

The Institutional and Legal Justification of the Restriction of Freedom of Movement in Conditions of Counteraction the Spread of the Covid-19 Pandemic

La justificación institucional y jurídica de la restricción de la libertad de circulación en condiciones de contrarrestar la propagación de la pandemia Covid-19

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Abstract

The study touches upon the issue of determining the current state of ensuring and restricting freedom of movement in Ukraine in the context of counteracting the spread of the COVID - 19 pandemic. Particular attention is paid to the substantive component and the expediency of certain restrictions on freedom of movement, namely: self-isolation and observation. The normative-legal bases of restriction of the constitutional right to freedom of movement are investigated and gaps of their substantiation are revealed. It is proposed to amend the Constitution of Ukraine regarding the possibility of restricting freedom of movement; the need to develop flexible mechanisms for the implementation of self-isolation and observation regimes in counteracting the spread of the COVID-19 pandemic; creation of specially authorized subjects, which will be responsible for ensuring the proper condition and maintenance of mental health of persons who are in self-isolation and observation. In carrying out this study, general philosophical and special methods of scientific knowledge were used, namely: the method of system analysis, the dialectical method, the formal-logical method and the structural-functional, as well as a number of empirical methods. The practical significance of the study is to outline a single approach to restricting freedom of movement against the background of the actualization of trends in the response to the COVID - 19 pandemic in Ukraine. All results obtained independently are original (no analogues and incorrect borrowings). The subject of research is considered in Ukraine for the first time and has prospects for further development.

Keywords: freedom of movement, pandemic COVID - 19, quarantine, self - isolation, observation, Ukraine.

Resumen

El estudio aborda la cuestión de determinar el estado actual de garantizar y restringir la libertad de movimiento en Ucrania en el contexto de contrarrestar la propagación de la pandemia COVID-19. Se presta especial atención al componente sustantivo y la conveniencia de ciertas restricciones a la libertad de movimiento, a saber: autoaislamiento y observación. Se investigan los fundamentos normativos-legales de la restricción del derecho constitucional a la libertad de circulación y se revelan las lagunas en su fundamentación. Se propone enmendar la Constitución de Ucrania con respecto a la posibilidad de restringir la libertad de circulación; la necesidad de desarrollar mecanismos flexibles para la implementación de regímenes de autoaislamiento y observación para contrarrestar la propagación de la pandemia COVID-19; creación de sujetos especialmente autorizados, que serán los encargados de velar por el buen estado y mantenimiento de la salud mental de las personas que se encuentren en autoaislamiento y observación. Para la realización de este estudio se utilizaron métodos filosóficos generales y especiales de conocimiento científico, a saber: el método de análisis de sistemas, el método dialéctico, el método lógico-formal y el estructural-funcional, así como una serie de métodos empíricos. La importancia práctica del estudio es esbozar un enfoque único para restringir la libertad de movimiento en el contexto de la actualización de las tendencias en la respuesta a la pandemia de COVID-19 en Ucrania. Todos los resultados obtenidos de forma independiente son originales (sin análogos y préstamos incorrectos). El tema de la investigación se considera en Ucrania por primera vez y tiene perspectivas de un mayor desarrollo.

Palabras clave: libertad de movimiento, pandemia COVID - 19, cuarentena, autoaislamiento, observación, Ucrania.



Introduction

In the context of counteracting the pandemic caused by coronavirus infection in 2019 (hereinafter – COVID - 19), for the first time since the independence of the Ukrainian state the administrative and legal mechanisms of the quarantine regime were implemented in the practical plane. As a result, the fundamental human and civil rights and freedoms have been severely restricted. Freedom of movement is no exception, which is seen as a means of breaking the chain of infection and is a measure of people's interaction with each other (Levina et al., 2019).

Measures to restrict freedom of movement must be borne in mind when implementing measures that must have a clear basis in national law, be proportionate to the legitimate aim pursued, including the protection of life and health, and be aimed at protecting the democratic order from threats of arbitrariness (Dotrymannya demokratiyi, verkhovnstva prava ta prav lyudyny pid chas sanitarnoyi kryzy, sprychyhenoyi COVID-19, 2020).

