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CHANGES AND PROBLEMATIC ASPECTS IN LEGAL REGULATION OF ADMINISTRATIVE LIABILITY DUE TO QUARANTINE

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Annotation. he declaration of emergencies and quarantine across the country has inevitably affected, if not all, most areas of public life. There was a need and necessity to regulate both new and changed old social relations. The unfavorable circumstances also revealed the existing gaps in the legal regulation. This article analyzes changes in legal regulation in the context of administrative liability. The answer is sought to the question whether those changes were necessary at all, whether the wording of the legal norms influenced by the new legal regulation is in accordance with the objectives of the legislator. Given that the investigation is being carried out shortly after the changes in the legal framework, the question arises as to whether the institutions are properly applying the new or amended legal provisions governing administrative liability. It is presumed that improper, formal, administrative liability may lead to an increase in legal disputes concerning compensation for damage caused by the unlawful actions of officials. Suggestions for the improvement of legal regulation are presented considering the identified problems.

Keywords: administrative liability, signs of administrative offense, legal regulation, quarantine

INTRODUCTION

Taking care of health is not only a personal right and / or duty of an individual, but also a duty of the Lithuanian state. Such an obligation follows directly from the Constitution. Paragraph 1 of Article 53 of the Constitution enshrines that: “The State shall take care of the health of people <...>” (*Constitution of the Republic of Lithuania* (CRL) 1992 Lietuvos Aidas, No. 220-0). The practice of the Constitutional Court of the Republic of Lithuania (CCRL) (hereinafter - the Constitutional Court) in interpreting this norm of the Constitution is not abundant. However, the Constitutional Court has repeatedly ruled on it indirectly in its jurisprudence - i. e. in cases where this provision was interpreted in the context of other constitutional rights, such as the right to private life (Article 22 of the CRL), the right to work (Article 48 of the CRL), and the freedom of economic activity (Article 46 of the CRL). Explaining the provision “the state takes care of human health”, the court has stated that human and public health is one of the most important values of society, that the protection of human

health is a constitutionally important goal and public interest (*Ruling of the Constitutional Court of the Republic of Lithuania (2017)* LRKT Nr. 8/2016). In the doctrine of law, this right belongs to the group of human social rights and is interpreted broadly (as in the jurisprudence of the Constitutional Court). ”<..> *An interesting aspect of social rights - the right to health care - is that this right is protected not only as an individual human right. social right to health care, but also as a collective right, i.e. the public interest justifying, inter alia, the restriction of certain other rights and / or freedoms, such as freedom of expression, freedom of information or the right to property '*. (Lapinskas 2006). In this context, various hygiene regulations or other public health legislation related to health protection have been adopted and are in force. According to the author, it is necessary to mention that health protection, as an obligation of the state, is also provided for in the European Union and international legal acts. Article 191 paragraph 1 and 2 of the Treaty on the Functioning of the European Union provides, *inter alia*, that the Union's policy on the environment is to contribute to the following objectives: ... the protection of human health ... and Article 11 of the revised European Social Charter. , Measures to Eliminate the Causes of Poor Health and to Prevent Epidemic, Endemic and Other Diseases as Much As Possible ”(*European Social Charter (revised) 2001* (Official Gazette No. 49-1704)) February 26 by resolution no. 152 The "State of Emergency Declaration" declared a state-wide state of emergency due to the threat of the spread of the new coronavirus (COVID-19). In view of the adverse epidemic situation of COVID-19 (coronavirus infection) and in line with the 9 of March 2016 Regulation (EC) No 1/2003 of the European Parliament and of the Council 2016/399 on the rules governing the movement of persons across borders, Articles 25 and 27 of the Union Code (Schengen Borders Code), Article 21 paragraph 3 part 1 of the Law on the Prevention and Control of Infectious Diseases of the Republic of Lithuania, Article 21 paragraph 2 part 1 of the Law on Civil Protection point, 14 of March 2020 by resolution no. 207 “On the Announcement of Quarantine in the Territory of the Republic of Lithuania” announced the third (full readiness) level of civil protection system readiness and quarantine in the entire territory of the Republic of Lithuania. On that basis, a series of restrictions and prohibitions were imposed, both on cross-border and domestic movements and on public and private sector activities, which imposed various mandatory obligations and prohibitions on natural and legal persons. In view of this, it was necessary to react promptly by adapting the existing or introducing new legal regulation, to the changed factual circumstances and the

