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## LEGAL LIABILITY FOR QUARANTINE VIOLATIONS: LEGAL REGULATION AND CASE LAW IN LITHUANIA

**Birutė PRANEVIČIENĖ**

*Mykolas Romeris University*

*Maironio st. 27, LT-44211 Kaunas, Lithuania*

*E-mail: [praneviciene@mrui.eu](mailto:praneviciene@mrui.eu)*

*ORCID ID: [0000-0001-7122-6005](https://orcid.org/0000-0001-7122-6005)*

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**Abstract.** *The article analyzes the legal responsibility for quarantine violations in Lithuania. An analysis of legal acts establishing the quarantine regime and various restrictions on personal rights and freedoms during quarantine is presented, as well as administrative and criminal liability for violations of the aforementioned restrictions are discussed. The practice of applying administrative responsibility to legal entities is analyzed separately. And an analysis of the practice of applying administrative responsibility to natural persons is presented. The case analysis method was applied, during which 200 cases of administrative offenses were analyzed.*

**Keywords:** *quarantine, responsibility for quarantine violations, administrative legal responsibility*

### Introduction

In 2020 following the announcement by the World Health Organization of a pandemic due to the spread of the Covid-19 virus, countries facing this dangerous disease had to make decisions that affected the management of the spread of the virus. As a result, many states declared a state of emergency - a state of extreme situation or quarantine, and introduced certain restrictions on individual rights. The measures to stop various activities of individuals were taken in order to slow down the spread of COVID-19.

The Government of the Republic of Lithuania in 2020 March 14 adopted a resolution, announcing the third (full readiness) level of civil protection system readiness in the territory of the Republic of Lithuania and from 2020 March 16 until March 30 introduced a quarantine regime in the country. Subsequently, the quarantine was extended several times by government decrees. Quarantine regime allows for unusual, radical and non-routine restrictions on activities. Such restrictions are related to the epidemiological situation in the country

The Government Emergency Commission of the Republic of Lithuania proposed to the Cabinet to lift the quarantine from June 17, 2019, but to extend the state-level emergency. Due to the deteriorating epidemiological situation in the country, a second quarantine was introduced by a Government decree from 2020 November 7 until 2021 January 31. Restrictions on personal freedoms have also been tightened several times.

The objective of the article is to analyse the changes in the legal framework that have taken place to prevent the spread of coronavirus and the practice of implementing legal regulation in the application of administrative legal liability for quarantine violations in Lithuania.

During the preparation of the article national legal acts and scientific literature were analyzed. An analysis of the case law on administrative liability for quarantine violations has also been carried out.

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## Quarantine as an extreme public administration regime and the introduction of the restrictions on personal freedoms and activities due to quarantine in Lithuania

In simple terms, quarantine means a period of time during which a person who might have a disease is kept away from other people in order to prevent the spread of the illness. Dorland's Illustrated Medical Dictionary defines quarantine as "restriction of freedom of movement of apparently well individuals who have been exposed to infectious disease, imposed for the usual maximal incubation period of the illness". Separating those who are exposed to an infectious disease in order to stop the spread of infection is called quarantine, whereas separating those with the disease is called isolation"<sup>1</sup>.

Historically quarantine has been defined as the detention and segregation of subjects suspected to carry a contagious disease<sup>2</sup>. More recently, the term quarantine has changed and could indicate a period of isolation imposed on persons or animals that might spread a contagious pathology.

„The term and the concept of quarantine are profoundly rooted in culture and world health procedures, and have periodically recalled peak interest in the course of epidemics.“<sup>3</sup> If in the past the concept of quarantine was used to refer to the period of isolation of people, then nowadays the term quarantine is applied to animals and things as well.

