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Criminal Law Transformation in the Context of COVID-19: The Experience of the European Union and Ukraine

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Abstract

The aim of the study was to identify and analysed the novelties of the criminal law of Ukraine and the EU Member States caused by the COVID-19 pandemic, as regulations and social impact tools. The content analysis, doctrinal approach, comparative method, as well as general methods were applied to analysed research papers, regulations, case law and statistics on COVID-19-related crimes. Criminal law is considered as part of anti-pandemic policy. National governments focus on responding to individual COVID-19-related crimes rather than on crime trends in general. Due to the transient situation, European and Ukrainian practice has shown the priority of adapting existing criminal law to prevent COVID-19. In general, the transformation of criminal law involves establishing rules that can be applied in any pandemic. An important area is the response to long-term criminal challenges (domestic violence, organized crime) through criminal law. The experience of European countries and Ukraine in responding to global threats reveals uncertainty in the criminal law transformation approaches. This determines the reasonability of working out a common European framework of criminal

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law policy and prospects for the development of criminal law, which can be defined in international recommendatory instruments.

Keywords: criminal law policy; criminal legislation; human rights; prevention of COVID-19; political transformation.

Transformación del Derecho Penal en el Contexto del Covid-19: La Experiencia de la Unión Europea y Ucrania

Resumen

El objetivo del estudio fue identificar las novedades del derecho penal de Ucrania y los Estados miembros de la UE provocadas por la pandemia de COVID-19, como normativa y herramientas de impacto social. Se aplicó el análisis de contenido, enfoque doctrinario, método comparativo, así como métodos generales para analizar trabajos de investigación, normativa, jurisprudencia y estadísticas sobre delitos relacionados con el COVID-19. El derecho penal se considera parte de la política anti-pandémica. Los gobiernos nacionales se enfocan en responder a los delitos individuales relacionados con el COVID-19 en lugar de las tendencias delictivas en general. Debido a la situación transitoria, la práctica europea y ucraniana ha mostrado la prioridad de adaptar el derecho penal existente para prevenir el COVID-19. Se concluye que en general, la transformación del derecho penal pasa por establecer reglas que puedan aplicarse en cualquier pandemia. Un área importante es la respuesta a desafíos criminales de largo plazo (violencia doméstica, crimen organizado) a través del derecho penal. La experiencia de los países europeos y Ucrania en la respuesta a las amenazas globales revela incertidumbre en los enfoques de transformación del derecho penal.

Palabras clave: política de derecho penal; legislación penal; derechos humanos; prevención de COVID-19; transformación política.

Introduction

The modern world is facing global crime and other destructive social challenges that threaten the security of all countries. The reasonability of cooperation of criminal law systems of different states and their groups became an agenda item. Such interpenetration and mutual enrichment is a complex process, as the levels of political, economic and legal development

are different (Popko, 2021). However, it contributes to the improvement of criminal law and its practical application for the comprehensive protection of human rights, as well as law and order.

The COVID-19 pandemic has unprecedentedly affected all social processes in the world, making controversies more acute and provoking conflicts. Governments have faced a dynamic criminal situation, created not only by the pandemic itself but also by quarantine restrictions imposed. A significant number of states have reported a reduced crime rate promoted by the isolation, while the level of domestic violence has increased dramatically (Peršak, 2020). Isolation and the active use of the Internet have led to increased sexual violence rates, such as online harassment and digital extortion. Crimes against children became especially frequent (Europol, 2020d).