established legal regime. Legislation was carried out rapidly and on a large scale[1]. Although, in principle, prohibitions and restrictions were welcomed by the public[2], as usual, not all members of the public were willing to comply unconditionally with the law. In order to prevent non-compliance with public health, civil protection legislation, decisions taken by municipal authorities and violations committed during a state dangerous to the state or society and conditions of declaration of war, emergency, mobilization, quarantine, limited quarantine, as well as in the event of an emergency or emergency, if an emergency situation or emergency endangers human life or health, to deter persons from committing such violations, it was decided to add new paragraphs to Articles 45, 46, 506 and 526 of the Code of Administrative Offenses of the Republic of Lithuania (hereinafter – CAO, Code). he composition of the administrative offenses provided for in these Articles for the commission of such offenses during war, emergency, mobilization, quarantine, restricted quarantine, emergency, or emergency events (Infolex 2020). At the same time, the range of institutions empowered to investigate and impose administrative liability for the above offenses was expanded: police, military police, officers of the State Border Guard Service under the Ministry of the Interior and the Public Security Service under the Ministry of the Interior.

The purpose of the research is to determine whether the changes in the legal regulation of administrative liability correspond to the aims and objectives of the draft law, both in terms of the formulation of the legal norm and its application.

Methodology. Analyzing the legal regulation of administrative liability and the problems of its application, in the context of the researched topic, comparative historical, logical-analytical, document analysis, systematic analysis, scientific literature and document analysis methods were used. The comparative historical method is used in the analysis as the administrative liability of another, in the context of the analyzed topic, providing for legal regulation, features of the composition of the violation of the law. The document analysis method is used to study European Union regulations or decisions in the field of public health,

[1] The article was completed in 2020. On 27 May, and according to today's data, there were 921 documents in the Infolex system (of which EU legal acts 2, draft legal acts 4, legal acts 915) with the same tag #Coronavirus https://www.infolex.lt/teise/ Tag.aspx? ZymesId = 2893.

[2] As an example, surveys conducted by different subjects were selected and their summarized results are presented: https://klaipeda.diena.lt/apklausos/956794 in response to the question: “How do you react to prohibitions and instructions aimed at controlling the spread of coronavirus in Lithuania?” Of the 6,655 respondents, 86.2 percent rated it very well; https://inspired.lt/Kog/Covid19_Visuomenes_nuomone_03.26.pdf Residents especially welcome the decisions taken by the Government in the fight against coronavirus in Lithuania. As many as 76% of all respondents say they support their actions. Only 1 in 10 indicated that they did not support such actions.

hygiene regulations, the Law on the Prevention and Control of Infectious Diseases of the Republic of Lithuania and other legal acts in the field of public health, and liability for their violation. The logical-analytical method is used to generalize and formulate conclusions. The method of systematic analysis has been applied to the study of problems arising in the qualification of individuals' actions, considering the applicable legal norms, case law and statistical data. The method of analysis of scientific literature and court decisions is used to clarify the problematic aspects of the application of administrative liability in the context of the analyzed topic.

THE SCOPE OF CHANGES IN THE LEGAL REGULATION OF ADMINISTRATIVE LIABILITY

As already mentioned, this article was inspired to determine whether the changes in the legal regulation of administrative liability are in line with the aims and objectives of the draft law, both in terms of the formulation of the legal norm and its application. The aim of the legislator was to prevent non-compliance with legal acts in the field of public health, civil protection, decisions made by municipal institutions and violations committed during a state dangerous to the state or society and conditions of declaration of war, state of emergency, mobilization, quarantine, limited quarantine and emergency or an emergency event, if an emergency or an emergency event endangers human life or health, to deter individuals from committing such violations (Infolex 2020). Taking this into account, when analyzing the changes in the regulation of administrative liability, we will limit this article to the analysis of changes in the legal regulation of offenses provided for in CAO 45, 46, 506 and 526 - specifically part 45, 46, 96, 506, 526, 589 of the Code of Administrative Offenses and analysis of the amendments in Articles 608 (*Code of Administrative Offenses 2020*, (TAR, 02-04-2020, No. 6899)).

