


CRIMINAL ASPECT OF THE COVID-19 PANDEMIC IN BOSNIA AND HERZEGOVINA AND THE REGION

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SUMMARY

he COVID-19 pandemic (SARS-CoV-2) has caused multiple consequences globally, and all can be researched and addressed multidisciplinary, ie from a health (medical), legal, economic and security aspect. In this paper, the author focuses on the legal, ie criminal law aspect of this pandemic. After more than a year of the COVID-19 pandemic in the world, based on the measures taken in almost all countries, it can be concluded that the health and legal aspects are primary and complementary. This claim is supported by the fact that the protection of human health must be regulated by adequate legislation, which is, above all, the Law on the Protection of the Population from Infectious Diseases. However, in such an emergency situation without criminal protection, it is difficult to achieve effective health care for the population.

Therefore, this article analyzes the criminal and medical aspects of crimes against human health that are similar or almost identical in all countries in the region, such as Bosnia and Herzegovina, Croatia, Slovenia, Serbia, Northern Macedonia and Kosovo.

Key words: infectious disease - pandemic - COVID-19 - health protection - criminal law - medical law

INTRODUCTION

The criminal law aspect of the COVID-19 pandemic includes the criminal offenses of Transmission of Infectious Diseases, Failure to Comply with Health Regulations During an Epidemic and Failure to Apply Measures to Protect Against Infectious Diseases. The regulation of these crimes protects human health, which is especially important at the time of this global pandemic.

The organization was on 11.03.2020. declared a pandemic (<https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-March-2020>) (accessed 10.04.2021.)). Thus, at the beginning of 2020, the largest global activity for the protection of human health in recent history was

launched. This activity is based on previous medical knowledge and applicable laws in the field of medical, criminal and misdemeanor law that protect human health. Unlike the countries of the region of Southeast Europe, Bosnia and Herzegovina does not have a single legislation at the state level, so the first health care measures were different in certain parts of the country. Time has shown that this disunity further favored the spread of the pandemic, ie slowed its suppression.

Viewed from the criminal law aspect, these criminal acts have not been in the focus of the scientific and professional public for a long time and have not been the subject of major analyzes, research and scientific papers. However, with the advent of the COVID-19 pandemic, these crimes came to the fore, as their application by the competent state authori-



ties in all countries of the world has become inevitable. Last but not least, there is the issue of basic human rights and freedoms, ie the justification of their restriction during this situation.

CRIMINAL ASPECT

Transmission of infectious diseases

What all the countries of this region have in common is that they know the criminal offense of Transmission of Infectious Diseases in their criminal laws. In some countries, such as Bosnia and Herzegovina (Article 225 of the Criminal Code of the Federation of BiH and Article 211 of the Criminal Code of the Republika Srpska), Slovenia (Article 177 of the Criminal Code of Slovenia), Serbia (Article 249 of the Criminal Code of the Republic of Serbia) and Northern Macedonia (Article 205 of the Criminal Code of Northern Macedonia), this work is entitled "Transmission of a contagious disease", in Montenegro (Article 288 of the Criminal Code of Montenegro) it is "Transmission of a dangerous contagious disease", in Kosovo (Article 249 of the Criminal Code Republic of Kosovo) "Spread of infectious diseases" and, finally, in Croatia (Article 180 of the Criminal Code of the Republic of Croatia) "Spread and transmission of infectious diseases". The legal texts of these incriminations are very similar, which is reflected in the scope of protection of human health through the prescribing of almost the same criminal zone, criminal liability of perpetrators and sanctions that can be imposed on them. There is a significant difference only in Bosnia and Herzegovina, where the criminal laws of the Federation of BiH and the Republika Srpska prescribe a different criminal zone, which will be discussed in the continuation of the work.

The basic characteristics of this criminal offense are the act of commission, the manner of its realization, the nature of the disease that is prevented and the consequences of the offense (Lazarević et al. 2017).

