

Coronavirus Crime and Post-Coronavirus Crime:

Preliminary Quarantine Assumptions (*)

In two previous issues (No. 16-17 (1293-1294), April 24 - May 7, 2020; No. 18-19 (1295-1296), May 8 - May 21, 2020) the Law Herald of Ukraine published an article by these authors headed “Coronavirus and Criminal Law: Paradox or Expediency of the Joint Analysis?!” In late March - early April, when we were just beginning to realize the magnitude of the events associated with the COVID-19 coronavirus, the level of analysis of legal methods and means to overcome this viral infection at that time was quite sufficient. However, further events that not only have directly contributed to the deterioration of public health, but also “pushed” to the emergence of new ambiguous processes, events, actions, led to the need to look at them at a criminogenic angle in order to understand what to expect in the long run. So the editorial board and representatives of the respected Streltsov dynasty have come to an idea of writing the following article.



* *ResearchGate* ([ukr](#), [eng part 1](#), [ru part 1](#), [ru part 2](#))



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*Economics is as dependent on economists
as weather is on meteorologists
(an old joke, but it is perhaps appropriate today)*

Preliminary explanation

In March of this year, almost all countries, including the countries of the European Community and Ukraine, ordered quarantine to counteract the coronavirus COVID-19 and prevent its consequences. And in May of this year, a number of states, including Ukraine, introduced various forms of the quarantine regime loosening. However, officially the quarantine has not been canceled, that is, it has still been continuing. Thus, as of the end of May, the quarantine had lasted for about two and a half months. Unfortunately, despite some positive trends, as figures indicate, there has no been qualitative improvement: only last month the number of patients worldwide increased from three million to five million.

It is important to have in mind that crime, as a social and legal phenomenon has not disappeared. Therefore the existence of crime and combating it should not be ignored, especially given the current situation. Evidently, it is practically implausible to develop a high-quality doctrinal legal “vaccine” for



counteracting “old” and “new“ negative phenomena and processes, but it is appropriate and never "too early" to shine a light on the existing problems and attempt to identify their origin and nature. Therefore, given the sufficiently fragmented information about such events today, the initial analysis is relevant.

Given that this article is a continuation of our previous article published under the title “*Coronavirus and Criminal Law: Paradox or Expediency of the Joint Analysis?!*” (*Law Herald of Ukraine*, No. 16-17, April 24 - May 7, 2020; No. 18-19, May 8 - May 21, 2020), we believe that it is relevant to give an explanation on the allocation logics of their content. Both articles investigate into criminal law problems associated with the coronavirus, however each having their own specificity. The first article analyzes the characteristics of criminal law / legislation, both in the ordinary and the force majeure situations. The analysis allowed it to show that such extraordinary circumstances reveal the characteristics of each branch of law / legislation, including criminal law. Therefore the previous material gave an opportunity to realize what criminal law / legislation “can” and what it “can not”, and thereby - what tasks the

state can “set” to it, and which - “not,” given the current and the prospective difficult social situations. This article more specifically addresses the so-called coronavirus crimes. Of course, we understand that an attempt to eradicate specific types of crimes related to the coronavirus and post-coronavirus is a challenging task. By and large, we are not aware of how human civilization is going to evolve in the post-coronavirus period, but we are convinced that it is necessary to raise a certain range of questions that need to be answered today and which will be more insistent on requiring an answer in the future. It is this aspect, which will be the focus of this article.

Postcoronavirus instead of postmodernism...

Developing the provisions of the previous section, we consider it necessary to raise the question: what will replace the “postmodernism” that has been operating since the beginning of the second half of the last century? Will the so-called “globalization” continue, or will the state of “localization” be recognized as more favorable, or will the “post-coronavirus” era even begin? What political, economic,

social models and their varieties will dominate?



These and similar questions are not caused by “simple” interest solely. For many years, we have been defending the view that, no matter how criminal law / legislation is “decorated”, it, in the first place, acts as an appropriate lever among the state “tools” of

normative regulation of the relevant processes (Strel'tsov YE. L., ‘ Suchasnist’ ta perspektyvy rozvytku kryminal’noho prava Ukrayiny: 20 rokiv potomu ‘ [Modernity and prospects of development of criminal law of Ukraine: 20 years later]. *Naukovi pratsi Natsional'noho universytetu «Odes'ka yurydychna akademiya»*. 2012. T.11. S. 365 – 373).

In any case, it must be borne in mind that many processes associated with coronavirus not only significantly affect all modern and future social processes, but can also generate socially negative events and processes.

Already today, the coronavirus COVID-19 in its content and scope can be considered a phenomenon of objective reality, which is a social structure comprised of economic, political, socio-organizational components, being able to really influence social processes, including socially dangerous ones.

In this regard, it is appropriate to refer to the well-known postulation of the sociology of crime that the events of objective reality must always be associated with the establishment and definition of crime and its types (Sotsiologiya prestupnosti [The Sociology of Crime] URL: https://pidru4niki.com/15341220/sotsiologiya/sotsiologiya_zlochinnosti). Understanding of this is important not only for the identification of the social determinants of crime, but also for understanding that they should be influenced by both punitive and social measures, while the latter should dominate when developing a set of measures aimed at combating crime. Based on this, the social model of the subsequent development of mankind, its features, other significant characteristics that influence the development of various processes, including those having a criminal content, must be taken into account. For that reason the issues associated with the further development of human civilization are quite pragmatic.