Changes in the legal regulation of administrative liability for violations of legal acts in the field of public health, prevention, and control of infectious diseases

Liability for violations of European Union regulations or decisions in the field of public health, hygiene regulations or other legal acts in the field of public health, the Law on the Prevention and Control of Infectious Diseases of the Republic of Lithuania and decisions of municipal councils or orders of municipal administrations on combating infectious disease

outbreaks and epidemics non-execution or late execution, regulated in Articles 45 and 46 of the Code of Administrative Offenses. Articles 45 and 46 of the CAO are set out in Chapter VIII of the Code, "Administrative Offenses Related to the Protection of Human Life and Health".

Until the entry in to the force of the Code of Administrative Offenses (1 of January 2017), the 13 of December 1984 adopted in 1 of April 1985 Code of Administrative Offenses of the Lithuanian SSR (*Code of Administrative* Offenses *of the LSSR (1985)* Government Gazette No.1-1) (hereinafter - the CAVL) was in place. From the first wording of the CAVL, Article 42 established liability for offenses of sanitary hygienic and sanitary pre-epidemic rules and norms.

After Lithuania regained its independence, the Code of Administrative Offenses continued to apply *mutatis mutandis*. On 26 of May 1992 the Law no. I-2589 (entered into force on 15 June 1992) (Official Gazette, 1992, No 21-610) changed the disposition of the norm and provided for liability for offense of hygiene regulations. In addition, the same article provided for liability for such a repeated infringement.

Since 30 of October 1996 the wording of the three-part[3] article came into force that provides for liability for non-execution or untimely execution of decisions of municipal councils and boards in the fight against human infectious disease outbreaks and epidemics, and provides for this offense with a qualified composition - if the offense is repeated. Such legal regulation remained (despite the changes in sanctions and wording) for 20 years before the expiry of the CAVL on 31 of December 2016.

From 1 of January 2017 The Code of Administrative Offenses has entered into force. Articles 45 and 46 of the CAO regulate administrative liability as follows:

- imposes a warning or a fine on persons from sixty to one hundred and forty euros and a fine on the heads of legal persons for offense of European Union regulations or decisions in the field of public health, hygiene regulations or other legal acts in the field of public health, the Law on the Prevention and Control of Infectious Diseases of the Republic of Lithuania, or for other responsible persons from one hundred forty to six hundred euros paragraph 1. The same act committed repeatedly imposes a fine between one hundred and forty and six hundred euros and on the heads of legal persons or other responsible persons between five hundred and fifty

[3] Violation of hygiene regulations and rules for prevention and control of infectious diseases in humans (part 1); The same act committed by a person punished by an administrative penalty for the violations provided for in Paragraph 1 of this Article (part 2); The acts referred to in Paragraph 1 of this Article which have caused the risk of spreading dangerous or especially dangerous infectious diseases or which have led to their spread (part 3).

and one thousand two hundred euros (paragraph 2). Article 45 paragraph 3 of the CAO, which provides for administrative liability for the administrative offense referred to in paragraph 1 of this Article for whom has led to the spread of dangerous or particularly dangerous infectious diseases, imposes a fine of between three hundred and five hundred and sixty euros and for directors or other liable persons one thousand four hundred to three thousand euros;

- for non-execution or late execution of decisions of municipal councils or orders of directors of municipal administrations in the fight against infectious disease outbreaks and epidemics, which entails a fine of thirty to ninety euros and for managers of legal entities or other responsible persons from one hundred forty to three hundred (Article 46 paragraph 1). Paragraph 2 of this Article establishes administrative liability for these repeated acts, which entails a fine of eighty to one hundred and fifty euros for persons and two hundred and eighty to six hundred euros for managers of legal persons or other responsible persons. (Code of Administrative Offenses 2015 (TAR, 10.07.2015, No. 11216). And although there were 98 amendments to the Code of Administrative Offenses[4] that entered into force by 31 of March in 2020[5], this legal regulation has not been changed.