Restrictions on freedom of movement adopted by the states in the fight against the COVID-19 pandemic are a practical method needed to stop the spread of the virus, prevent congestion in health care systems and thus save people's lives. However, isolation can have very serious consequences for employment, economic situation, access to services, including access to health care, food, water, education and social services, as well as for a safe home environment, a decent standard of living and family life. It is becoming clear that freedom of movement is one of the most important rights that contributes to the exercise of many other rights (COVID-19 i prava cheloveka, 2020).

The sphere of institutional provision of freedom of movement as an object of administrative and legal regulation in the fight against the COVID-19 pandemic requires rethinking the mechanisms of self-isolation and observation, special procedures for moving across the customs border of Ukraine, and the like, as evidenced by international recommendations.

Negative features of public administration in the field of freedom of movement in the fight against the pandemic COVID - 19, primarily the lack of a clear algorithm for the use of public administration tools, in particular the implementation of executive and administrative activities in various areas of public relations and administrative services. At a time when the international community aims to ensure respect for human rights in the fight against

the COVID pandemic - 19, which provides for the possibility of any manifestations of discrimination, racism and xenophobia (Globalnaya solidarnost v borbe s koronavirusnym zabolevaniyem 2019 goda (COVID-19), 2020), Ukraine is trying to implement measures aimed at restricting freedom of movement without taking into account possible alternatives and gradual easing. It seems necessary to develop both a long-term concept of sustainable development of the management system in the quarantine regime, and the implementation of simultaneous monitoring of existing and emerging problems in its operation (Obnovlennaya stratelyya borby s COVID-19, 2020).

Methodological Framework

The issue of ensuring human rights and freedoms in Ukraine in conditions of the COVID - 19 pandemic is relevant, but currently there is no integrated study aimed at theoretical understanding of the impact of forced restrictive measures to change the key determinants of freedom of movement. Large number of experts study the social relations, which is associated with measures aimed at restricting freedom of movement, in various aspects of social knowledge (legal, social, economic, etc.), depending on which the approach to the theoretical understanding of the regulation of these social relationships and identifying new ways to ensure freedom of movement differs.

The theoretical basis of this study consist in the knowledge of the implemented restrictive measures on freedom of movement in the face of the COVID-19 pandemic, their feasibility and proportionality with the needs of protecting the lives and health of Ukrainian citizens on the one hand and international practice on the other.

At the same time, it is insufficient to study the real trends of dangers that threaten humanity in the face of the pandemic COVID - 19. From this point of view, it is necessary to use a formal-dogmatic approach functioning of effective management and development in any sphere under any conditions.

This article examines for the first time the state of legal justification of restrictive measures of freedom of movement due to the response to the COVID - 19 pandemic as a systemic factor in the formation of democratic governance in Ukraine. To consistently cover the problem, separate substantive blocks have been identified that characterize a homogeneous group of public relations concerning the peculiarities of the mechanism of restriction of freedom of movement, namely: transformation of content of freedom of movement in the face of the COVID-19 pandemic; administrative and legal



support of self-isolation and observation regimes in Ukraine.

Results and Discussions

Transformation of the Content of Freedom of Movement in the Conditions of Counteraction to the COVID - 19 Pandemic

In Ukraine, the constitutional level enshrines fundamental human rights and freedoms that meet established international standards in this area. Against the background of the incomplete process of developing a quality mechanism for ensuring these rights and freedoms, the threat of the spread of the COVID-19 pandemic necessitated determination of special regulatory and institutional principles of freedom of movement.