The act of committing can be manifested as inaction or as doing, and is reflected in non-compliance with regulations or orders of the health service bodies which determine measures for the suppression or prevention of infectious diseases in humans. This can be refraining from an order contained in a regulation or order, or undertaking activities that are contrary to such orders (Petrović & Jovašević 2005). The law re-

quires that measures taken to combat and prevent infectious diseases, such as attending a medical examination, be respected; disinfection of persons upon entering the premises; isolation of patients who are ill and their placement in special rooms (isolation), as well as those persons who were in contact with the patient and there is a reasonable suspicion that they are ill, who will be ordered not to leave their apartments (self-isolation); then reporting of patients by health institutions, conducting vaccinations; prohibition or restriction of movement or assembly of the population (eg a maximum of ten persons indoors or thirty outdoors); mandatory keeping a distance of 1.5m or 2m between persons; mandatory wearing of protective masks indoors and / or outdoors, etc. (Petrović & Jovašević 2005, Lazarević et al. 2017, Babić & Marković 2009).

The blanket character of this criminal offense derives from such a specific action, because the criminal law in its description does not determine the entire content of criminal behavior, but only states that this behavior consists of violating some regulations governing certain health areas (Petrović & Jovašević 2005, Petrović et al. 2015, Roksandić & Mamić 2020).

The consequence consists in the transmission or spread of a contagious disease to humans (Lazarević et al. 2017), while according to the Criminal Code of the Federation of BiH the consequence consists in creating a danger of spreading a contagious disease (Petrović & Jovašević 2005, Babić et al. 2005).

The perpetrator can be any person who has contracted this contagious disease, a person living with the patient, but also medical staff who treat patients with contagious disease (Petrović & Jovašević 2005, Lazarević et al. 2017, Jovašević 2003). In Serbia and Montenegro, this criminal offense can be committed only with intent, and in other countries with intent and through negligence.

For the basic form of the offense, the most severe punishments are prescribed in Serbia, Montenegro and Kosovo - up to three years in prison, while the mildest punishment is prescribed in Slovenia and Bosnia and Herzegovina - a fine or imprisonment for up to one year. Furthermore, for a more serious form of crime, when a person has been seriously injured, or his or her health has been severely impaired, or an existing illness has significantly deteriorated, the perpetrator shall be punished by imprisonment for a term between one and eight years. Finally, for the most serious form of this crime, when one or more

persons die, the prescribed prison sentences range from eight years (Slovenia) to twelve years in Bosnia and Herzegovina (Petrović et al. 2016) and other countries.

As previously indicated, the criminal legislation in Bosnia and Herzegovina is not uniform in many segments, not even in terms of the criminal offense of Transmission of Infectious Diseases, the text of which is not identical throughout the country.

Thus, according to the Criminal Code of the Republika Srpska (Article 194), the perpetrator can be any person who does not act in accordance with regulations or orders by which the competent authority determines examinations, disinfection, isolation of patients or other measures to combat or prevent infectious diseases in humans. This leads to the transmission of an infectious disease. This act is classified as a tort offense (Babić & Marković 2009, Babić et al. 2005).

However, according to the criminal laws of the Federation of BiH (Article 225) and the Brčko District of BiH (Article 221), the perpetrator of this act may be any person who does not act according to regulations or orders by the competent health service body ordering examinations, disinfection, separation of patients or other a measure to control or prevent a contagious disease in humans, thereby endangering the spread of a contagious disease. As can be seen, the name of this criminal offense is not in line with its legal description, given that the existence of the offense does not require that the act of commission led to the transmission of a contagious disease, but only to create a danger of spreading a contagious disease (Babić et al. 2005). It follows from the legal norm that a criminal offense exists only if the perpetrator of the offense, who did not act in accordance with regulations or orders, created an immediate or specific danger of spreading a contagious disease (Petrović & Jovašević 2005). This is, therefore, a consequence that creates a danger of spreading a contagious disease, which classifies this act as a crime of endangerment (Petrović & Jovašević 2005).

Criminal analysis of these legal norms leads to the conclusion that their inconsistency contributes to the inequality of citizens before the legislation of Bosnia and Herzegovina, and thus to legal uncertainty, which means that such different actions of legislators can be interpreted as a violation of basic human rights.