The initiator of the bill - the Ministry of Justice - stated in the explanatory memorandum (Infolex 2020) that it is proposed to add new parts to Articles 45 and 46 of the CAO providing for qualified composition of administrative offenses under these articles for war, emergency, mobilization, quarantine, restricted quarantine, during an emergency or extreme event, ie proposed that:

1) To supplement Article 45 of the CAO with paragraph 4, which provides for administrative liability for offense of European Union regulations or decisions in the field of public health, hygiene regulations or other legal acts in the field of public health, the Law on Prevention and Control of Infectious Diseases of the Republic of Lithuania dangerous infectious diseases committed during war, emergency, mobilization, quarantine, restricted quarantine, as well as in the event of an emergency or extreme event, if the emergency or extreme event endangers human life or health. It is proposed to set the fine for persons from five hundred to one thousand five hundred euros and for managers of legal entities or other responsible persons - from one thousand five hundred to six thousand euros.

[4] Total until 31 of March 2020 111 amendments to the CAO were adopted.
[5] Until the relevant amendments to Articles 45.46, 506, 589 of the Code of Administrative Offenses are analyzed in the article.

2) to supplement Article 46 of the CAO with paragraph 3, which provides for administrative liability for non-execution or untimely execution of municipal council decisions or orders of directors of municipal administrations to combat infectious disease outbreaks and epidemics during war, emergency, mobilization, quarantine, limited quarantine, also in the event of an emergency or extreme event, if the emergency or emergency endangers human life or health. It is proposed to set the fine for persons from two hundred and fifty to eight hundred euros and for managers of legal entities or other responsible persons - from eight hundred euros to one thousand five hundred euros.

The Minister of Justice, presenting the changes in the legal regulation, indicated that it is proposed to apply almost ten times higher fines for offenses of the rules of quarantine and self-isolation during an emergency. Currently, the CAO provides for a warning or a fine from sixty to one hundred and forty euros for offenses against natural persons, and if the amendment to the law enters into force, the fine would be from five hundred to one thousand and five hundred euros. The fines for legal entities and their managers would increase accordingly: now - from one hundred and forty to six hundred euros, and will be from one thousand five hundred to six thousand euros (Government of the Republic of Lithuania 2020).

Thus, the purpose of the initiators of the draft amendments to the law was to increase the penalties for misconduct provided for in Articles 45 paragraph 1 and 46 paragraph 1 of the CAO.

It must be agreed that Article 46 paragraph 3 of the CAO is in line with the intention of the initiator of the bill and, presumably, the legislature.

However, after examining the amendments to the law in the context of Article 45 of the CAO, it is clear that the provisions of Article 45 paragraph 4 of the CAO are based on the disposition not on Article 45 paragraph 1 but on Article 45 paragraph 3 in which the new legislation provided for liability for an infringement <…> during quarantine <...> *inter alia* gave rise to a risk of the spread of dangerous or particularly dangerous infectious diseases.

In view of the above, using teleological and methods of interpretation of the law of intent of the legislator, it is concluded that the amendments to Article 45 of the Code of Administrative Offenses were only partially in line with the real intentions of the project initiator and the legislator.

Changes in the legal regulation of administrative liability for not complying to legal instructions or requirements of statutory civil servants, military police, or intelligence officers

Failure to comply with the requirements of lawful officials has been an administrative offense of the law since the first wording of the CAO. Only the concepts (considering institutional changes), the number of entities and the sanctions for these offenses have changed. The law was supplemented with quasi-misdemeanor formations, and from the first edition of the disposition: *"Malicious disobedience to the lawful handling or claim of a militia employee or a friend of a people holding public order"* to the present day, administrative liability is regulated as follows[6]:

- Article 506 paragraph 1 of the CAO provides for administrative liability for non-compliance with a lawful police officer's request to appear before the police.