“In public health practice, “quarantine” refers to the separation of persons (or communities) who have been exposed to an infectious disease. “Isolation,” in contrast, applies to the separation of persons who are known to be infected. In U.S. law, however, “quarantine” often refers to both types of interventions, as well as to limits on travel. Isolation and quarantine can be voluntary or imposed by law.”<sup>4</sup>

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<sup>1</sup> A.V. Raveendran ir Rajeev Jayadevan, „Reverse quarantine and COVID-19“, *Diabetes & Metabolic Syndrome: Clinical Research & Reviews*, Volume 14, Issue 5 (2020):1323-1325, <https://doi.org/10.1016/j.dsx.2020.07.029>, (<https://www.sciencedirect.com/science/article/pii/S1871402120302770>).

<sup>2</sup> AA. Conti, „Quarantine Through History“, *International Encyclopedia of Public Health*, (2008):454–462, DOI: 10.1016/B978-012373960-5.00380-4, <https://www.sciencedirect.com/science/article/pii/B9780123739605003804?via%3Dihub>.

<sup>3</sup> AA. Conti, „Quarantine Through History“, *International Encyclopedia of Public Health*, (2008):454–462, DOI: 10.1016/B978-012373960-5.00380-4, <https://www.sciencedirect.com/science/article/pii/B9780123739605003804?via%3Dihub>.

<sup>4</sup> Wendy E. Parmet ir Michael S. Sinha, „Covid-19 — The Law and Limits of Quarantine“, *The New England Journal of Medicine* (2020):28, <https://www.nejm.org/doi/full/10.1056/NEJMp2004211>.

As already mentioned, Government implemented the provisions of the Law on the Prevention and Control of Communicable Diseases of the Republic of Lithuania<sup>5</sup>, and responded to the epidemiological situation in Lithuania and the world, by declaring a quarantine by decrees: the first quarantine was introduced from March 13, 2020, which ended on June 17, the second quarantine was **introduced from 7 November 2020, 00:00, until 31 January 2021, 24:00.**

Both the first and the second quarantine regimes essentially restricted individual rights in a similar way and foresaw analogous duties.

The measures to limit Covid-19 provided for in the government resolutions can be divided into the following categories:

<b>RESTRICTIONS</b>	
<b>Events</b>	<p>There will be no indoor or outdoor commercial or non-commercial cultural, entertainment, sporting events, celebrations, fairs, festivals or other mass gatherings arranged in public locations of a certain duration at a scheduled time except:</p> <ul style="list-style-type: none"> <li>• high-performance sporting events without spectators;</li> <li>• funerals attended by maximum 10 persons except family and/or household members and persons providing funeral services.</li> </ul>
<b>Dining establishments (restaurants, cafés, bars, nightclubs, other entertainment venues) and other public venues</b>	<p>Public dining facilities, restaurants, cafés, bars, nightclubs, other entertainment venues, casinos, arcades, bingo halls, betting places will be closed except in the case of:</p> <ul style="list-style-type: none"> <li>• takeaway food or where food can be otherwise delivered to natural and legal persons;</li> <li>• catering provided to the staff of enterprises, establishments or organisations working on shifts, in the territories and/or premises of such enterprises, establishments or organisations;</li> <li>• catering provided in educational, social care, healthcare, national defence, penitentiary establishments, remand prisons, the Foreigners' Registration Centre or other establishments, where catering is required by the operational profile of these establishments.</li> </ul> <p>It was prohibited to provide leisure services, the use of fitness equipment, gyms, fitness centers, entertainment, recreation, swimming pools, saunas (except public baths for personal hygiene), clubs, dance halls, and movie theaters. There will be no visits to leisure establishments, nor will the premises intended for leisure</p>

<sup>5</sup> „Law of the Republic of Lithuania on the Prevention and Control of Human Infectious Diseases“, *Valstybės žinios*, 104-2363 (1996), 112-4069 (2001).