The Criminal Code of the Republika Srpska follows the legislation of the countries of this region,

when it comes to the criminal offense of transmitting a contagious disease, while the situation in the Federation of BiH is different from all countries. By logical interpretation of the legal norm, it can be concluded that a person who by his behavior, ie failure to act according to regulations and orders causes the transmission of a contagious disease, can be criminally liable for creating a danger of spreading a contagious disease, according to who can do more and less! Conversely, it could not be concluded that a person who, through his unlawful conduct, causes a risk of spreading a contagious disease, may also be punished if the disease is transmitted. We base this on the fact that the creation of danger is a consequence of endangerment, ie someone's life is endangered, but not damaged or injured. These are situations in which one or more people are at risk of spreading a contagious disease, but the transmission of the contagious disease itself has not occurred, ie no one is infected with it.

Failure to comply with health regulations during an epidemic

The action of this criminal offense is defined as non-compliance with regulations, decisions or orders that determine measures to combat or prevent an epidemic (Petrović & Jovašević 2005, Babić & Marković 2009, Lazarević et al. 2017). Failure to act in accordance with the orders and decisions made on the basis of the regulations of the competent authority may be manifested as inaction, but also as an act that is not in accordance with the orders or decisions. Therefore, it is a matter of not taking the necessary measures, or taking those activities that are contrary to the content of regulations, decisions or orders of the competent authorities, or that are not fully compliant with them. An important feature of this crime is time, because the action can be taken only during an epidemic of a contagious disease in humans, or a pandemic. As can be seen, the legal description of this crime does not contain a consequence as its element, because the consequence consists in an abstract danger to human health (Petrović & Jovašević 2005, Babić & Marković 2009). This, in practice, means that by the very act of committing the act, the consequence is considered to have occurred. This is an absolute presumption of the occurrence of a consequence, and the opposite cannot be proved.



The perpetrator may be any person who is obliged to act in accordance with the regulations, decisions or orders of the competent authorities which determine the measures for the suppression or prevention of the epidemic. Guilt requires intent, because the perpetrator must be aware of the existence of a pandemic and act contrary to certain measures to suppress or prevent it, and that he wants to or agrees to it. According to some theoretical views, the nature of this crime is more indicative of possible intent (indirect intent) (Lazarević et al. 2017). The prescribed sentence of imprisonment for the basic form of the offense is up to one year (Bosnia and Herzegovina), and up to three years (Serbia and Montenegro). It is interesting that the Criminal Code of Montenegro stipulates that due to a serious bodily injury or serious impairment of a person's health, the perpetrator will be punished by imprisonment from one to eight years, and in case of death by imprisonment from two to twelve years.

We are of the opinion that the regulation of this criminal offense covers a very wide criminal zone in the law and that it thus enables the prosecuting authorities and the court to act effectively in the suppression and prevention of dangerous infectious diseases.

Non-application of measures for protection against infectious diseases

The Criminal Code of the Republika Srpska recognizes the criminal offense of Non-Application of Measures for Protection against Infectious Diseases (Article 213), while the criminal laws of the Federation of BiH (Article 228) and the Republic of Kosovo (Article 253) prescribe a very similar criminal offense entitled Employment of Persons suffering from an infectious disease. This criminal offense completes the criminal zone of protection of human health from the transmission and spread of the infectious disease COVID-19.

The act of this criminal offense is non-application of appropriate hygienic measures in certain institutions, then, employment or keeping employees, contrary to health regulations, of a person suffering from a contagious disease.

Failure to apply appropriate hygiene measures may in practice manifest itself as an act (eg the application of certain hygiene measures, but not those

that should have been taken or not in the way they should have been taken) or as inaction (complete failure to apply hygiene measures). Which hygiene measures are considered appropriate is determined on the basis of health regulations, rules of the profession and hygiene standards in certain industries. Furthermore, employment means the act by which a person suffering from a contagious disease is hired, and keeping employees means keeping a person at work who has contracted a contagious disease after employment or who, after his employment, became known to have contracted a contagious disease. Infectious diseases or keeping at work a person suffering from a contagious disease who was employed by someone else even though he or she was already suffering from a contagious disease (Babić et al. 2005).