- Article 506 paragraph 2 of the CAO provides for administrative liability for the passage, crossing, tearing or demolition of a police lane or other barrier enclosing the perimeter of the scene with the inscription "STOP POLICE",

- Article 506 paragraph 3 of the CAO provides for administrative liability for intentional non-compliance with the lawful requirement of a uniformed soldier, as well as other obstruction of the uniformed soldier's exercise of the rights conferred on him by law,

- Paragraph 4 of Article 506 of the CAO establishes administrative liability for non-compliance with a lawful instruction or requirement of a statutory civil servant, military police or intelligence officer, except for the cases specified in Article 556 of this Code (*Code of Administrative Offenses of the Republic of Lithuania 2015*, TAR No. 11216).

It is objectively clear that during a war, emergency, mobilization, quarantine, restricted quarantine, as well as in the event of an emergency or extreme event, if the emergency or emergency event endangers human life or health, failure to comply with a police officer crossing the strip, removal, intentional non-compliance with a lawful requirement of a uniformed soldier or obstruction of the uniformed soldier to exercise the rights granted to him by law, non-compliance with a lawful instruction or requirement of a statutory civil servant, military police or intelligence officer shall be considered more dangerous offenses. Accordingly, Article 506 of the CAO has been supplemented by paragraph 41, which provides

[6] Only the parts of Article 506 of the CAO that are relevant to the scope of this study are cited.

for administrative liability for the commission of the acts referred to in paragraphs 1 to 4 of this article during war, emergency, mobilization, quarantine, restricted quarantine, emergency or event in case of emergency, whether the emergency endangers the life or health of persons, during an emergency or emergency event, to impose a fine on persons from two hundred to five hundred euros and on the heads of legal persons or other responsible persons - from five hundred euros to one thousand five hundred euros.

In the event of a quarantine situation or other specified special cases, officers shall work in a specific regime, in other risk circumstances and with limited capacity. In the context of such circumstances, the focus is on ensuring human security and threats from quarantine and so on. This makes it more difficult for officers to react to, for example, a offense of traffic rules, public order or another, where the offenders do not comply with the police officers' requests to stop the illegal actions or obstruct the investigation of the circumstances of the incident. Officers should leave from other stressful places to ensure order where officials are disobedient. It is therefore to be agreed with the legislator that more severe offenses should be imposed for more serious offenses.

Changes in the legal regulation of administrative liability for non-compliance with or offense of the Law on Civil Protection of the Republic of Lithuania and other legal acts regulating civil safety

Although the Law on Civil Protection was adopted in 1998 *(Law on Civil Protection of the Republic of Lithuania 1998*, Official Gazette, 1998, Nr. 115-3230), administrative liability for offenses of this law and other legal acts in this field has been established only since 1 of January 2011 Article 1922 of the CAVL (Law on Amendments to the Code of Administrative Offenses of the Republic of Lithuania 2010, No. 142-7257). The composition of this offense of the law has not been changed in Article 526 of the Code of Administrative Offenses.

Paragraph 1 of Article 1 of the Law on Civil Protection of the Republic of Lithuania provides that this Law establishes the legal and organizational bases for the organization and operation of the civil protection system, competence of state and municipal institutions and bodies, rights and obligations of other bodies, economic entities and residents. Therefore, it is natural that apart from the legal norms analyzed above, in the context of quarantine, there is a need to strengthen the liability for non-compliance or offense of legal acts regulating civil protection.

In view of this, Article 526 of the CAO has been supplemented with Paragraph 3, which provides for administrative liability for non-compliance or offense of the Law on Civil Protection of the Republic of Lithuania and other legal acts regulating civil protection during war, emergency, mobilization, quarantine, restricted quarantine, as well as emergency or an emergency event, if the emergency or emergency event endangers human life or health, imposing a fine of five hundred to one thousand five hundred euros for persons and one thousand five hundred to six thousand euros for managers of legal persons or other responsible persons.

It is considered that a breach of civil protection law in quarantine or other extreme circumstances is more dangerous than a similar breach in normal circumstances, therefore the sanction must be differentiated and adequate to the seriousness of the breach.