	<p>services be leased for arranging private events, celebrations and other gatherings. It will not apply in the case of:</p> <ul style="list-style-type: none"> <li>• high-performance sports training.</li> </ul> <p>There will be no visits to cultural establishments, and no physical services will be provided to visitors, except in the cases where the conditions for the management of the flow of people, safe physical distance, and other key requirements for public health, safety, hygiene, and the provision of persons with necessary personal protective equipment are met by the designated State Commander of National Emergency Operations.</p>
<p><b>Protective face masks</b></p>	<p>Protective face masks are mandatory in all public places (for all persons over the age of 6). Exceptions will apply in the following cases:</p> <ol style="list-style-type: none"> <li>1. exercising individuals;</li> <li>2. high-performance sports training;</li> <li>3. during the provision of a service where a service cannot be provided when a customer is wearing a mask;</li> <li>4. persons with disability who cannot wear a mask due to their health condition or where it can adversely affect their health condition. They are recommended to wear a face shield instead.</li> <li>5. when outside populated areas (cities, towns, villages, single-homestead settlements and dacha (garden) settlements) and when there are no other people within the radius of 20 metres, except for family members;</li> <li>6. children under the age of 6 who are educated under pre-school, pre-primary and primary education programmes will not be required to wear protective equipment covering nose and mouth (face masks, respirators or other equipment) while in education establishments and/or their territories.</li> </ol> <p>Face masks are mandatory in common areas.</p> <p>It is recommended to wear a face mask at a private party, if held, or when socialising with members of other families /households.</p>
<p><b>Movement within the country during the festive period from 16 December 2020, 00.00, until 31 January 2021, 24.00</b></p>	<p>Travelling between municipalities is restricted.</p> <p>Except:</p> <ul style="list-style-type: none"> <li>• to go to/from airports, seaports, bus stations serving international passenger routes;</li> <li>• to go to the municipality where you live;</li> <li>• for the death of close relatives;</li> <li>• to do work, where the place of employment is in another municipality;</li> <li>• for health care services;</li> </ul>

	<ul style="list-style-type: none"> <li>• for other objectively justified reasons of urgency, where travelling to a municipality other than the place of residence is absolutely necessary.</li> </ul> <p>This restriction does not apply to members of one family and/or household travelling to a municipality other than the place of their residence where they have real estate property that is owned by a member of that family and/or household.</p>
<p><b>Movement within the country</b></p>	<p>It is required to stay at home except:</p> <ul style="list-style-type: none"> <li>• to go to work (for work purposes);</li> <li>• to go shopping;</li> <li>• to go to/from airports, seaports, bus stations serving international passenger routes;</li> <li>• to go to your real estate property;</li> <li>• to go to a funeral;</li> <li>• for health and other essential services;</li> <li>• for other essential services or for objectively justified reasons where it is absolutely necessary;</li> <li>• to go for a walk in open spaces only with members of your family or household;</li> <li>• to attend to the sick or to those unable to take care of themselves.</li> </ul> <p>Passengers travelling by public transport (city, long-distance and suburban) will be required to travel seated maintaining the distance of at least one meter between each other.</p> <p>Transport vehicles other than regular public transport (city, long-distance and suburban) or transport vehicles to commute to work may carry groups of no more than 2 persons or groups of members of one family and/or one household. When providing passenger transportation service for a fare by a passenger car on call and by a taxi passenger car, the driver of the vehicle will not be counted.</p> <p>It is allowed to be in public places in groups of no more than 2 persons or in groups of one family and/or one household.</p> <p>It is prohibited:</p> <ul style="list-style-type: none"> <li>• to have close contacts between members of more than one family and/or one household except: <ul style="list-style-type: none"> <li>○ emergencies, where it is necessary to provide assistance;</li> <li>○ attending to the sick or to those unable to take care of themselves;</li> </ul> </li> <li>• to hold private parties in public and private venues with the participation of more than one family and/or household.</li> </ul>

