

The Impact of the State of Emergency on the Assessment of Crimes

Abstract

The thesis provides an insight into the issue of assessing crimes committed during states of emergency during the pandemic of the covid-19 disease in the years 2020 and 2021. The aim of the thesis was to find out how the state of emergency is reflected in the Criminal Code, to identify the problems caused by the pandemic of the covid-19 disease in this area, and to evaluate the legislation in terms of the identified problems and, if necessary, to put forward *de lege ferenda* proposals.

The Criminal Code provides for a state of emergency in the provisions regulating basic bodies of three crimes, it also includes it among the generally aggravating circumstances and the state of emergency may also play a role in assessing the fulfilment of a circumstance triggering the application of a higher penalty rate for nine crimes. The thesis considers the definition of the above-mentioned circumstance triggering the application of a higher penalty rate for only nine crimes to be unsystematic and therefore proposes examples of other crimes where the circumstance should be included.

States of emergency and the covid-19 pandemic have caused inconsistency in the courts' decision-making practice. The courts have disagreed on the necessary degree of connection between the crime committed and the above-mentioned circumstance triggering the application of the higher penalty rate, with some courts being satisfied with a temporal and local connection, while others have required a factual connection in addition to temporal and local connection. The reconciliation of the contradiction required the intervention of the Grand Panel of the Criminal Division of the Supreme Court, the Constitutional Court and the legislator. The thesis describes the different approaches of the courts to the necessary degree of connection and their unification.

The thesis also finds the current legislation insufficiently clear and certain in this respect and makes proposals for its amendment.

Furthermore, the different approaches of the courts and, in particular, the application of qualified body of crime based only on temporal and local connection have led to disproportionate punishment of many perpetrators. The thesis therefore examines the possibilities of remedying this situation and proposes a new ground for retrial for this purpose.

Last but not least, the thesis reflects on the principle of subsidiarity of criminal repression and the institute of extraordinary reduction of imprisonment as means that courts

could have used to avoid imposing disproportionately severe sentences before the unification of decision-making practice.

The thesis was written using descriptive, comparative, analytical and synthetic methods.

Key words:

State of emergency, a circumstance triggering the application of a higher penalty rate, factual connection, covid-19