PROBLEMATIC ASPECTS OF THE APPLICATION OF ADMINISTRATIVE LIABILITY

The social function of law is the occurrence, process and result of the impact of law on public life, corporate consciousness, and behavior. Law is created or "spontaneously emerges" in the social space and is implemented in it to one degree or another. The implementation of the law manifests itself in the concrete results of the impact on public life, corporate consciousness, and behavior (Šlapkauskas 2004). The most favorable situation for the implementation of a legal act is when its planned objectives are achieved at the lowest cost. Conversely, unplanned negative consequences of the implementation of a legal act are especially useless, as they are clearly contrary to the goals pursued by the subject of the legislation (Šlapkauskas 2002).

We discussed the purpose of regulatory change above in this article. Let us further analyze the extent to which that goal was achieved in the light of both the doctrine and the goals of the legislature.

In the opinion of the author of the article, in terms of expediency and application, only the supplement to Article 45 of the COA part 4, therefore, it is this norm that will be analyzed as problematic below.

Paragraph 4 of Article 45 of the COA provides for administrative liability for offense of European Union regulations or decisions in the field of public health, hygiene regulations or other legal acts in the field of public health, the Law of the Republic of Lithuania on the

Prevention and Control of Infectious Diseases of the Republic of Lithuania **the risk of the spread of dangerous or particularly dangerous infectious diseases** (underlined and highlighted by the author, Authors note), committed during war, emergency, mobilization, quarantine, restricted quarantine, as well as in the event of an emergency or extreme event, if the emergency or extreme event endangers human life or health.

According to the case law, a person is held administratively liable only if the composition of the administrative offense accused of him or her has been established based on the evidence in the case. The commission of a specific administrative offense as defined by law, which has all the features of the composition of an administrative offense specified by law, means that there is a factual basis for bringing the guilty person to administrative liability and imposing appropriate penalties and other sanctions. Administrative misconduct, like other offenses, is characterized by the following four objective and subjective features: (a) object; (b) objective characteristics; (c) the entity; (d) subjective features. All these elements are required to determine the composition of an administrative offense. If there is at least one feature missing, then there is no composition of the offense as a whole (*ruling of the Supreme Court of Lithuania in the case of administrative offense* No. 2AT-30-699 / 2017, No. 2AT-10-648 / 2019, etc.).

Let us analyze the objective signs of this transgression.

The objective feature of this act is that the act manifests itself in offense of European Union regulations or decisions in the field of health, hygiene regulations or other legal acts in the field of public health, and the Law of the Republic of Lithuania on the Prevention and Control of Infectious Diseases. Therefore, legislation establishing the basic principles of public health protection is also important for the understanding and proper and effective application of the provisions of Article 45 of the CAO. It should also be noted that the disposition of Article 45 paragraph 4 of the CAO is a blanket rule of law. In the case of a blanket disposition, it is inevitable to rely on another law or legal act to determine the list of offenses and the signs, which is usually established in a general form in the disposition of the article. The rules of public health protection referred to in Article 45 of the CAO cover a large number of hygiene regulations or other legal acts in the field of public health, offenses and methods established in the legal acts of the Republic of Lithuania establishing public health protection rules and prohibitions.

Since the composition of the offense provided for in Article 45 paragraph 4 of the CAO is material, a precondition for the occurrence of administrative liability is the occurrence of the

consequences provided for in this Article. According to Article 45 paragraph 4 of the CAO, the consequences may be: 1) causing a risk of spreading dangerous diseases; 2) causing a risk of the spread of particularly dangerous infectious diseases. It should be noted that the composition of the infringement provided for in Article 45 paragraph 4 of the CAO is somewhat unusual, since the consequences in this case are not the damage caused by the infringement but the threat of such damage, which is to be proved within the meaning of Article 45 paragraph 4 of the CAO. If such a threat does not arise, the person may incur administrative liability for offenses of hygiene regulations or other public health legislation, which is provided for in other paragraphs of Article 45 of the CAO.

Paragraph 4 of Article 45 of the CAO establishes the composition of offenses of hygiene normative acts or other legal acts in the field of public health and describes the characteristics of the risk of spreading diseases. In the absence of an explanation of those concepts in the CAO, the criterion of the threat of consequences is, according to legal doctrine, a matter for assessment in the light of all the circumstances of the case. In each case, the consequences or their threat are assessed individually.