<p><b>Public and private sector</b></p>	<p>State and municipal institutions and bodies and state and municipal enterprises and the private sector will organise work and provide customer services remotely, except where relevant functions (work) have to be performed at the workplace, while ensuring conditions laid down by the State Commander of National Emergency Operations for the management of the flow of people, safe physical distance, and other key requirements for public health safety, hygiene, and the provision of persons with necessary personal protective equipment. It is obligatory to ensure the performance of the essential and urgent functions (work) as provided by law.</p> <p>Stores, including those in shopping and/or entertainment centres, marketplaces and other public points of sale will be closed except:</p> <ul style="list-style-type: none"> <li>• stores (including those in shopping and/or entertainment centres), whose main business is the retail of food, veterinary, animal feed, pharmacy, optical goods and orthopedic technical devices;</li> <li>• selling food in marketplaces and public points of sale;</li> <li>• remote commerce (by internet or other means of communication), where goods are delivered to natural and legal persons or collected at collection points;</li> <li>• funeral stores;</li> <li>• outdoor trade in Christmas trees and other festive trees.</li> </ul> <p>Stores that remain open will be required to:</p> <ul style="list-style-type: none"> <li>• ensure 15 sq. m. of retail space per visitor or serve only one visitor at a time and ensure other conditions laid down by the State Commander of National Emergency Operations are met.</li> </ul> <p>It is recommended to:</p> <ul style="list-style-type: none"> <li>• refrain from short-term sales promotion measures (sales, discount hours, tastings, etc.) in all shops, supermarkets, marketplaces and other public points of service. This does not apply to e-commerce;</li> <li>• to increase the number of checkout points to reduce the line to five shoppers;</li> <li>• shopping by one member per family and /or household;</li> <li>• longer working hours.</li> </ul> <p>It is prohibited:</p> <ul style="list-style-type: none"> <li>• to provide beauty services;</li> <li>• to provide other services that require more than 15 minutes contact between the service provider and the customer;</li> <li>• to lease, sublease or lend premises intended for accommodation services (owned by both natural and legal</li> </ul>
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	<p>persons by the right of ownership or other legal grounds) for holding private events, parties and other gatherings.</p> <p>Except:</p> <ul style="list-style-type: none"> <li>• passenger transportation for a fare by a passenger car on call and by a taxi passenger car;</li> <li>• provision of legal services by lawyers;</li> <li>• financial services and provision of qualified certification services by qualified trust service providers, which cannot be provided remotely.</li> </ul> <p>The exempted service practitioners will be required to ensure 10 sq. m. service space per visitor or serve only one visitor at a time and ensure other conditions laid down by the State Commander of National Emergency Operations.</p> <p>Requirements for accommodation sector:</p> <ul style="list-style-type: none"> <li>• accommodation of members of no more than one family and/or one household in one room;</li> <li>• ensuring that everyone wears a face mask and maintains a distance of at least 2 meters between people or groups of people in common areas;</li> <li>• ensuring other conditions laid down by the Commander of Operations' decision.</li> </ul> <p>It is prohibited to rent, sublease or to lend premises intended for accommodation services (owned by both natural and legal persons by the right of ownership or other legal grounds) for arranging private events, parties and other gatherings.</p> <ul style="list-style-type: none"> <li>• Wellness centres providing recreational services will be closed.</li> <li>• There will be no visits to cultural, leisure, entertainment and sports facilities, and no physical services will be provided to visitors, except high-performance athletic training and physical provision of services in libraries, while ensuring the conditions laid down by Commander of Operations' decision.</li> </ul>
<p><b>Education</b></p>	<ul style="list-style-type: none"> <li>• pre-school, pre-primary education will be provided following the conditions laid down by the Commander of Operations' decision, in-person pre-school and pre-primary education is recommended only for those children whose parents (adoptive parents or guardians) have no possibilities of working remotely;</li> <li>• primary, pre-secondary and secondary education will be provided remotely, except for special needs schools and special needs classes in general education schools following the programmes of primary, pre-secondary, individualised</li> </ul>