Public attention was also drawn to crimes in the field of production and distribution of counterfeit COVID-19-related pharmaceuticals, and forgery (European Parliament, 2020, Europol, 2020b). The problem of corruption in the field of public procurement of protective and medical equipment, filling of state funds has become more acute. The number of public fund frauds (Meško, 2021), with the supply of medical items and equipment for their production has increased (Europol, 2020a). In October 2020, it was stated at the meeting of the parties to the Palermo Convention that the most serious criminal threat at this stage is the COVID-19 vaccine falsification and their placement on the market (Csonka and Salazar, 2021)

In this context, a number of changes have been made to criminal law in the EU and Ukraine. But this has raised a number of tactical issues, which in turn have made the systemic problems of the limits of criminal influence in democratic societies more acute. States have faced with the need to choose the scope of restrictions on human rights and freedoms for the public good. Public health is of paramount importance. Most countries have applied securitized measures to protect it, including significant restriction of fundamental democratic freedoms and expansion of police powers (Stott, West and Harrison, 2020). Although this is in line with the public demands set out in the EU Constitution, each measure must be carefully assessed in terms of proportionality. This assessment is carried out in each state (Dorneanu, Malka and Coeckelberghs, 2021)

Although restraints usually have little effect on the behaviour of most people, it is criminal law that legitimizes states' anti-pandemic policies. Therefore, it is believed that excessive or illegal use of criminal law to address healthcare problems can set a threatening case law (Matić Bošković and Nenadić, 2021). Attention is paid mainly to the manifestations of crime as a basis for the transformation of criminal law because of the relatively short time and instable situation associated with the pandemic. The assessment of the dynamics of the criminal situation varies from its uniqueness to

its typicality, because the pandemic can be considered as another crisis. Quarantine restrictions, together with persistent factors, affect crime rate in the short term.

The long-term trend may be mainly the growth of mercenary crime determined by the socio-economic consequences of COVID-19 (United Nations Office on Drugs and Crime, 2020). Organized crime Trends are much worse (Council of the European Union, 2020; Eurojust, 2021; Europol, 2020a). Experts, however, believe that they are not completely unexpected, but only reflect its flexibility and ability to adapt to any conditions. This feature is typical for any period of crisis (Europol, 2020c). At the same time, it is noted that it is difficult to assess the impact of the pandemic on drug markets. Post-crisis dynamics of supply and demand can significantly affect supply channels and lead to increased violence (Europol, 2020a)

Problems of uncertainty regarding criminal law transformation in the context of the pandemic have also entailed difficulties in modernizing criminal justice. The unified judicial procedure for combating COVID-19-related crimes has not been adapted to the change rates of quarantine restrictions (House of Commons Justice Committee, 2021). At the same time, the courts and law enforcement agencies were under extreme public pressure, while judicial independence was perceived as a source of social and political tension (Sarmiento, 2021) The provisions of the European Convention and the case law developed on their basis cannot, however, be levelled by the need to reduce costs and social distance (McCann, 2020).

Therefore, the EU and Ukraine, like other countries, need to determine the importance of the pandemic for transforming criminal law as the basis of criminal justice with regard to the rule of law.

During the pandemic, some new manifestations and certain trends have emerged in the traditional types of crime, the duration of which is not obvious. The issue of the introduction of criminal law responses for non-compliance with quarantine restrictions by the population is criticized in light of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Court of Human Rights, 2021a).

Given the above, studying the specifics of the development of criminal law in the European and other countries in the region in the pandemic context is topical and appropriate for further improvement of the legislation and practice.

The foregoing gives grounds to determine the aim of this study as an analysis of European and Ukrainian experience of the criminal law transformation in the context of COVID-19.

This aim provided for the following objectives: determine the novelties introduced in the criminal law of Ukraine and the EU during the pandemic, including their compliance with the legal provisions of the ECHR, and establish the social significance of general trends in criminal law.

1. Literature Review

The review of studies on the prospects for the transformation of criminal law in the context of COVID-19 shows a wide range of diverse problems considered by European and Ukrainian scholars.

Researchers raised the issue of the social significance of criminal law in crisis situations, as quarantine restrictions established in other regulations were the grounds for banning COVID-19-related actions. European and Ukrainian researchers have concluded that governments have applied similar approaches. The dynamic situation and incomplete understanding of the nature and implications of the disease have led to excessive restrictions and their partial regulation (Krajewska, 2021). Guarantees of fundamental human rights established in the course of strict quarantine were mostly rare and patternless (Zhuravel, Hetman and Hylyaka, 2021). This has also affected the controversial understanding of the use of criminal law in a pandemic.