The case law and the doctrine of criminal law state that the content of the constituent element of the offense under assessment is assessed on an *ad hoc* basis (for a specific situation; only in this case; only this time). This means that the content of such an indication is disclosed in the assessment of the specific facts of the case. It is necessary first to clarify the content of such a characteristic and then to assess it in the light of the specific facts of the case. The potential danger must be recorded in a specific case.

When classifying an act in accordance with Article 45 paragraph 4 of the CAO, it is necessary to establish that **the risk of the spread of dangerous or particularly dangerous infectious diseases** as a result of the offense was real, i. e. there was a specific or clear threat as a real threat to public health. It is not enough to presume a threat to public health, it is necessary to prove it.

Paragraph 3 of Article 2 of the CAO provides that a person is liable under this Code only if he is guilty of an administrative offense, and Article 4 paragraph 4 provides that only a person whose acts prohibited by law meet the characteristics of an administrative offense under this Code is liable under this Code. According to the provisions of Article 5 of the CAO, an administrative offense is a dangerous act (act or omission) committed by the perpetrator

prohibited by this Code, which corresponds to the features of an administrative offense for which an administrative penalty has been imposed.

According to paragraph 1 of Article 5 of the CAO, an administrative offense is a dangerous act (act or omission) committed by an offender prohibited by this Code and corresponding to the characteristics of an administrative offense for which an administrative penalty has been imposed. Thus, there is no doubt that an act committed by a person is recognized as an administrative misconduct when it is proved that the person's actions constitute an administrative offense established in a special part of the CAO. For a person to be found guilty of an administrative offense, sufficient evidence must be gathered to substantiate his guilt. Pursuant to the provisions of Article 569 of the CAO, evidence in an administrative misconduct case is any factual data collected in accordance with the law, on the basis of which officials investigating an administrative offense determine the fact and circumstances of the administrative offense, the guilt of relevant to the proper conduct of the case. Pursuant to Paragraph 4 of the commented Article, the court and the out-of-court administrative body (official) shall assess the evidence on the basis of its internal conviction based on a thorough and impartial examination of all the circumstances of the case in accordance with the law. This means that when determining legally significant circumstances, the totality of evidence collected in the case, its sufficiency, consistency, possible contradictions, logic, circumstances of providing relevant data and reliability of evidence sources must be assessed (*Ruling of the Supreme Court of Lithuania in Administrative Offense Case No. 2AT-3-1073 / 2019*).

A lawful, reasonable and, at the same time, fair decision in an administrative misconduct case can be made only if the circumstances relevant to the correct examination of the case are disclosed in detail. If it is not possible to ascertain the essential circumstances of the event which led to the initiation of the administrative misconduct investigation (justice), the court cannot reliably establish the material truth. The assessment of the evidence in a case, as an integral part of the process of taking evidence in court, inevitably involves a thorough and impartial examination of all the facts of the case. Thus, the investigation of an administrative offense is carried out in accordance with the purpose and principles of administrative offense law (Articles 563, 566 of the CAO), the circumstances of an administrative offense must be fully and objectively investigated (Article 567 of the CAO).

The protocol of an administrative offense shall be drawn up when the fact of the commission of the administrative offense (place, time, essence) has been established, the person

who has committed the offense is known, and the necessary elements of the administrative offense can be established. Officials authorized to draw up a report on an administrative offense must gather evidence which, after examining and evaluating the administrative offense case, would enable the investigating authority to establish the fact of the administrative offense and determine the circumstances related thereto. The case-law draws attention to the fact that Article 609 paragraph 1 of the CAO sets out the necessary elements of the content of an administrative offense report, i. e. it must state the essence of the administrative offense; an article and parts of an article of this Code. The essence of an offense within the meaning of Article 609 paragraph 1 of the CAO is the totality of objective features of the composition of an administrative offense. Therefore, the outcome of an administrative misdemeanor case also depends on the correct drawing up of the protocol, because the administrative misdemeanor report has a decisive significance in determining the guilt of a person (*Supreme Administrative Courts of Lithuania (SACL) ruling of 15 January 2010 in administrative case No. N575-1253 / 2010*).