According to Art. 13 of the Universal Declaration of Human Rights, everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country (Zahalna deklaratsiya prav lyudyny, 1948). Similar provisions are enshrined in Art. 12 of the International Covenant on Civil and Political Rights by establishing the right of everyone lawfully within the territory of any state to move freely within that territory and to choose his residence freely (Mizhnarodnyy pakt pro hromadski ta politychni prava, 1966). The basis for freedom of movement is set out in Protocol 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, which guarantees certain rights and freedoms not provided for in the Convention and the First Protocol thereto. Accordingly, the act stipulates that restrictions on freedom of movement may occur: when they are provided by law and are necessary in a democratic society in the interests of national or public security, to maintain public order, to prevent crime, to protect health or morals or to protect the rights and freedoms of others; when they are provided by law and are implemented in certain areas and are justified by the public interest in a democratic society (Protokol 4 do Konventsiyi pro zakhyst prav lyudyny i osnovopolozhnykh svobod, yakyy harantuye deyaki prava i svobody, ne peredbacheni v Konventsiyi ta u Pershomu protokoli do neyi , 1963).

At the national level, freedom of movement is guaranteed by the Constitution of Ukraine, which is expressed in Article 33 through the consolidation of such powers as: freedom of movement, free choice of residence, free opportunity to leave the territory of Ukraine (Konstytutsiya Ukrainy, 1996). Any exceptions to the freedom of movement are not constitutionally provided for, which should be changed. In addition, the concept of “freedom of

movement” is enshrined at the legislative level as the right of a citizen of Ukraine, as well as a foreigner and stateless person who are legally in Ukraine, to move freely and unhindered in Ukraine in any direction, in any way, at any time, except as provided by law. With regard to determining the legal grounds for restricting freedom of movement, they include the possibility of restriction in areas subject to martial law or state of emergency and in certain areas and settlements, where in case of danger of spreading infectious diseases and poisoning people introduced special conditions and living conditions of population and economic activity, and in respect of persons subject to involuntary hospitalization and treatment under the legislation on infectious diseases and psychiatric care (Pro svobodu peresuvannya ta vilnyy vybir mistysya prozhyvannya v Ukraini, 2003).

Based on the purpose of this study, we emphasize that there is no restriction of freedom of movement to persons who had contact with a patient with a confirmed case of COVID-19 (except in cases where this contact occurred as a result of official duties and personal protective equipment, respectively to recommendations for their application); persons suspected of having an infection or a confirmed diagnosis of COVID-19 in mild form, provided there is no need for hospitalization; persons who have agreed to self-isolation as a result of crossing the state border or checkpoints of entry into the temporarily occupied territories.

The way to transform freedom of movement in the conditions of the COVID-19 pandemic should correspond to the purpose of the restrictions. Significant restrictions on ordinary social activities, including access to public places of worship, public gatherings, weddings and funerals, have inevitably led to conflicting complaints about the above provisions. Although the restriction of freedom of movement is supported by the establishment of administrative liability (Kodeks Ukrainy pro administratyvni pravoporushennya, 1984) for their violation, it is also a cause for concern and strict control by civil society institutions. A fair balance between coercion and prevention is the most appropriate, if not the only, way to ensure this group of human rights.

Restrictions on freedom of movement to prevent the spread of the COVID - 19 pandemic are mediated by the introduction of a quarantine regime. In essence, the legal consolidation of the quarantine regime is a normative prerequisite for restricting freedom of movement. However, there are a number of contradictions in the order of legitimate response to the threat of a pandemic COVID - 19. Thus, in accordance with Art. 29 of



the Law of Ukraine “On protection of the population from infectious diseases”, quarantine is established and abolished by the Cabinet of Ministers of Ukraine on the initiative of the central executive body, which ensures the formation of state policy in the field of health care through the submission of the Chief State Sanitary Doctor of Ukraine (Pro zakhyst naseleण्या vid infektsiynykh khvorob, 2000). The specified submission may be submitted by the Chief State Sanitary Doctor of Ukraine in case of imposition of a state of emergency in Ukraine or in some of its localities and must contain information on the period and boundaries of the quarantine area; the list of necessary preventive, anti-epidemic and other measures that may be carried out in connection with the introduction of the state of emergency and the establishment of quarantine, the executors of these measures; exhaustive temporary restrictions on the rights of individuals and legal entities, additional responsibilities imposed on them (Pro zabezpechennya sanitarnoho ta epidemichnoho blahopoluchchya naseleण्या, 1994).