The main tool of criminal law used to regulate the behaviour is the criminalization of acts. The pandemic context poses serious threats to the excess criminalization (there are examples of proposals to criminalize cough in public places (Skolnik, 2020). Many studies emphasize the lack of a clear understanding of the social significance of criminal law in general and its main institutions in particular (Harding and Oberg, 2021), which leads to inconsistent changes in legal regulation (Matić Bošković and Nenadić, 2021), imposing excessive sanctions for violations and ever-changing measures (Peršak, 2020).

The authors note that it is difficult to assess the effectiveness of the transformation of criminal law in an unstable situation with fairly long criminal proceedings (Turanjanin and Radulović, 2020). The negative result is a violation of the fundamental principles enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (European Court of Human Rights, 2021a). According to the experts, the implications of such a policy are projected to the future, because there will be an inevitable problem of further integration of convicts into society (Skolnik, 2020; Terpstra, de Maillard, Salet, and Roche, 2021).

At the same time, the issues of developing new criminal law provisions and applying existing ones in the pandemic context remain poorly studied.

Analysing the legal provisions of the European Court of Human Rights (2021a, b, c), practitioners outline the potential problems related to the compulsory vaccination (Varlamov, 2022).

The literature presents views on the importance of the type of guilt in criminalizing actions, where subjects intentionally or negligently violate quarantine rules, and determining the sanctions for such violations (Baker, 2020; Turanjanin and Radulović, 2020). Ukrainian researchers discuss the criminal law provisions of Ukraine, which are aimed at preventing the spread of COVID-19 (Novikova, 2020), as well as controversial aspects of the distinction between the administrative and criminal liability in this area (Hupalo, 2020).

So, the literature review allowed talking about lack of unified approaches. In general, studies of the interaction between the pandemic and the development of criminal law are ongoing. The scale of the pandemic implications is the basis for a new direction, where the criminal law transformation will be studied as part of the development of criminal justice (Baker, 2020).

2. Methods

In order to achieve its aim, this study was carried out with a view to the practical tasks in stages based on the logic of studying and presenting the material. These stages were the following:

- search and selection of scientific literature and regulatory acts, the ECHR case law;
- analysis of the content of the selected materials and evaluation of the research findings;
- identifying trends in the transformation of criminal law in the EU and Ukraine and clarifying their compliance with the legal provisions of the ECHR;
- determining the aim of the article;
- drawing conclusions and providing practical recommendations to improve the quality of criminal law and its compliance with human rights;
- outlining prospects for further research in this area.

The empirical background of the study was the provisions of the criminal law of the EU Member States (Bulgaria, Denmark, Spain, Latvia, Romania, Hungary, Finland, France, the Czech Republic, Sweden) and Ukraine concerning COVID-19-related crimes. The relevant provisions of the

Convention for the Protection of Human Rights and Fundamental Freedoms (European Court of Human Rights, 2021a) and the legal provisions of the ECHR were also analysed. Besides, the experience of Poland, where authorities have imposed administrative sanctions for COVID-19-related offenses was considered. Nevertheless, these sanctions are informative for this study in terms of the amounts of the fines (according to Engel criteria). The study also involved statistics that reflect the COVID-19-related criminal situation in Ukraine.

In aggregate, these data allow assessing the European and Ukrainian experience of criminal law response to COVID-19-related crimes, its social significance and prospects for the development of criminal law.

In achieving the aim set in the article, the following methods were used in this study:

- content analysis to study significant volumes of regulatory and scientific texts and determine their relevance to the problems of criminal law transformation during the pandemic;
- doctrinal approach to study criminal law regulations as regulatory structures that establish criminal liability for certain socially dangerous acts;
- comparative method to establish similarities and differences between the relevant criminal law provisions that were included in criminal legislation or transformed during the pandemic period;
- general methods, including Aristotelean method, analysis and synthesis, generalization.