Employing or keeping an employee, contrary to health regulations, of a person suffering from a contagious disease shall constitute an act of committing this criminal offense if that person is employed or held by an employee of a hospital, maternity hospital, brothel, school, business or other legal entity, or an independent businessmen, in the activity in which food products are handled or which performs hygienic services or in a similar activity (Babić et al. 2005). These are activities where people with a contagious disease can cause a significant spread of the disease. It follows that the consequence of the act consists in the transmission of a contagious disease, or in the creation of a danger of the spread of a contagious disease (Babić et al. 2005).

The perpetrator of this act can be any person, but it is most often a person who, given his legal or factual position, is authorized or able to hire someone or keep him employed. The act can be committed with intent and intent. The basic form of the crime is punishable by up to one year in prison, and if a serious bodily injury or serious impairment of the health of one or more persons has occurred, the perpetrator shall be punished by imprisonment for one to five years. Finally, if a fatal consequence has occurred, the perpetrator will be punished by imprisonment for two to twelve years. If, on the other hand, the act was committed through negligence, a fine or imprisonment of up to six months is prescribed, and in the event of serious consequences, imprisonment of up to three years. Finally, in the case of causing death by negligence, the perpetrator will be punished by imprisonment for one to eight years.

MEDICAL LEGAL ASPECT

Law on Health Protection of the Population from Infectious Diseases

According to the Law on Health Protection of the Population from Infectious Diseases (ZZSZB) of the Republic of Srpska (Article 4, paragraph 11), a pandemic of an infectious disease is an infectious disease that crosses national borders and spreads to most of the world or the world as a whole. affected areas.

Given that the infectious disease COVID-19 caused by the SARS-CoV-2 virus has just appeared in the world, it is logical that it was not in the list of infectious diseases in the Laws on the Protection of the Population from Infectious Diseases (ZZSZB). However, the laws of the countries in the region, as well as in Bosnia and Herzegovina, recognized the infectious disease SARS (acute respiratory syndrome - Article 8 ZZSZB FBiH, or TARS (severe acute respiratory syndrome - Article 6 ZZSZB RS). may take special measures to protect the population in emergencies, but the emergence of this pandemic required the strictest measures that needed to be specifically regulated by law. of this region, in which COVID-19, a disease caused by the SARS-CoV-2 virus (eg Serbia, Croatia) has been introduced into the catalog of infectious diseases, as well as certain measures whose implementation is necessary in such emergencies. Laws were necessary so that the competent state authorities could apply the necessary measures to combat and prevent a pandemic.

We mentioned earlier that the criminal offense of Transmission of a contagious disease is of a blanket nature, which means that its complete content can only be determined by interpreting certain laws and regulations in the field of medical law (Petrović et al. 2015). These are a number of these laws, decisions and orders that we list here in accordance with the Laws on Health Protection of the Population from Infectious Diseases in Croatia and Serbia, many of which were introduced by the 2020 amendments.

Thus, according to the Croatian Health Insurance Act (Article 47), it is stated that, in order to protect the population from the introduction of COVID-19 disease caused by the SARS-CoV-2 virus, measures may be taken in accordance with this Act and international agreements to which the Republic of Croatia is a party. These are the following measures: 1) implementation of mandatory anti-epidemic disin-

fection, disinsection and deratization, 2) establishment of quarantine, 3) ban on travel to the country where there is an epidemic of this disease, 4) ban on movement of persons or restriction of movement in infected or directly endangered areas, 5) restriction or prohibition of trade in certain types of goods and products, 6) mandatory participation of health care institutions and other legal entities, private health care workers and natural persons in disease control, 7) prohibition of use of facilities, equipment and means of transport, 8) isolation of persons in own home or other appropriate space - self-isolation, 9) obligation to properly wear a face mask or medical mask, 10) prohibition or restriction of maintenance and / or gathering, 11) prohibition or restriction of private gatherings, 12) early detection of sources and ways of transmission of infectious diseases, 13) epidemiological testing and research, 14) laboratory testing works determining the causes of infectious diseases, 15) health education of certain categories of employees and 16) informing health workers and the population. Finally, a measure prohibiting entry into the country for persons coming from areas where there is an epidemic of infectious diseases, and do not have a valid certificate of vaccination or when required by the public health interest. In this regard, it should be added that in this situation of the COVID-19 pandemic, mandatory emergency vaccination can be ordered!