	<p>primary and pre-secondary education, and secondary education, programmes of development of social skills;</p> <ul style="list-style-type: none"> <li>• non-formal education for children will be provided remotely or discontinued;</li> <li>• non-formal adult education and non-formal vocational training will be provided remotely or suspended, except for practical training in aviation and seafaring, as well as foreign language proficiency assessment examinations (credits) for those applying to higher education establishments abroad with a maximum of five participants, while ensuring the conditions laid by the Commander of Emergency Operations for the management of the flow of people, safe physical distance, and other key requirements for public health safety, hygiene, and the provision of persons with necessary personal protective equipment;</li> <li>• during the school holidays, children can get services in special needs schools and special needs classes in general education schools. However, the conditions laid down by the Commander of Emergency Operations for the management of the flow of people, safe physical distance, and other key requirements for public health safety, hygiene, and the provision of persons with necessary personal protective equipment must be met.</li> <li>• education assistance will be provided in accordance with the conditions laid down by the Commander of Operations' decision in the same way as education is provided at schools and by other education providers, or remotely;</li> <li>• children over the age of 6 who are educated under pre-school, pre-primary and primary education programmes will not be required to wear protective equipment covering nose and mouth (face masks, respirators or other equipment) while in education establishments and/or their territories;</li> <li>• primary education schools will have school holidays from 14 December 2020 to 3 January 2021;</li> <li>• municipal administrations will ensure that children in primary education can have remote education, care and catering in school in accordance with the conditions laid down by the State Commander of National Emergency Operations for the management of the flow of people, safe physical distance, and other key requirements for public health safety, hygiene, and the provision of persons with necessary personal protective equipment, where parents, adoptive parents, guardians, legal representatives need to perform relevant functions (work) at the workplace and cannot ensure the care of their children at home. Effective as of 4 January.</li> </ul>
<b>Health</b>	<ul style="list-style-type: none"> <li>• There will be no visiting of patients in health care establishments, except when visiting terminally ill patients, children under 14 years of age and patients in maternity wards at the permission of the manager of that establishment or his authorised person;</li> </ul>