3. Results

The COVID-19 pandemic has affected the criminal law transformation by amending existing criminal laws and/or creating new ones. Accordingly, we can talk about the formation of a set of criminal provisions (Organization for Security and Co-operation in Europe (OSCE), 2020), where the anti-pandemic policy of national governments directly determines their social significance and structural features.

This set of provisions and their content are dynamic in view of the temporal features of the pandemic. An act of violation of quarantine rules may be identified as the main crime. These rules are established by other regulations to prevent infectious (especially dangerous infectious) diseases. This criminal provision is not new, as the problem of creating a risk of getting infected with dangerous diseases existed long before the COVID-19 pandemic. Therefore, this provision is either applied unchanged

to violations of the COVID-19 prevention rules, or has been adapted to the current situation.

An example is Article 325 of the Criminal Code of Ukraine “Violation of sanitary rules and regulations to prevent infectious diseases and mass poisoning”, which was introduced in 2009. For the purposes of countering the COVID-19 pandemic, it was adapted to increase the severity of the sanction, rather than the description of the act itself.

So, regardless of the specific legislative wording of the title of the article and the terminology used to describe the signs of the act, it is possible to identify similar characteristics of this crime in the criminal law of European countries and Ukraine:

- the act is the violation of quarantine rules aimed at preventing the spread of dangerous infectious diseases, which include COVID-19;
- these rules are established by other regulations, so criminal law serves as an additional protection of public health and public safety;
- violation of the rules leads or may lead to the spread of the disease, that is a person may be punished if his/her actions only posed a threat of negative consequences;
- there is a separate indication of such a violation in the event of grave consequences (damage to health, death of one person or several persons).

In some European countries (for example, the Czech Republic) intentional and negligent violations of these rules are two separate crimes. In Ukraine, this act is qualified under Article 325 of the Criminal Code regardless of the type of guilt. However, there should be a fact of negligent attitude to consequences.

With regard to the potential and actual damage that this crime can cause, it is considered quite grave (serious). This is evidenced by the sanctions imposed for its commission. At the same time, the criminal legislation of some states provides that if the violation of the relevant rules does not cause serious harm the penalty is a fine, but the amount is fairly large (see Table 1).

Table 1. Comparison of the amount of punishment in the form of a fine for violating quarantine rules without serious consequences

Country	Limits of fines for violating the most common quarantine restrictions (EUR)
Bulgaria	5,100 – 25,500
Spain	100 – 30,000
Ukraine	535 – 1,606
France	Up to 3,750
Czech Republic	107,000

Own elaboration.

Unreasonable changes in the number of fines for crimes related to violations of quarantine restrictions in Ukraine have led to a negative balance of administrative and criminal law sanctions. This is why an administrative fine is greater than a fine provided as a punishment for a crime.

However, imprisonment is the typical punishment for this crime in the criminal law of European countries and in Ukraine. This punishment is established in case of both intentional and negligent violation of quarantine rules. It is significant to compare the European and Ukrainian experience of establishing penalties for violating quarantine rules in the event of serious consequences (serious damage to health, causing the death of at least one person) (see Figure 1).

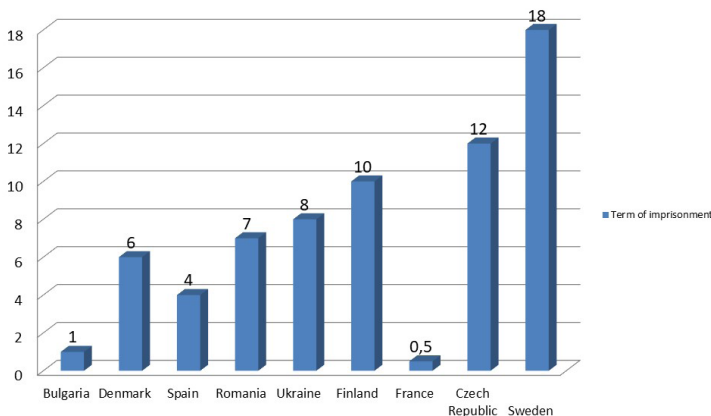


Figure 1: Comparison of custodial sanction (in years) for violation of quarantine rules in case of serious consequences. (Own elaboration).

