling UAH 51,743,571 on violators. People voluntarily paid 2,966,057 hryvnias in fines. Note that about half of the cases when administrative reports were drawn up on persons who violated the law in court proceedings were terminated due to the absence in the actions of persons whose National Police of Ukraine was drawn up reports of signs of an offense. There were no criminal cases or prosecutions in 2020, 2021 or partly in 2022. This indicates a formal attitude to comply with the requirements of relevant regulations.

On December 17, 2020, the Verkhovna Rada of Ukraine adopted the Law on Amendments to the Law of Ukraine "On Ensuring Sanitary and Epidemic Welfare of the Population" to Prevent the Spread of Coronavirus (COVID-19), which introduced new restrictions and increased liability for not wearing masks in public and public transport (Verkhovna Rada of Ukraine, 2021). New terms have appeared in the legal police of Ukraine, such as "mask regime", "self-isolation" and a number of others. But the application of the Law "On ensuring the sanitary and epidemic welfare of the population" (Verkhovna Rada of Ukraine, 2021), as well as previous laws and restrictions was not effective.

4. ANTI-VACCINATION MOVEMENT IN UKRAINE AND ITS IMPACT ON THE SPREAD OF CORONAVIRUS

The media has repeatedly reported information about violations of the norms of wearing masks in places where wearing them is mandatory, but the reaction of both law enforcement agencies and other government agencies was not appropriate (Moroz,

2021). As a result, the number of patients and deaths from complications caused by coronavirus increased.

By the way, in some cases, persons who violated the regime of wearing masks and other quarantine measures behaved aggressively, refused to wear them and adhere to the appropriate regime. The control of the wearing of masks was entrusted to the vast majority of law enforcement agencies, but the reaction of law enforcement agencies was quite mild. In addition, in Ukraine, as well as in foreign countries, there have been repeated protests over the conditions of quarantine, which ended in clashes with the police, and consequently an increase in the number of people infected with the coronavirus (Moroz, 2021). These actions were also not perceived by the police and other law enforcement agencies as a threat to society as a whole.

In Ukraine, there exists a corresponding anti-vaccination movement and this anti-vaccination movement finds many followers, but the issue of bringing the perpetrators to justice is not resolved. Representatives of this movement actively work with already prepared communities, i.e., entrepreneurs who have suffered people, who have lost their jobs, etc. In other words, the government's measures regarding the restrictions that have led to a drop in production and an increase in the number of unemployed are to some extent criticized. These representatives of the anti-vaccination and anti-coronavirus movements include a variety of conspiracy theorists, anti-vaccinators, esotericists, as well as supporters of alternative medicine, as well as adherents of "Slavic unity", the Russian organisation, which is actively supported by the Russian Federation, etc.

Just for the record, employees of the Security Service of Ukraine in Ukraine often expose communities that conduct appropriate campaigning for the refusal of vaccination and the harmfulness of vaccines. Previously, however, these were disparate communities that generally denied various scientific advances. The fight against measures to counter the state policy of combating coronavirus united these groups. To some extent in some communities, it is widely believed that vaccination against coronavirus is the chipping of people, which can lead to bombing and subjugation of human beings to relevant governments, such as the United States. Thus, vaccination is harmful and should be avoided. Quite often, anti-vaccination actions lead to clashes with the police, which end in arrests and detentions of the most active participants. However, the issue of bringing them to justice has not been resolved in the legislation, but it can be stated that this is a direct threat to human life and health. The shortcoming in the activities of the country's leadership and the lack of increased requirements for law enforcement officers again led to an increase in the number of sick and dead. Moreover, the President of Ukraine V. O. Zelenskyi violated quarantine requirements and restrictions and was not punished (Blackfield Coffee, 2020).

Masks have become an identifier for the fight against coronavirus. These half-measures divided Ukrainians into two groups - masked and anti-masked. And the right not to wear a mask has become almost the main motto of organisations that deny the existence of a pandemic, eliminate the danger of COVID-19 and believe that it was invented to chip people and then control them, or to reduce the population. In addition, some media outlets support the view expressed by Russian propagandists that the coronavirus was invented by the Americans in order to destroy the entire Orthodox world.