Instead, a state of emergency may be imposed on the basis of a Decree of the President of Ukraine, which must be approved by the Verkhovna Rada of Ukraine within two days of the appeal of the President of Ukraine, for specific reasons, including particularly severe man-made emergencies, such as pandemics, which pose a threat to the lives and health of large sections of the population (Pro rezhym nadzvychnaynogo stanu, 2000). This norm coincides with the recognized criteria for restricting

the rights and freedoms of man and citizen. Thus, in accordance with Art. 4 of the International Covenant on Civil and Political Rights, only during a state of emergency when the life of the nation is in danger and the existence of which is officially announced, measures can be taken to restrict human and civil rights and freedoms (Mizhnarodnyy pakt pro hromadski ta politychni prava, 1966).

As for the term of “pandemic”, it is not normatively enshrined either at the national or international level. The fact that the threat of COVID-19 is a pandemic can be judged only from official statements of the World Health Organization (Ofytsyalnyy sayt Vsemyrnoy orhanyzatsyyi zdravookhranennya, 2020).

Thus, the following gaps in the justification of the restriction of freedom of movement can be stated: the state of emergency in Ukraine or in some parts of the state of emergency has not been declared as a precondition for the introduction of quarantine; the request for quarantine by the Chief State Sanitary Doctor was not submitted; the Constitution of Ukraine does not provide for the possibility of restricting freedom of movement.

Notwithstanding the above, from the moment of quarantine to the present time, the measures that in one way or another restrict freedom of movement are of different qualitative and quantitative nature. It is considered appropriate to identify the status and dynamics of the implemented measures, which is shown in Table 1.

Table 1. Measures restricting freedom of movement to prevent the spread of the COVID pandemic - 19

Measures restricting freedom of movement to prevent the spread of the COVID pandemic - 19	Regulatory basis	Subjects to which it may apply
Prohibition of visiting educational institutions by its applicants	On prevention of the spread on the territory of Ukraine of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2 (as of 17.03.2020)	Applicants for higher education
1) Self-isolation, which implies the obligation to refrain from contact with persons other than those with whom they live together. The exception is the possibility of visiting places of trade, subject to compliance with the conditions prescribed by law. 2) Observation.	On prevention of the spread on the territory of Ukraine of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2 (as of 30.03.2020)	1.1) persons who had contact with a patient with COVID - 19; 1.2) persons who suffer from this disease, but do not require hospitalization. 2) persons who have visited countries or regions with local transmission of the virus in the community



<p>1) Prohibition of movement by a group of persons of more than two persons, except in cases specified by law.</p> <p>2) Prohibition of stay in public places for a certain category of persons under the conditions specified by law.</p> <p>3) Prohibition of visiting parks, gardens, recreation areas, forest parks and coastal areas under certain conditions.</p> <p>4) Prohibition of visiting sports and children's playgrounds</p> <p>5) Self-isolation.</p> <p>6) Observation.</p>	<p>On prevention of the spread on the territory of Ukraine of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2</p> <p>(as of 04.04.2020)</p>	<p>but do not require hospitalization;</p> <p>5.3) persons who have reached 60 years of age.</p> <p>6.1) persons who have voluntarily decided to stay in the observatory;</p> <p>6.2) persons who have twice violated the conditions of self-isolation;</p> <p>6.3) persons who have had contact with a patient with COVID - 19 or have signs of COVID - 19 infection and refuse a medical examination;</p> <p>6.4) persons crossing the state border;</p> <p>6.5) persons crossing the checkpoints of entry into and exit from the temporarily occupied territory.</p>
<p>1) Prohibition of movement by a group of persons of more than two persons, except in cases specified by law.</p> <p>2) Prohibition of stay in public places for a certain category of persons under the conditions specified by law.</p> <p>3) Self-isolation.</p> <p>4) Observation.</p>	<p>On prevention of the spread on the territory of Ukraine of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2</p> <p>(as of 11.05.2020)</p>	<p>1) Persons who are legally on the territory of Ukraine.</p> <p>2) Persons under 14 years of age.</p> <p>3.1) persons who had contact with a patient with COVID - 19;</p> <p>3.2) persons who suffer from this disease, but do not require hospitalization;</p> <p>4.1) persons who have voluntarily decided to stay in the observatory;</p> <p>4.2) persons who have twice violated the conditions of self-isolation;</p> <p>4.3) persons who have had contact with a patient with COVID - 19 or have signs of infection with COVID - 19 and refuse a medical examination;</p> <p>4.4) persons crossing the state border;</p> <p>4.5) persons crossing through the checkpoints of entry into and exit from the temporarily occupied territory.</p>
<p>1) Self-isolation.</p>	<p>On prevention of the spread on the territory of Ukraine of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2</p> <p>(as of 21.05.2020)</p> <p>Procedure for implementing anti-epidemic measures related to self-isolation</p>	<p>1.1) persons who had contact with a patient with COVID - 19;</p> <p>1.2) persons who suffer from this disease, but do not require hospitalization;</p> <p>2.1) persons who have voluntarily decided to stay in the observatory;</p> <p>2.2) persons who have twice violated the conditions of self-</p>