It was noted that the criminal law provisions on crimes related to violations of quarantine rules aimed at preventing infectious diseases have largely been adapted in European and Ukrainian legislation to prevent the COVID-19 pandemic. Accordingly, persons who committed this crime without connection with COVID-19 are also convicted under the relevant article of criminal law. However, during the pandemic period, the number of people accused of violating quarantine rules is objectively increasing compared to previous periods. This increase is observed in the second half of the pandemic period, which is due to the need to adapt investigative and judicial bodies to changes in legislation. The experience of Ukraine confirms this statement (see Figure 2).

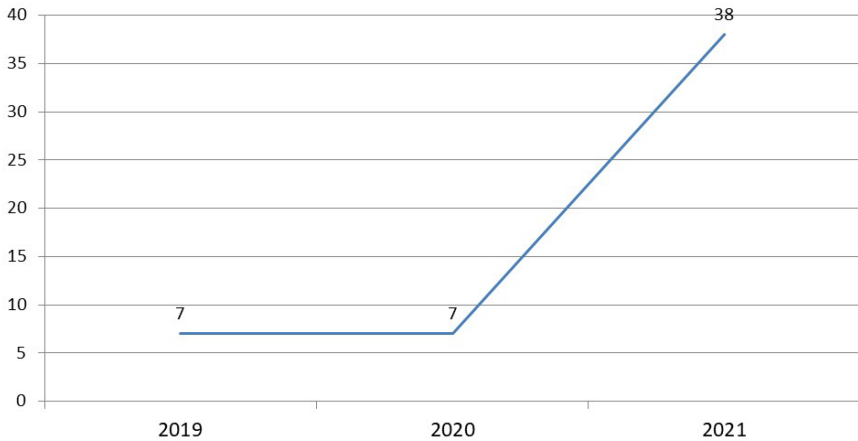


Figure 2: Dynamics of charges for violating quarantine restrictions in 2019-2021 (Ukraine's experience)

Source: Office of the General Prosecutor of Ukraine (2022).

According to the Unified State Register of Court Decisions, 15 sentences, including 7 COVID-19-related crimes, were passed under Article 325 of the Criminal Code of Ukraine in 2019-2021. All the convictions were instituted against entrepreneurs. In 6 cases, persons were fined from UAH 17 thousand (EUR 535) to UAH 34 thousand (EUR 1,070). In one case, the convict was sentenced to 2 years in prison, but the person was released from serving a probation sentence. It is noteworthy that the convicts are persons who violated the quarantine rules at their enterprises (shops, restaurants, etc.) only. In no case did such a violation entail serious consequences. In addition to this crime, the criminal law of European countries and Ukraine provides for other acts that may be classified as those related to COVID-19.

For example, in Ukraine it is the falsification of medicines and document forgery, including the use of forged documents (see Table 2).

**Table 2. Statistics on COVID-19-related crimes
(Ukrainian experience)**

Years	Total number of registered crimes	Falsification of medicines	Violation of quarantine rules	Document forgery
2019	444,130	29	70	15,359
2020	360,622	22	111	13,345
2021	321,443	21	101	14,037

Source: Office of the General Prosecutor of Ukraine (2022).

At the same time, no changes were made to the criminal law provisions on falsification of medicines and forgery of documents during the pandemic. Some European countries have criminalized forging or using forged COVID documents. For example, at the end of 2021, a new article was introduced into Latvian criminal law, which provides for liability not only for document forgery, but also for the acquisition of a forged COVID-19 vaccination certificate, test results or recovery certificate. The use of a real certificate, but issued to another person will also entail punishment. Such acts may be punishable by up to 1 year in prison.

It is worth noting that the social danger of such changes to the criminal law of Latvia were caused by the involvement of healthcare workers in the forgery of relevant documents and their acquisition by ordinary citizens. There have also been attempts in Ukraine to criminalize forgery of vaccination-related documents, however, it did not find support in parliament. Today, all these actions are covered by the existing article of criminal law on document forgery.