	<ul style="list-style-type: none"> <li>• an outpatient health care professional will have to choose the method of service provision that best suits the patient's interests - contact or remote. Contact services will include:             <ul style="list-style-type: none"> <li>○ dental services;</li> <li>○ health care services for pregnant women, mothers and their newborns;</li> <li>○ vaccination services for children and adults under the National Immunoprophylaxis Programme;</li> <li>○ disease prevention programmes;</li> <li>○ preventive health screening services for individuals applying for a job in an area of activity that involves exposure to certain risk factors;</li> <li>○ psychological support and psychotherapy services.</li> </ul> </li>   <li>• Inpatient personal health care services for COVID-19 (coronavirus infection) (hereinafter 'COVID-19 services') will be organised on a clustering-territorial principle in accordance with the Annex to this Resolution and in accordance with the requirements laid down within the remit of the Minister for Health and the State Commander of National Emergency Operations. The provision of COVID-19 services will be organised by health care establishments (hereinafter 'organising health care establishments') listed in the Annex to this Resolution, which have units for infectious diseases or human resources to organise the containment of infectious diseases, and which organise and coordinate COVID-19 services in the territory of operation specified in the Annex to this Resolution. To ensure the provision of COVID-19 services, the organising health care establishments will mobilise other health care establishments that are in the territory of operation and that are listed in the Annex to this Resolution (hereinafter 'mobilised health care establishments') for the provision of COVID-19 services. Instructions given by the organising health care establishments on COVID-19 services to the mobilised health care establishments will be mandatory (unless otherwise provided by law). The procedure for organising COVID-19 services is laid down within the remit of the Minister for Health and the State Commander of National Emergency Operations;</li>   <li>• The State Commander of National Emergency Operations takes a decision to appoint a coordinator for the activities of the organising health care establishments (hereinafter 'coordinator') to coordinate the provision of COVID-19 services. The coordinator organises the provision of COVID-19 services in cooperation with mayors and directors of administrations. The instructions of the coordinator are obligatory for both the organising health care establishments and the mobilised health care establishments (unless otherwise provided by law).</li> </ul>
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	<ul style="list-style-type: none"> <li>• Mobilising health professionals, university and non-university students and residency students and using infrastructure, regardless of their subordination. If necessary, health professionals and staff working with them (personnel serving the medical staff) may be temporarily transferred to another health establishment or their job functions may be temporarily changed in order to ensure the proper organisation of health services.</li> <li>• Inpatient health services for patients with COVID-19 (coronavirus infection), will be provided as follows:             <ul style="list-style-type: none"> <li>○ operational reorganisation in managing patient flows, infrastructure and material and human resources;</li> <li>○ where necessary, increasing the number of beds and / or the scope of health care services for the treatment of patients with COVID-19 (coronavirus infection) and / or mobilising staff - reducing the scope of routine inpatient and/or outpatient health care services or suspending these services, with the exception of services, where failure to provide them would result in patient's need for medical emergency or a significant deterioration of his condition.</li> <li>○ there will be no visiting of patients, except terminally ill patients and children under 14 years of age, at the permission of the treating physician.</li> </ul> </li> </ul>
<b>Social care</b>	<ul style="list-style-type: none"> <li>• There will be no visits to residential social care establishments, foster families, group and community homes, except when visiting residents in terminal condition or when a visit is related to the performance of duties;</li> <li>• social care services will be provided in residential social care establishments and in person's home in accordance with the conditions laid down by the State Commander of National Emergency Operations for public health safety, hygiene and the provision of persons with necessary personal protective equipment.</li> </ul>
<b>Prison visits</b>	<p>Long-term and short-term visits in penitentiary establishments and remand prisons will be restricted.</p>
<b>Visiting refugees</b>	<p>In Foreigners' Registration Centre ('FRC'):</p> <ul style="list-style-type: none"> <li>• asylum seekers staying in the FRC and holding the right to move in the territory of the Republic of Lithuania will not be allowed to leave the FRC for more than 2 hours per day;</li> </ul> <p>Exceptions will apply in the following cases:</p> <ul style="list-style-type: none"> <li>• asylum seekers that are involved in daily education activities;</li> </ul>

	<ul style="list-style-type: none"> <li>• asylum seekers entitled to work, who are employed and who have filed with the FRC administration their valid employment contract.</li> <li>• asylum seekers who are allowed, with the permission of the FRC administration, to leave the FRC for more than 2 hours a day.</li> <li>• foreigners staying in the FRC will not be visited except their lawyers.</li> </ul>
<b>Religious gatherings</b>	<ul style="list-style-type: none"> <li>• Religious communities are recommended to hold religious services remotely (except funerals attended by maximum 10 persons except members of the family and/or household or in such a way as to avoid gatherings (while ensuring 10 sq. m. per person and maintaining a distance of at least 2 meters between people or groups of people (up to 2 people or family members); or to refrain from performing religious services.<sup>6</sup></li> </ul>

### Legal liability for quarantine violations in the Republic of Lithuania.

On March 14<sup>th</sup>, 2020, the government **declared a level of a fully prepared civil protection system** in the country and established a quarantine regime that allows for the application of unusual, radical, and non-routine restrictions on daily activities. Such restrictions inevitably involve measures to ensure that the restrictions are enforced.

#### a) Administrative liability for quarantine violations

The introduction of a quarantine restrictions is the basis for the application of certain provisions of the Code of Administrative Offenses<sup>7</sup>, and non-compliance may lead to criminal liability.

Paragraph 1 of Article 45 of the Code of Administrative Offenses (CAO) provides basis for administrative liability for anyone who has violated the Law on the Prevention and Control of Communicable Diseases of the Republic of Lithuania, which serves as the basis for the establishment of the quarantine and for the appropriate restrictions.