Coronavirus “impact” on crime: an attempt of the systemic determination

The most important of the XX-th century methodological innovations was the emergence of a systematic approach to the study of social phenomena (see: Norbert Wiener. God & Golem, Inc.: A Comment on Certain Points Where Cybernetics Impinges on Religion. 1964; Ludwig von Bertalanffy. General System Theory Foundations, Development, Applications. 1968).

This also applies to crime, especially when it comes to its newly emerged determinants and the “formation” of its new species. Such a research approach seems relevant not only at the level of the initial analysis, when a “momentary”, based on statistical data (although there is some inconsistency in such information (URL: <https://www.crimea.kp.ru/daily/27113.7/4190902/>)) connection between these events is established (see, for example: In some countries due to quarantine crime rate decreased (URL: <https://www.kommersant.ru/doc/4320644>); In Ukraine, during the quarantine period, the crime rate decreased by 30%. URL: <https://ua.112.ua/suspilstvo/v-ukraini->

[u-period-karantynu-riven-zlochynnosti-znyzyvsia-na-30-532467.html](https://www.researchgate.net/publication/341532467)), but also when trying to predict the further development of the events.

In our aforementioned previous article we made an initial attempt to identify, by “linking” the problems of this viral disease to the provisions of criminal law / legislation, the content of crime in general and the possible directions for its development. In particular, dangerous acts “associated” with today's viral “events” such as the violation of quarantine and other anti-viral rules were identified, as well as a group of offences “provoked” by such events.

Coronavirus “impact” on crime: an attempt to summarize “momentary” statistics

Despite the fact that the study and synthesis of statistical data on the state of coronavirus crime have just begun, there felt intentions to move away from the “simple” initial analysis of statistical information and move on to trying to identify the types of such crime, and thereby to differentiate them. For example, a very brief special report of Europol specifically emphasizes that crime has immediately begun to “take advantage” of the ongoing difficulties and changes in modern public life, and its ability to “accomplish its intentions” requires



readiness. In any case, an attempt to single out the types of crime that have become reality today made it possible to distinguish the following crimes: crimes related to the increased demand for hygiene products and goods associated with the outbreak of COVID-19, as well as various manifestations of cybercrime, fraudulent schemes of illegal seizure of property and a certain “revival” of telephone fraud, etc. (Europol. *Pandemic profiteering: how criminals exploit the COVID-19 crisis March 2020*). It should be noted that in general unauthorized interference with computer networks has already been widespread in Ukraine (Streltsov, L. (2018) Unauthorized Interference with Computers and Networks in Ukraine. *Zeitschrift für die gesamte Strafrechtswissenschaft (ZStW)*. Issue 130, pp. 605- 641).

Cases of fraudulent withdrawal of money from private persons' bank accounts have also been observed. People are asked to provide their card information, password and other personal information in order to get compensation for damage caused by the virus. Having received the data, the scammers disappear, as does the victim's money. In other cases people get a call from false public authorities or medical clinics and are warned that due to the fact that they had contacted infected people, a special group will come to their home to conduct the diagnostic test for the COVID-19 detection for money. People are asked to transfer a considerable amount of money to the specified bank in advance, but after the money transfer, of course, no one appears. Despite the fact that in the above Europol report all these crimes are differentiated all of them, in our opinion, have a single scheme for committing crimes, which are based on the traditional model of fraud.

In a number of European countries yet another group of crimes related to the illegal entry into private premises with the aim of stealing property have been reported. For example, in connection with the quarantine regime, criminals impersonating representatives of medical personnel or sanitary-trading representatives can gain access to various premises. Having obtained such access, they use a variety of techniques and methods, ranging from secret and ending with deceitful or violent use of intoxicating substances on individuals to take possession of their property. It should be noted that these are so-called "momentary" crimes, or crimes mainly related to the coronavirus. As soon as the coronavirus is over, these crimes will also end. In addition to these, the so-called "prospective" crimes began to appear. For example, changes in the organization of drug trafficking are already expected, which are likely to affect the dynamics of supply and demand, and consequently - the illegal drug supply channels, their production and price. Significant changes that can be expected in the processes of illegal migration, in the smuggling of goods and services, other violations of interstate borders, etc. require careful monitoring. This information is useful primarily because it gives an idea of specific types of crimes, which makes it possible, along with law enforcement activities, to take preventive measures, for example, to alert such and similar crimes through social communication channels.