In some European countries (for example, Spain, Romania, Hungary) new or existing rules have been introduced to prosecute for disseminating inaccurate information about the pandemic. This experience was not widespread and was negatively assessed by international organizations (OSCE, 2020)

As the application of criminal law entails lengthy and complex criminal proceedings, some countries have used administrative sanctions to address the pandemic. For example, in Poland, administrative fines (up to € 6,600) were imposed for violating quarantine restrictions (participating in protests). However, lower courts upheld the rule of law, closing administrative cases brought by law enforcement agencies against protesters. In view of the Engel

criteria, these provisions can be assessed as bordering on criminal coercion due to the severity of financial constraints. Therefore, they are informative in terms of understanding the trends in the criminal law transformation.

Governments' resort to coercive action during the pandemic have received unambiguous feedback among the population of European countries and in Ukraine. Such a perception is reinforced by the unclear link between criminal law and the success of anti-pandemic policies.

Besides, the problematic issue related to criminal law transformation during the COVID-19 pandemic is the compliance of government decisions with the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights (2021a).

The reasonability of using criminal law to restrict the realization of a number of human rights and freedoms during the pandemic must comply with Article 15 of the Convention. In general, the uniqueness of the situation, which requires restrictions on rights and freedoms, provides for an assessment by national authorities. As the ECHR has stated in *Ireland v. The United Kingdom* (§ 207): "It falls in the first place to each Contracting State, with its responsibility for "the life of [its] nation", to determine whether that life is threatened by a "public emergency" and, if so, how far it is necessary to go in attempting to overcome the emergency". However, Article 15(2) of the Convention protects certain rights from derogation from obligations to secure them. They include those provided for in Article 7 of the Convention (European Court of Human Rights, 2021b).

Legal certainty is a fundamental principle of building criminal law provisions. The lack of "quality of the law" to determine the crime causes a violation of Article 7 of the Convention (*Kafkaris v. Cyprus*, §§ 150 and 152). At the same time, the application of too vague concepts and criteria in the interpretation of a legislative provision may make this provision incompatible with the clarity and predictability requirements regarding its consequences (*Liivik v. Estonia*, §§ 96-104) (European Court of Human Rights, 2021c).

A serious rethinking of the role of criminal law in addressing social issues is required in view of the necessity for states to respond to society's needs for protection against adverse events, including significant threats to health. Emphasis should be placed on the need to transform criminal law depending on how complex and long-lasting the threats to law, order and security are.

It is obvious that criminalization of COVID-19-related acts as such is not appropriate. It seems more appropriate to formulate generalized criminal law provisions that could be used to protect public health in any pandemic, without violating the analogy prohibition principle. However, the criminal

law transformation in the context of the long-term consequences of the COVID-19 pandemic should also be on the agenda. In particular, this applies to criminal law provisions on domestic violence, online harassment and digital extortion. A separate problem is the criminal law response to the trends of organized crime that emerged during the pandemic.

The quality of criminal law should be a priority, because the application of criminal law can cause serious social tensions, raise issues of segregation and inequality, encourage mass discontent due to violations/restrictions of human rights and freedoms. In the context of globalization of threats to the rule of law, it is advisable to raise the issue of developing European principles of criminal law policy and prospects for criminal law without denying the sovereign right of states to criminal law rule-making. On the basis of a comprehensive discussion, such principles could be enshrined in an international instrument of recommendatory nature, to which all states in the region could accede.

Such principles should include strategic, as well as legal and technical aspects: the importance of criminal law as the last tool for resolving social conflicts; systemic connection of criminal legislation with administrative and tort law, as well as criminal procedure; defining the limits of criminal law enforcement; compliance of criminal legislation with crime trends; inadmissibility of excessive casualness in building criminal law provisions to protect against analogy; clarity of criminal law structures to prevent certainty principle violations, etc.

4. Discussion

The research findings demonstrated that the criminal law transformation during the COVID-19 pandemic is on the agenda in all EU member states and in Ukraine. There is no comprehensive research on this topic either in European countries or in Ukraine because the situation is unstable.