Today, in most European countries, vaccination against coronavirus is quite active, which gives some positive results. Many countries have already opened borders and allowed their citizens to travel abroad. Thus, it can be argued that to some extent the question of counteracting the crown of viral disease, albeit slowly, is already being addressed (Gnatenko et al., 2020). At the same time, the issue of a pandemic and counteracting its consequences cannot yet be considered completely resolved, because

in Ukraine, for example, because in Ukraine, despite the shift of the coronavirus problem to second place compared to the war, a large number of coronavirus cases are still being recorded. Moreover, the requirement to wear masks in many institutions is still in place and is necessary, but we can say that this issue is no longer as controlled, as it was in 2020-2021.

Actually, in each country, these ancient days, events were held and are held differently. For example, from the very beginning of the pandemic, Israel has established rather harsh rules for citizens who violate the quarantine regime. It was forbidden to go outside unnecessarily and even to leave a long distance from the place of residence without urgent need. Violation of such requirements was punishable by a fine of up to \$ 3,000 (Polishchuk et al., 2019). These restrictions have yielded some positive results, as the number of patients has decreased (LB.ua, 2021). In addition, the Israeli government imposed other strict restrictions, and when it became possible to vaccinate the population, strict vaccination measures were also taken (Letyak, 2021). According to some Israeli police, in some cases the vaccination was even forced. To date, Israel has almost completely lifted quarantine restrictions and is returning to normal life. Restrictions today establish that it is necessary to wear masks indoors.

If we take Italy as an example, as the country with the highest level of infection among the population at the beginning of the pandemic, it is necessary to highlight the following measures taken by the country to combat the coronavirus. Firstly, in March 2020, absolutely all food outlets and shopping centres were closed in Italy. The only exceptions were grocery stores and pharmacies. Secondly, Italians were required to stay at home and go out only in case of emergency. Thirdly, wearing masks and maintaining social distance. Masks were mandatory even in open spaces (parks, squares, etc.). Also, under such conditions, the ban on mass gatherings was justified and logical in the circumstances in which Italy was. Schools, universities, theatres, museums, etc. were also closed.

The Government also appointed a special commissioner for emergency response to counter the spread of the coronavirus. The police have been empowered to demand proof of travel necessity.

Violators of the quarantine measures established by the state faced a fine of €206 or three months in prison. If the quarantine was violated by an infected person, he or she faced up to 21 years in prison. If false information was provided about the reasons for travelling outside the quarantine zone, the offender faced from one to six years in prison. Such harsh penalties were imposed due to the large number of sick people and high mortality rates compared to other EU countries (How Covid-19 is..., 2020). With the advent of the vaccine, restrictions were gradually lifted and there are now a small number of them.

In the context of our study, it is also worth analysing Poland's anti-coronavirus policy, as it was one of the countries which began to take measures to counteract the coronavirus even before the first case of infection. A state of epidemiological threat was declared. At the same time, a system of infectious disease hospitals was set up to combat the coronavirus. As in other countries, schools, kindergartens, theatres, museums, etc. were closed. The Sejm passed a special law on combating coronavirus. This special law provided for remote work. Moreover, the document introduced an accelerated algorithm for the procurement of medicines to combat the coronavirus without the need for lengthy tenders. At the same time, it introduced a simplified algorithm for the construction and conversion of premises for medical facilities without the need to comply with all building codes. A fine of five thousand zlotys (approximately

1,150 euros) was imposed for violations of quarantine regulations (How Covid-19 is..., 2020).

With the emergence of active vaccination, many measures to counteract the coronavirus were cancelled and the normal way of life was restored. However, today, as in other countries, there are still some cases of coronavirus infection, and therefore the methods of combating coronavirus are only being improved in line with all the latest developments.

In Ukraine during 2021 - 2022 there was a so-called adaptive quarantine, which didn't oblige anyone to anything. That is, there were requirements, but they were not met by anyone. Some people who travelled by public transport adhered to the mask regime, but most did not. The same was true in the premises, but in the premises of state institutions and organisations, this regime was to some extent observed. With the advent of autumn 2021 in Ukraine, the number of patients with coronavirus has increased sharply. Part of the territory of Ukraine transferred to the red zone, which provided for even stricter restrictions. Police officers who had the right to prosecute violators were practically inactive, which created even more irresponsibility. Another problem which had arisen in Ukraine during 2021-2022 was obtaining vaccination certificates. There was a separate group of citizens who did not want to be vaccinated but bought fake vaccination certificates. In some cases, it led to at least the disease of these people, and in some cases to their death. In practice, it proved that people who were vaccinated could also get the coronavirus, but they carried it in a milder form.

