

Legal issues of pandemics

Vít Vlček

Abstract

Background. The pandemic legal issues are areas that are not closely monitored. In the developed world at the end of the 20th century and in the 21st century no pandemics of infectious diseases were present. These pandemics with a rapidly spreading diseases need to react quickly. It can be said that the biggest threat is the Pandemic flu.

The pandemic of infectious disease needs to be responded too quickly and vigorously, as it is necessary to confront the rapid spread of the disease. Hygienic, sanitary, preventive and curative measures, including, but not limited to, immediate orders, prohibitions and restrictions, are therefore urgently required.

On the pandemic of non-infectious diseases, it is necessary to respond in particular to preventive care, education and systematic clinical care. These pandemics, despite their very damaging effects, although manifested in mass, are essentially creeping. They require a systematic defense, not a lightning reaction. Because these are non-communicable diseases, diseases, often long-term and slowly progressing. The right must act for these pandemics for a long time or permanently. Law can act positively sometimes even indirectly, by promoting healthy behavior and burdening behavior that is inappropriate for health.

As for the pandemic of infectious diseases, there was no pandemic in the late 20th century and early 21st century.

Due to this fact, the response to the pandemic has not been paid much attention from the point of view of the defense of society. The pandemic infections didn't occur a longer time, a number of diseases having a persistent pandemic potential occurs in the tropical areas of developing countries (plague, cholera, Ebola fever Maburg, Lassa). In temperate zones, occurs in diseases with pandemic potential minor amount (whooping cough, diphtheria, polio, smallpox was eradicated) may be mentioned, e.g. SARS, AIDS, and further particularly influenza.

In non-infectious diseases, the individual patient's treatment is managed by the needs of specific therapy, and is not directly influenced by the incidence of the disease.

These facts have led to a social stance consisting of a limited willingness to regulate human behavior in relation to threats or occurrences of pandemics and mitigation of their consequences.

Methods: The analytical method was used to analyze legal standards. The synthetic method was used for legislative changes.

Results: Based on our findings, we are proposing the relevant legislative changes concerning the clarification of the state of emergency by the government, the free movement of persons, the limitation of which must be specified for the court decisions

on isolation, quarantine or involuntary hospitalization, drinking water management from the point of view of good operational practice, the procurement of medicines, compulsory vaccination, for a clearer implementation of the IHR International Health Regulations into the Czech legal order. In the case of non-infectious pandemics, further refinements are also appropriate, as the existing gaps in the legal system (legal classification of drugs, Internet gambling, taxing some alcohol, tobacco taxation, insufficient tax support for healthy lifestyles) substantially undermine the enforceability of the necessary prevention. It is also necessary to take the necessary role of law and to promote appropriate legislative changes in terms of health risk assessment. Regarding the availability of health care, it can be stated that the availability of healthcare in relation to possible pandemics is basically ensured.

Conclusion: If the legal framework is not fully and unambiguously consistent with constitutional rights, freedoms and principles, this can lead to unfortunate consequences. Unfortunate consequences in the sense that imminent threat to life and human health is unlikely to be immediately jeopardized, but after the extraordinary situations can be challenged. Consequently, the validity of certain decisions may be questioned in the area of public law, possibly in the area of private law, the validity of certain legal acts. Such doubts may cause unpleasant property disputes after the end of the pandemic. The existence of such disputes may in the future hamper the ability of actors involved in the fight against pandemics. Therefore, the proposed amendments to the legal order are appropriate.