Decisions and orders to act during the COVID-19 pandemic

In order to implement these security measures, numerous Decisions were made: 1) suspension of teaching at universities, secondary and primary schools and regular operation of preschool education institutions and establishment of distance learning (online), 2) temporary ban on crossing state border crossings, 3) determination of border crossings through which transit traffic of freight vehicles through the state territory will take place, 4) measures during marriage and life partnership, 5) manner of holding funerals and last farewells, 6) strict restriction of detention on streets and other public places, 7) measures of special organization of work of the epidemiological service and special epidemiological measures related to SARS CoV-2 virus, 8) special organization of emergency medical service and medical transport, 9) general and specific protection measures obligatorily implemented by taxi service providers, 10) mode



of operation and working hours of shops, 11) special organization of social welfare institutions and other p of social services, 12) special way of working in markets, 13) restriction of social gatherings, work in trade, service activities and holding of sports and cultural events, 14) way of using children's playgrounds and outdoor sports playgrounds, way of doing recreational sports outdoors, 15) ban on entry of passenger ships on international cruises to seaports and inland ports, 16) organization of public transport, 17) control of compliance with recommendations for the prevention of infectious diseases in the catering industry of nightclubs, 18) mandatory use of face masks or medical masks.

Similar or identical decisions have been made in other countries in the region. Thus, various prohibition measures and restrictions are introduced, such as movement bans, suspension of public transport, ban on gatherings in public places, restrictions on gatherings indoors, wearing face masks indoors and outdoors, ban on the operation of some service facilities, some of which have provoked many reactions and criticisms in terms of their justification.

Restrictions and prohibitions on movement have their basis in the Constitutions of the countries, the Laws on the Protection of the Population from Infectious Diseases, as well as the Convention on Human Rights and Freedoms. Of course, always in emergencies and under strictly limited conditions. Thus, for example, according to Article 54, paragraph 2, item 2 of the Federal Law on Protection of the Population from Infectious Diseases, the Federal Ministry of Health may "order a ban on the movement of the population, ie restriction of movement in infected or directly endangered areas". Such provisions are also known by the laws of other countries we are talking about here.

Here we will briefly look at the beginning of the application of measures of prohibition and restriction of movement in the Federation of Bosnia and Herzegovina.

Date 20.03.2020. An order banning the movement of persons under the age of 18 and those over the age of 65 was issued on On March 27, 2020, the duration of this measure was extended, and on April 17, 2020, its duration was extended again. Finally, on 24.04.2020, the measure was mitigated by allowing persons over 65 to move on Mondays, Wednesdays and Fridays from 09:00 to 13:00, and persons under 18 to move on Tuesdays, on Thursdays and Saturdays

from 14:00 to 20:00. This order exempts persons who have the constitutional right and obligation to perform certain duties in the legislative and / or executive branch (representatives in the legislative bodies in Bosnia and Herzegovina, members of the Presidency of Bosnia and Herzegovina, the Council of Ministers of Bosnia and Herzegovina, the Government of the Federation of BiH). are active and professionally engaged in judicial and other bodies (judges, prosecutors, notaries), as well as persons who are active and professionally engaged in entities whose work is not prohibited by the orders of the Crisis Staff, on 29.04.2020, an amendment to the earlier order was issued which allows persons over the age of 65 and under the age of 18 to move in the vehicle on a daily basis.