<p>2) Observation.</p>	<p>On prevention of the spread on the territory of Ukraine of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2 (as of 21.05.2020) The procedure for mandatory observation of persons crossing the state border</p>	<p>isolation; 2.3) persons who have had contact with a patient with COVID - 19 or have signs of COVID - 19 infection and refuse a medical examination; 2.4) persons crossing the state border; 2.5) persons crossing the checkpoints of entry into and exit from the temporarily occupied territory.</p>
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Administrative and Legal Support of Self-Isolation and Observation in Ukraine

The right to health care in Ukraine is enshrined in Art. 49 of the Constitution of Ukraine and is detailed in normative legal acts of different legal force and different direction depending on the mechanism of ensuring this right (Konstytutsiya Ukrainy, 1996). One of the mechanisms to ensure the right of citizens to health care is the introduction of quarantine in the event of the need to prevent and spread infectious diseases, localization and elimination of outbreaks and epidemics. The threat of a COVID-19 pandemic has become a prerequisite for quarantine in Ukraine and around the world. The legal mechanism of quarantine reflects the set of established necessary preventive, anti-epidemic and other administrative measures, their executors and terms of carrying out, temporary restrictions of the rights of physical and legal persons and the additional duties imposed on them, the bases and order of obligatory self-isolation, stay of a person in the observatory (observation), hospitalization in temporary health care facilities (specialized hospitals) (Pro zakhyst naselennya vid infektsiynykh khvorob, 2000).

To date, the normative basis for the introduction of the quarantine regime is the decision of the Cabinet of Ministers of Ukraine of March 11, 2020 (Pro zapobihannya poshyrennyu, 2020). Among the quarantine measures that have been introduced to prevent the spread of the COVID-19 pandemic are the following: a ban on visiting educational institutions by its recipients, a ban on holding mass events and restrictions on the possibility of holding them; the obligation to observe and self-isolate persons who fall under the criteria set out in the quarantine decision; obligation to be tested for COVID-19 in accordance with the standards of the Ministry of Health of patients receiving medical care in connection with the planned hospitalization measures (Pro vstanovlennya karantynu z metoyu zapobihannya poshyrennyu na terytoriyi Ukrainy, 2020); approval of clinical routes of patients at all levels of medical care; establishing special rules for medical examination and treatment of persons suspected of having COVID-19 (Orhanizatsiya

nadannya medychnoyi dopomohy khvorym na koronavirusnu khvorobu (COVID-19), 2020), etc.