The Verkhovna Rada of Ukraine adopted a new law on increasing the responsibility for the production and sale of forged vaccination certificates. In general, people forged certificates in order to submit them to their employers in order to continue performing their duties or simply to be able to move around the city by public transport. Vaccination certificates were also required to visit theatres, museums, and clubs, and therefore a kind of illegal business of producing fake certificates was very widespread. Statistics showed that the number of people infected with coronavirus did not decrease, and the number of patients, especially people who died from coronavirus remained stable in most cases (Ministry of Health of Ukraine, 2021). Thus, it should be noted that neither administrative measures nor criminal measures in Ukraine have hindered the spread of coronavirus diseases. Of course, the pandemic was a very difficult test for all countries, including Ukraine, but a number of other countries, despite protests against severe restrictions and human rights violations, have imposed fairly large fines and, to some extent, saved lives. At the same time, the pandemic showed that the democratisation of public life, the possibility of free movement of citizens, freedom of behaviour in society and other democratic values were threatened, but on the other hand the lives of people who could get sick and die were at stake.

At this moment, the coronavirus pandemic in Ukraine is receiving less attention than before due to the full-scale invasion of Russia. However, the disease has not disappeared and a significant number of infected people are currently in hospitals. Some of the infected are treated at home. Now it is also possible to state the fact that the coronavirus disease has become "seasonal", on par with the flu or sore throat. However, the level of damage to the body by the coronavirus remains high, as does the mortality rate.

5. CONCLUSIONS

The development of civilisation and democracy in many countries has contributed to the formation of a clear system of human rights, especially the so-called

collective rights: participation in mass events, attending mass cultural events, and the right to free movement and visit any country and territory. During the pandemic, these rights were forced to be restricted by the governments of most countries, as this was the only one way reduce the spread of coronavirus and save lives. However, such restrictions have provoked widespread opposition from people, who in most cases hoped that they would not be affected by the infection. In addition, groups of people have already formed, which have been used by countries such as the Russian Federation to create chaos and criticize democracy in general.

In Ukraine, as in most European countries, certain measures have been introduced that have also restricted the rights of citizens and provoked protests. These measures included both administrative and criminal areas. Furthermore, the regulatory and legal restrictions are quite lenient, but the main thing is that people who have the responsibility to monitor compliance with the established restrictions work quite irresponsibly. This applies to the National Police and other government officials. As of today, we can say that the measures taken by Ukraine and other countries to combat the coronavirus were necessary and contributed to reducing the spread of the disease. Vaccination has reduced the number of cases and the course of the disease. The virus has not yet been completely eradicated, as new cases of infection are reported every day. Many people suffer from the disease as a seasonal cold.

Today, there is a need for a broader analysis of the anti-coronavirus measures applied in Ukraine and in other countries, their comparison and the development of a clear plan of action, because the pandemic is repeated and will again lead to many deaths. Statistics show that the number of infected has decreased to some extent, but there is still some growth, so such measures should be developed immediately, the more possible increase in the number of diseases. Based on the experience of the application of restrictions in different countries, it may be necessary to convene an extraordinary session of the United Nations and adopt the relevant documents that would be the basis for the development of national legislation in all countries. It could stop to some extent the spread of the pandemic.

Moreover, some legal measures should be taken to implement an effective policy to combat the coronavirus, in particular:

- to provide free access to testing in any hospitals, pharmacies, etc.;
- strengthen control over compliance with quarantine measures;
- conducting large-scale public awareness campaigns about COVID-19, including prevention measures and the role of vaccination;
- ensure support at the legislative for the elderly, people with chronic diseases, and people with disabilities, who are at greater risk of getting sick and dying from COVID-19.
- provide active government support for initiatives to reduce the economic and social impact of the pandemic. Such support should be manifested in the provision of various types of financial assistance, employment assistance, and support for people who have lost their jobs due to the pandemic.

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