Our study confirmed the importance of research on the significance and prospects of criminal law as a social regulator. We should agree with the researchers that the pandemic has led to tactical criminal law transformation: over-criminalization and high change rates. This has resulted in uncertainty and confusion in the development of anti-pandemic strategies and has led to accelerated procedures for discussing and adopting new or changed provisions (Bošković and Nenadić, 2021). Our research has shown that this calls into question the understanding of crime as a category that embodies ethical compromise in any legal system (Harding and Oberg, 2021). The research findings demonstrated the validity of expert opinions on the inadmissibility of the use of fuzzy standards and vague concepts in the criminalization of actions (Krajewska, 2021). This is influenced by the

negative prospects of further stigmatization of convicts (Skolnik, 2020; Terpstra et al., 2021). We also confirmed the controversial nature of the imposition of severe sanctions for violations of ever-changing rules and measures (Peršak, 2020).

Currently, experts do not have a vision of the reasonability of transforming criminal law with a focus on eliminating/limiting the long-term implications of the COVID-19 pandemic. Although Europol (2020c) reports and some EU strategies (Council of the European Union, 2020) emphasize crime trends (domestic violence, sexual offenses against children, organized drug crime, etc.), scientific assessment of relevant criminal law provisions is still being formed. We consider this threatening from the perspective of further development of criminal activity.

Scientific research that dealt with the criminalization and penalization of violations of certain anti-pandemic measures are generally declaratory. They address the features of crime related to violation of quarantine rules in the criminal law of European countries (Turanjanin and Radulović, 2020), the establishment and application of significant fixed fines (Baker, 2020). In the Ukrainian literature, such an analysis is accompanied by negative assessments of the quality of legislation in view of law enforcement practice (Hupaló, 2020; Novikova, 2020). In this context, we advanced and proved the thesis of the priority of adapting existing criminal law over developing new ones. We also established a certain discrepancy between the traditional and modern provisions of the criminal law of European states and Ukraine.

The thesis on the reasonability of developing and discussing European principles of criminal law policy and prospects for the development of criminal law is another result of our study, which could be enshrined in an international recommendatory document.

Conclusions

In a pandemic context, national governments are actively using the criminal law tools to maintain law and order and ensure the safety of the population. Therefore, the analysis of approaches to criminal law transformation in European countries is relevant.

The study found that criminalizing and penalizing COVID-19-related actions is considered part of anti-pandemic policy. The focus is on the response to individual crimes related to COVID-19, rather than on crime trends in general. The predominant approach in European countries and in Ukraine is the adaptation of existing criminal law provisions in order to prevent COVID-19. The pandemic promoted the increase in penalties for crimes related to violations of quarantine rules.

Some European countries have introduced criminal liability for forging COVID documents (vaccination certificates, tests), while Ukraine refused to criminalize those acts. The introduction of a criminal law ban on the dissemination of certain information during the pandemic was negatively assessed by international organizations. In general, incomplete compliance with the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights (2021a) are the problems of criminal law in European countries and in Ukraine in the context of the COVID-19 pandemic.

It is reasonable to raise the issue of developing European principles of criminal law policy and prospects for the development of criminal law in the context of globalization of threats to public security. Such principles could be embodied in an international recommendatory instrument based on a comprehensive discussion. Such principles should include both strategic, legal and technical aspects: the importance of criminal law as the last tool for resolving social conflicts; systemic connection of criminal legislation with administrative and tort law, as well as with criminal procedure; defining the limits of criminal law enforcement; compliance of criminal legislation with crime trends; inadmissibility of excessive casualness in developing criminal law provisions to protect against analogy; clarity of criminal law structures to prevent violation of the certainty principle.

This study underlines the pandemic situation affects the criminal law transformation despite its dynamics. The prospects for further comparative analysis of the development of criminal law of the EU and Ukraine is the unification of national criminal law policies, improving rule-making and law enforcement. This opens up additional opportunities for the development of uniform standards of criminal law in the European region in order to protect human rights and security of society.

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