As for self-isolation, it is an anti-epidemic means of preventing the spread of the COVID-19 pandemic, which consists in the stay of a person in respect of whom there are reasonable grounds for the risk of infection or spread of an infectious disease, in the place (premises) determined by him in order to comply with anti-epidemic measures on the basis of the obligation of the person (Pro zakhyst naselennya vid infektsiynykh khvorob, 2000). However, such reasonable grounds may be: contact with a patient with a confirmed case of COVID-19 (except in cases where this contact occurred as a result of official duties and with the use of personal protective equipment in accordance with the recommendations for their use); suspicion of infection or confirmed diagnosis of COVID-19 in mild form, provided there is no need for hospitalization; consent to self-isolation using the electronic service “Act at home” of the Unified state web portal of electronic services to cross the state border or checkpoints of entry into the temporarily occupied territories in Donetsk and Luhansk regions, the Autonomous Republic of Crimea and Sevastopol and exit from them (Pro vstanovlennya karantynu z metoyu zapobihannya poshyrennyu na terytoriyi Ukrainy, 2020).

Executive and administrative activities in the field of self-isolation used to prevent the spread of the COVID-19 pandemic are carried out by:

- 1) subjects authorized for primary verification of persons in need of self-isolation, which include: attending doctor, employees of emergency medical care institutions, employees of state institutions of the Ministry of Health of Ukraine of epidemiological profile;
- 2) subjects that monitor compliance with the regime of self-isolation, which include: employees of the National Police, the National Guard, state institutions of the Ministry of Health of Ukraine epidemiological profile and officials or authorized by local governments;
- 3) subjects that ensure the functioning of the self-isolation regime, which include: the Ministry of



Digital Transformation of Ukraine, the Security Service of Ukraine through the administration of the electronic service “Act at Home” of the Unified State Web Portal of electronic services and, in particular, the epidemiological control information system over the spread of COVID-19; social protection bodies through the provision of social support to persons suffering from COVID-19; oblast and Kyiv city state administrations by providing additional measures to identify and serve single persons and persons living alone, among the elderly, persons with disabilities, persons who are in self-isolation (Poryadok zdiysnennya protyepidemichnykh zakhodiv, pov”yazanykh iz samoizolyatsiyeyu, 2020).

The procedural characteristics of the self-isolation regime allow to identify the following stages of its passage: the appointment of the obligation of self-isolation, the passage of self-isolation and the termination of the obligation of self-isolation. In the first stage, there is an identification of the subjects that carry out the initial verification of persons in need of self-isolation of citizens to whom the specified quarantine mechanism will be applied. At the same time, in any case, the data identifying the person (for example, last name, first name, patronymic of the person, sex, date of birth, person-defined place of self-isolation, means of communication (phone number), place of work, study, children’s institution and their addresses, etc.) are entered into the electronic service “Act at home” of the Unified state web portal of electronic services, but further control over compliance with the regime of self-isolation may be carried out in another way.

The disadvantage that distorts the regime of self-isolation is the lack of tracking of movement and contacts of a person from the moment when he moved across the state border to the place of self-isolation. For example, in the case of crossing the state border, a person can activate the “Act at Home” system in 24 hours, although he will actually arrive at the place of self-isolation in three hours. Thus, without violating the regime of self-isolation, the person actually violates it. It is considered expedient to make changes to the procedure for self-isolation by legalizing the stage of determining a person as in need of self-isolation before placing him in a place where he will undergo self-isolation.

At the stage of direct self-isolation, the person to whom the measure was applied acquires a special legal position, which is characterized by a set of special rights and responsibilities, namely: the obligation to be constantly in a certain place of self-isolation; the obligation to refrain from contact with persons other than those with whom they live

together; the right to choose the method of current control through a mobile application or through authorized subjects; the right to care in case of need, etc. On the other hand, authorized entities are obliged to monitor compliance with the self-isolation regime for a specified period: a set-up period of 14 days or a specially extended period. Termination of the obligation of self-isolation is the final stage, which occurs automatically after the expiration of the period of self-isolation (Poryadok zdiysnennya protyepidemichnykh zakhodiv, pov”yazanykh iz samoizolyatsiyeyu, 2020).