Date 21.03.2020. An order was issued to ban the movement of citizens from 18:00 to 05:00 (the so-called curfew); the measure was mitigated by the order of 29.03.2020, so that the movement ban begins to apply from 20:00 to 05 hours, to 24.04.2020. this measure was abolished. However, by order of 29 April 2020, the curfew measure was reintroduced from 22:00 to 05:00; This order exempts persons who have the constitutional right and obligation to perform certain duties in the legislative and / or executive branch (representatives in the legislative bodies in Bosnia and Herzegovina, members of the Presidency of Bosnia and Herzegovina, the Council of Ministers of Bosnia and Herzegovina, the entity government). working and professionally engaged in judicial and other bodies (judges, prosecutors, notaries), as well as persons who are active and professionally engaged in entities whose work is not prohibited by the orders of the crisis headquarters.

Date 22.03.2020. An order was issued on the prohibition of movement and detention in the open space of more than one person at a distance of 1.5 meters, as well as that only one person can be transported in a taxi vehicle; and on 29.04.2020. An order was issued banning the gathering of more than five people in one place.

On 29.05.2020. The Government of the Federation of BiH passed the Decision on declaring the cessation of the state of the accident, which led to the relaxation of all measures on the territory of the Federation of BiH.

The introduction of these, but also all other measures, has led to a drastic change in everyday life, especially since in some countries a state of emergency

has been introduced which restricts and / or abolishes some of the basic human rights. Thus, the everyday life of citizens meant respecting certain regulations in the field of medical law, then decisions, orders and recommendations of the competent state authorities. It is these regulations, decisions and orders that complete the essence of the criminal offense of Transmission of an Infectious Disease, giving it complete and true meaning. This created the possibility of determining the criminal responsibility of persons whose violation causes the spread of a contagious disease (i.e. the danger of the spread of a contagious disease).

The key question is whether there was a legal basis for the introduction of such strict measures, especially the ban on the movement of persons over 65 years of age. That is, whether the competent state authorities paid the necessary attention when assessing the proportionality of this measure and the protection of human health.

The issue of restrictions on freedom of movement is, in addition to domestic law, also addressed in the Convention on Human Rights. Thus, Article 2 of Protocol No. 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms stipulates that: "1. everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence; 2. Everyone is free to leave any country, including his own; 3. no restrictions may be imposed on the exercise of these rights other than those which are in accordance with the law and which are necessary in a democratic society in the interests of national or public security, to preserve public order, to prevent crime, to protect health or morals. or to protect the rights and freedoms of others; 4. These rights may, in certain areas, be subject to limitations imposed by law and justified by the public interest in a democratic society."

This issue was addressed by the European Court of Human Rights and the constitutional courts in Bosnia and Herzegovina, Slovenia and Serbia, in order to determine whether the competent state authorities acted too strictly in banning and restricting movement, especially according to the category of persons over 65 years of age. In this regard, the Constitutional Court of Bosnia and Herzegovina, deciding on the appeal, issued a Decision "concluding that the appellant's right to freedom of movement guaranteed by the Constitution of Bosnia and Herzegovina and the European Convention for the Protection of Human

Rights and Fundamental Freedoms was violated, because there is no proportionality, ie a fair balance between the measures imposed by the disputed order and the public interest in public health protection since the impossibility of imposing milder measures was not previously considered and explained, that the imposed measures are not strictly limited in time, nor is the obligation of the Federal Staff to review and extend these measures. it is necessary in a democratic society."

The Constitutional Court of Slovenia was of a similar opinion, pointing out in its decision that "such regulations are not necessary to achieve the purpose desired by the regulation. The same objectives could be achieved by setting a periodic review of the proportionality of the measures. An extension of measures should only be granted if, given the circumstances and the expert opinion, it is still considered necessary to achieve the objectives set. In this way, the possibility of disproportionate violations of human rights and fundamental freedoms would be reduced. The court ordered the government to assess at least every seven days whether the measures introduced are still necessary to achieve certain goals. Based on the expert opinion, it will decide whether the measures will be extended, modified or repealed and will inform the public about it."

Similar decisions were made in some other European countries, such as Germany, the Czech Republic, Spain, Romania, etc.

