Resumé

The aim of this work was to try to analyze the offense of failure to help analyze the issues, which may result from application of this crime, which partially solves the jurisprudence of the courts. I tried to outline my views on this offense, especially on the possibility or impossibility of its application in the field of health care in the provision of health care doctors and nurses (health professionals). I outlined my views on the relationship of the offense to other offenses against life and health, to euthanasia and futile therapy. Did I mention the theory of the guarantor and the possibility of applying this theory in this offense and I was back to tackle the crime of failure to help in Germany, France and the common law type of legal culture.

After defining the characteristics of the offense of failure to help I dealt with the definition of certain concepts related to this crime. The primary concept is to define the necessary assistance to prevent imminent death or serious health disorders. In different situation may have needed help to acquire different dimensions. For example, the necessary assistance to the other content in whole helthy humans than in terminally dying terminally ill patient with no chance of recovery or survival or improve quality of life.

The necessary assistance is needed such assistance, which is essential to prevent or at least reduce the imminent danger of death or serious health disorders.

However, dying man is also exposed person within the meaning of Section 207 Czech Criminal Code because he or she is in danger of death, death is also imminent. If you can not for the provision of intensive treatment to the fullest extent possible along with all health care to the fullest extent possible to avert or at least reduce the threat of death or seriuos disturbances of health, it is not necessary to stay on through this therapy. In this case, it is necessary that the attending team/doctor/chief physician determine the extent of diagnostic and therapeutic procedures for this patient individually as required by his condiion, as complying with all medical-ethical-legal safeguards.

In this case, it is necessary for using such a limited patient intensive treatment or only primary health care (palliative care), rather than avert, or at least reduce the imminent danger of death or serious deterioration in health status, because the patient can no longer be able to heal and even death can not avert.
Therefore, the definition of the limits of the obligation to provide the necessary assistance for the life-threatening patients is closely linked to issues of euthanasia and futile therapy.
One of the basic features of this type is the fault of the offense the offender, vhich is required for criminal liability of intentional fault. Another important feature is a subjective criterion (the point of view) the offender, which must be shown to make the criminal liability of the offender is a person appeared to be directly endangered the life or it appeared that threatened imminent danger of serious health disorder.
In particular, I was in my work focused on the relationship between the necessary assistance to vulnerable persons and the provision of urgent medical care. Health professionals are best to provide the necessary assistance, because the criminal penalties for failure to help for them is higher than laymen. Therefore, also must be defined limits the grant of the necessary assistance for the threat to life and health of health professionals.
Each professional, then that which is required according to the nature of his employment, provide the necessary assistance, he must always provide the necessary assistance, except in the case, if the provision of needed assistance was linked to direct immediate threat to his life and health or life and health of others, except for fire fighters who by the emergency action had to tolerate a reasonable risk to their lives and health.
Similarly, it should be defined the limits of the grant of the necessary medical assistance to patients in conflict with the obligations of duty to provide care with informed consent of the patient.
Whether threatened to get the necessary assistance can decide the amount, type, enforcement of criminal sanctions and termination of criminal liability in the event of additional voluntary compliance provide the necessary assistance.
These are factors that also regulate human hearing, namely whether or not ultimately be threatened given the necessary assistance.

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the theory of the guarantor – teorie garanta
futile therapy – marná léčba