As for the observation, it is an anti-epidemic means of preventing the spread of the COVID-19 pandemic, which consists in the free stay of a person at risk of spreading an infectious disease in the observatory for examination and medical supervision. A person who is restricted in his freedom of movement due to the application of observation acquires the appropriate status due to the following grounds: filing an application for voluntary observation due to the impossibility of complying with the requirements of self-isolation; proven fact of double violation of self-isolation conditions; refusal of a person who had contact with patients or has signs of COVID-19 infection from a medical examination under the direction of the attending physician; crossing the state border by a person who came from the state or is a citizen (subject) of the state with a significant spread of COVID-19 (except as provided by law) (Pro vstanovlennya karantynu z metoyu zapobihannya poshyrennyu na terytoriyi Ukrayiny, 2020)

Executive and administrative activities in the field of observation regime used to prevent the spread of the COVID-19 pandemic are carried out by:

- 1) subjects authorized to manage the place of the observer, which include the heads of regional and Kyiv city state administrations in terms of determining the list of specialized institutions for the organization of observation, ensuring duty at checkpoints across the state border emergency (ambulance) crews during referral of persons for observation, determination of the amount of costs necessary to ensure the transportation of persons to the places of observation and the like; heads of emergency response works of the relevant administrative-territorial unit in terms of determining the authorized persons responsible for organizing the process of observation of persons after they left the territory of the checkpoint across the state border; administration of the place of observation in terms of arrangement of the place of observation before the reception of persons and creation of appropriate conditions for their stay;
- 2) subjects that ensure compliance with the observation regime, which include: the Ministry of



Internal Affairs of Ukraine, the National Police, the National Guard due to their authority to protect public safety and order when sending persons to the observation post after they have left the territory of the checkpoint across the state border, escort of vehicles, as well as rescue and other special equipment during the transportation of organized groups of people (more than 40 people) to the observers, public safety and order on the outer perimeter of the observation site;

3) subjects that promote the functioning of the observation regime, which include: the Ministry of Foreign Affairs of Ukraine, the Ministry of Infrastructure of Ukraine to determine the number of persons who will need to apply the observation regime to them (Poryadok provedennya obov'yazkovoyi observatsiyi, 2020).

It is noteworthy that the self-isolation regime and the observation regime are types of anti-epidemiological drugs introduced as a result of quarantine. However, their alternative may be curfew (Egypt), restriction of movement of citizens between settlements within the country (Azerbaijan, Italy), domestic quarantine (Israel, India), a set of these measures or their change to each other (Operativna informatsiya shchodo zakhodiv, yaki vzhivayutsya inozemnymy krayinamy z protydyi rozpovsyudzhennyu COVID-19, 2020). In any case, the Ukrainian state is characterized by imperfect administrative and legal support for self-isolation and observation regimes. First of all, this concerns the lack of a Unified Register of Persons in Self-Isolation and Observation.

Conclusion

Activities to counter the spread of the COVID-19 pandemic have mediated changes in the area of human and civil rights and fundamental freedoms. Restrictions on freedom of movement in Ukraine through the introduction of self-isolation and observation are commensurate with generally accepted international indicators.

In the course of the study, a conclusion was made about the need to: supplement Art. 33 of the Constitution of Ukraine as follows: "The exercise of these freedoms may be restricted by law in the interests of national security, territorial integrity or public order in order to prevent riots or crimes, to protect public health"; amendments to the Law of Ukraine Art. 29 of the Law of Ukraine "On protection of the population from infectious diseases" with content as follows: "quarantine is established and abolished by the Cabinet of Ministers of Ukraine on the initiative of the central executive body that ensures the formation of state policy in the field of health"; elaboration of the Procedure for delivering persons in need of self-

isolation to the place of self-isolation, to assign the right to police officers to control this stage of the self-isolation procedure, and in case of violation of special duties to persons in need of self-isolation when going to the place of self-isolation violation of the self-isolation regime.

With regard to the institutional provision of appropriate restrictions on freedom of movement, it is appropriate to establish specially authorized entities, which will be responsible for ensuring the proper condition and maintaining the mental health of persons in self-isolation and observation.

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