There is also a case-law that the protocol of an administrative offense (formerly an offense) has a dual meaning: it is a procedural document setting out the allegation of an administrative offense and a document setting out the evidence, facts and knowledge relevant to the proceedings. One of the essential functions of the administrative misdemeanor protocol is that it defines the limits of administrative misdemeanor proceedings - the case is examined only for the misdemeanor that was indicated in the administrative misdemeanor (formerly - offense of law) protocol (*SACL ruling of 14 June 2007 N16-1221 / 2007, Order of 2 July 2010 in Administrative Case No N63-707 / 2010, etc.*).

According to the data of the Register of Administrative Offenses (hereinafter - RAO) until 2020. May 27 632 protocols with administrative instructions were drawn up. Before that, taking 5 years of statistics, it can be seen that the norm referred to in Article 45 paragraph 3 of the CAO has not been applied at all, therefore the practice of applying this norm has not been formed yet. It is important that police officers, state border guards, who acquired the right to apply this norm only from 3 of April 2020, drew the most[7] protocols of administrative offenses.

In view of this, the author considers that there are reasonable doubts as to whether in all the cases, the officials were able to identify and substantiate the obligatory feature of the offense - the consequences.

[7] Police officers drew 615, state border guards drew 10 protocols of administrative offenses.

It remains questionable to what extent persons were reasonably prosecuted and how likely they were all to be punished for correctly classifying the act under Article 45 paragraph 4 of the CAO, and not, for example, in accordance with Article 45 paragraph 1 of the CAO.

Taking into account the above, in the author's opinion, it is necessary to immediately change the legal regulation, providing for liability for offense of European Union regulations or decisions in the field of public health, hygiene regulations or other public health legislation, the Law on Prevention and Control of Infectious Diseases of the Republic of Lithuania during war, emergency, mobilization, quarantine, restricted quarantine, as well as in the event of an emergency or an emergency, if the emergency or emergency event endangers human life or health i.e. placing an infringement with a qualifying feature in a formal composition.

CONCLUSIONS AND RECOMMENDATIONS

In the event of a quarantine situation or other specified special cases, officers shall work in a specific regime, in other risk circumstances and with limited capacity. In the context of such circumstances, the focus is on ensuring human security and threats from quarantine and so on. It is therefore to be agreed with the legislator that more severe offenses should be imposed for more serious offenses. Using teleological and methods of interpretation of the law of intent of the legislator, it is concluded that the amendments to Article 45 of the Code of Administrative Offenses were only partially in line with the real intentions of the project initiator and the legislator. According to Article 45 paragraph 4 of the CAO, the consequences may be: 1) causing a risk of spreading dangerous diseases; 2) causing a risk of the spread of particularly dangerous infectious diseases.When classifying an act in accordance with Article 45 paragraph 4 of the CAO, it is necessary to establish that the risk of the spread of dangerous or particularly dangerous infectious diseases as a result of the offense was real, i. e. there was a specific or clear threat as a real threat to public health. It is not enough to presume a threat to public health, it is necessary to prove it. According to the data of the Register of Administrative Offenses (hereinafter - RAO) until 2020. May 27 632 protocols with administrative instructions were drawn up. Before that, taking 5 years of statistics, it can be seen that the norm referred to in Article 45 paragraph 3 of the CAO has not been applied at all, therefore the practice of applying this norm has not been formed yet. There are reasonable doubts as to whether in all the cases, the officials were able to identify and substantiate the obligatory feature of the offense - the consequences. it is necessary to immediately change the legal regulation, providing for liability

for offense of European Union regulations or decisions in the field of public health, hygiene regulations or other public health legislation, the Law on Prevention and Control of Infectious Diseases of the Republic of Lithuania during war, emergency, mobilization, quarantine, restricted quarantine, as well as in the event of an emergency or an emergency, if the emergency or emergency event endangers human life or health i.e. placing an infringement with a qualifying feature in a formal composition.

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