It should be borne in mind that at present it is only possible to predict certain criminal acts that may appear as a result of coronavirus events. For example, job loss, rising unemployment, economic problems, etc. can "provoke" other forms of socio-

economic, socio-psychological, socio-legal and other problems, including problems associated with unlawful removal of property. This, to a certain extent, resembles the situation with the crime that took place in the 90-s of the last century on the territory of the USSR after its collapse. Unlawful attacks on property then ranged from “soft” to violent forms. The modern experiences of the Republic of South Africa and Italy have already indicated a certain similarity between such events. In addition, one needs to understand that "future" crimes can be different in content. For example, according to *Deutsche Welle*, German experts have already predicted the likelihood of extremist crimes involving the use of biological weapons, given that the events with coronavirus have shown the helplessness of mankind to in the fight against viruses.

The need to look even deeper

Economy as the most visible sphere of manifestation of socio-economic difficulties can undergo fundamental, real changes that will affect not only the largest enterprises and organizations, but also even world-renowned trusts. It is not only a matter of “simple” purchase of the bankrupt enterprises' shares by the largest businesses during the coronavirus: such actions acquire the character of economic “intervention”, which



is carried out “under cover” or with the direct “participation” of the state. This is understandable: the acquisition of a large number of the leading companies’ shares allows the state - the "secret beneficiary" - to lobby

its own interests economically and to impose appropriate decisions on another state (states). This is a complex topic that deserves a separate analysis, but within the framework of our publication it is relevant to note that such occurrences have already taken place with the involvement of organized criminal groups. Mafia structures in Italy are planning and, perhaps, have already cranked something like that with enterprises that have gone bankrupt in today's conditions. Perhaps the scale of such operations will be smaller in scope, but, in our opinion, the harmful consequences will be significant. For example, the financial and economic system in a separate state or a

group of states, through various forms of illegal “interference” with legal business, investment of “dirty” money into legal economy, “laundering” of illicit proceeds through the banking system and other similar actions, will go “shadow”, which is highly likely to result in socially dangerous consequences.

Conclusions

Coronavirus COVID-19, without exaggeration, is a global phenomenon that needs to be assessed not as a sprint, but as a “pure” marathon, using sports terminology. Moreover, each global phenomenon that, to one degree or another, transforms (modifies) human civilization creates, on the one hand, new opportunities (prospects) for further sustainable development, but on the other, under certain conditions it can pose not only risks, but also real threats.

Crimes are such “threats”. Therefore, it is always necessary, including this case, to “cautiously” approach to the identification of such risks and objectively evaluate circumstances that may act as direct, indirect, “distant” determinants of a crime.

Speaking about the study of the phenomenon of crime in the context of the coronavirus and post-coronavirus, seemingly a comprehensive-systematic approach needs to be used. Firstly, it is necessary to distinguish the so-called coronavirus crime, that is, crime, which “accompanies”, “reflects” through its content both the viral disease itself and those measures that are implemented to limit, reduce, and possibly stopping the mass spread of this disease. Secondly, it must be borne in mind that this disease, both at the time of its immediate course and especially in subsequent periods, can have short-term, as well as long-term consequences; some of them can be predicted today; some - exist at the level of assumptions, and some of them are not yet known. All this, we believe, should be taken into account while recognizing certain acts as socially dangerous, defining their types, forms and legal regulation. This, in turn, requires relevant “reaction” from all “interested participants”. A certain “burden” should also be assigned to criminal law / legislation, which should “determine” in advance and identify a socially dangerous act (group of acts) as criminal, so that creates the necessary (real) legal basis for the application of the criminal justice system measures.

The adoption of a new or the improvement (amendment) of the existing criminal law / legislation is a very complex process (Strel'tsov, YE.L ‘Yake kryminal'ne zakonodavstvo my khochemo-bazhayemo chy musymo-povynni maty: tochka zoru’

[What criminal legislation do we want-want or should-have: point of view] Yurydychnyy visnyk Ukrainy, № 39 (1264), 27 veresnya – 3 zhovtnya 2019 r.; № 40, (1265) 4 zhovtnya – 10 zhovtnya 2019 r.). In any case, those changes that have been introduced into the current Criminal Code of Ukraine, especially in recent years, do not always have a substantive and systemic character, which, of course, affects the quality of criminal law / legislation. Therefore the adoption of the Law “On the Amendment of Certain Legislative Acts of Ukraine on the Improvement of the Amendment Procedure”, May 19, 2020 (draft law No. 2256), which supplemented Article 3 of the Criminal Code with Part Six as follows: “Changes to Ukrainian legislation on criminal liability may be introduced solely by laws amending this Code and / or criminal procedural legislation and / or legislation on administrative offenses” (http://search.ligazakon.ua/l_doc2.nsf/link1/JI00606A.html) should be considered as an attempt to take concrete steps to influence the necessary streamlining of legislative processes.



Different countries have different practices of the criminal law amendments, but these changes, in our opinion, should reflect two important points specific to criminal law / legislation during periods of statehood’s fundamental reform, which include the need for more substantive consolidation of criminal law sources and determination of approaches to its system construction. In any case, as we believe, an attempt to establish a correlation between the goals enshrined in the legislation and their implementation into subsequent practical activities allows monitoring the effectiveness of law enforcement practice as the ultimate goal of the criminal justice system tasks’ implementation. This idea should as well be taken into account when evaluating the modern and prospect crime associated with the coronavirus.