Finally, summarizing the previous consideration, one gets the impression that certain state bodies have shown different levels of (ir) responsibility within their competence. According to the reactions and perception of the public, as well as the writing of the media, one gets the impression that the highest levels of government are the weakest link in the fight against this pandemic; they showed the least empathy for the most vulnerable categories of the population - the elderly and children. They most often found justification in similar treatment in other countries, which also prescribed such restrictive and prohibitive measures. It is unjustified, and incomprehensible, that the highest state bodies of Bosnia and Herzegovina, its Presidency and Council of Ministers, did not pursue a consistent policy of fighting the COVID-19 pandemic, which resulted in various measures in the Republika Srpska and Federation BiH entities. Also, the state has not taken the necessary measures to procure vaccines for its population. This



(failure to act) of the highest state bodies has put, and still puts, the citizens of Bosnia and Herzegovina in a difficult position, which indicates a violation of basic human rights and freedoms. Given that this is a problem of global proportions, it would be logical that the responsible persons, in addition to the official, have the moral responsibility to do everything within their powers. Furthermore, irresponsibility has been manifested through various forms of abuse in the procurement of medical devices for the treatment of patients with COVID-19.

CONCLUSION

By analyzing the prescribed criminal offenses in criminal legislation, as well as adequate regulations of medical law, it can be concluded that this legal aspect of human health protection is fully realized. However, problems are evident in the implementation of these regulations. Under the implementation of regulations, the behavior of citizens should be observed, as well as the competent state bodies. Citizens do not have much choice, because they are in a situation to respect the prescribed prohibitions and restrictions in terms of protecting their health or, otherwise, to come under attack from criminal and misdemeanor sanctions. This is a matter of multiple responsibilities, of which in the first place should be the responsibility towards one's own health, then towards the health of other citizens and, finally, towards legal regulations. In that sense, it can be said that the citizens are in a very difficult situation.

However, it could be said that in Bosnia and Herzegovina, the irresponsibility of those who should be the most responsible is on the scene, and that is certain representatives of the highest authorities! On the one hand, they did not do what they should have done the most, and that is to take the necessary and adequate actions in order to combat and prevent the COVID-19 pandemic, and on the other hand, some did what they should not and should not have done. By their irresponsible behavior, they endangered people's health more than individual citizens did by their irresponsible behavior. Some ongoing court proceedings speak in favor of that, as well as frequent protests of citizens due to dissatisfaction with the work of the competent authorities. We also believe that health professionals work even beyond their objective capabilities, given the difficult working conditions, the lack of adequate medical resources, and

the lack of a clear medical strategy. Finally, it could be said that the police and the judiciary, with their responsible actions and empathy, to a certain extent amortized the problems caused by the COVID-19 pandemic, because they did not resort to the most severe sanctions prescribed for violating certain prohibition measures and restrictions.

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SAŽETAK

Pandemija COVID-19 (SARS-CoV-2) prouzrokovala je mnogostruke posljedice na globalnom nivou, a sve se mogu istraživati i obrađivati multidisciplinarno, tj. sa zdravstvenog (medicinskog), pravnog, ekonomskog i sigurnosnog aspekta. U ovom radu autor se fokusirao na pravni, odnosno krivičnopravni aspekt ove pandemije. Nakon više od godinu dana, koliko traje pandemija COVID-19 u svijetu, na temelju mjera koje se poduzimaju u gotovo svim zemljama, može se zaključiti da su zdravstveni i pravni aspekti primarni i komplementarni. U prilog ovakve tvrdnje ide činjenica da zaštita zdravlja ljudi mora biti uređena adekvatnim zakonskim propisima, a to je, prije svih, Zakon o zaštiti stanovništva od zaraznih bolesti. Međutim, u ovakvoj, vanrednoj, situaciji bez krivičnopravne zaštite teško je ostvariti efikasnu zdravstvenu zaštitu stanovništva.

Stoga se u ovom članku analiziraju krivičnopravni i medicinskopravni aspekti krivičnih djela protiv zdravlja ljudi koja su slična ili gotovo identična u svim zemljama regiona, kao što su Bosna i Hercegovina, Hrvatska, Slovenija, Srbija, Sjeverna Makedonija i Kosovo.

Ključne riječi: zarazna bolest - pandemija – COVID-19 – zaštita zdravlja – krivično pravo – medicinsko pravo