The non-compliance with these restrictions entails administrative liability. Stricter liability, as provided by paragraph 3 of this article, may be applied for anyone who, in violation of the law, has created a risk of spreading dangerous or particularly dangerous communicable diseases to others. For this administrative misconduct, a fine of up to EUR 560 may be imposed on a natural person and up to EUR 3,000 on the manager or responsible person of the legal person. Under this article of the CAO, persons who do not comply with the requirement of self-isolation, arbitrarily leave the medical institution, refuse to test for a dangerous infectious disease, etc. can be punished. This article of the CAO may also apply to the manager of a legal

<sup>6</sup> Resolution of the Government of the Republic of Lithuania „On Proclamation of Quarantine in the Territory of the Republic of Lithuania“ with amendments, TAR, 2020-05466(2020-03-14), <https://www.e-tar.lt/portal/lt/legalAct/73c0b060663111eabee4a336e7e6fdab>, 2020-11175(2020-05-27), <https://www.e-tar.lt/portal/lt/legalAct/e2edc330a01d11ea9515f752ff221ec9>.

<sup>7</sup> „The Code of Administrative Offenses of the Republic of Lithuania“, TAR, 2015-11216(2015-07-10), <https://www.e-tar.lt/portal/lt/legalAct/4ebe66c0262311e5bf92d6af3f6a2e8b>.

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person, such as a catering provider, who, despite the prohibitions, carries on trade, organizes public events and so on.

According to Article 46 of the CAO, administrative liability may apply for those who do not comply with the requirements of subordinate legal acts - decisions of municipal councils or orders of directors of municipal administrations on combating outbreaks and epidemics of human infectious diseases. This violation, especially if committed repeatedly, shall result in a fine of up to EUR 150 for a natural person and up to EUR 600 for the manager or responsible person of the legal person.

### **b) Criminal liability for quarantine violations**

A violation of the quarantine regime that caused or could have had serious consequences for human health entails the most severe – criminal – liability. Article 277 of the Criminal Code<sup>8</sup> (CC) establishes that criminal liability is appropriate for violations of the rules for combating epidemics or communicable diseases. Paragraph 1 of this article states that criminal liability may apply for a person who has violated the requirements of health legislation or the rules for the control of communicable diseases, and if these violations has led to the spread of an illness or resulted in an epidemic. Therefore, in this case, it is necessary to identify the specific consequences - the infection of the other person or persons or the outbreak of the epidemic. Paragraph 2 of the same article states that criminal liability may be applied to a natural person who, having been informed by a medical institution of his illness and warned of the required protective measures related to interaction with others, has put another person at risk of contracting a dangerous infectious disease. Such a person may be sentenced to community service, fine, house arrest or imprisonment. Paragraph 2 of Article 277 of the CC shall be applied if it has been established that a person who has been duly informed about his / her health condition and warned about the need to take protective measures, deliberately did not follow those measures as shown by his / her actions (visiting public places, leaving a medical institution, interacting with other persons, etc. ) and thus acted riskily and irresponsibly, creating a real possibility of endangering another person or persons. In this case, the determination of the consequences is not a necessary condition for the application of criminal liability; a person, properly informed of his illness and its threats to others, who may endanger others through negligent and reckless behavior poses a significant risk. When considering the application of criminal liability under Article 277 (2) of the CC, the court has a duty to assess whether a person's actions were so dangerous as to entail the most severe criminal liability or whether the application of administrative liability under Article 45 (3) of the CAO may be appropriate.

It should be noted that the crime described in Article 277 of the CC is committed in a careless form of guilt. If an investigation reveals that a person had the intent to infect another person with a serious illness, then, depending on the consequences, he or she may be held liable for assault or even murder.

### **c) Sanctions**

First of all, we should briefly mention the sanctions provided by law for non-compliance with the requirements of the quarantine. If the quarantine restrictions established at the state level are not followed, but such actions did not cause a risk of the spread of the coronavirus,

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<sup>8</sup> „Criminal Code of the Republic of Lithuania“, *Valstybės žinios*, 89-2741 (2000).

individuals are fined EUR 60-140 according to Article 45 of the Code of Administrative Offenses of the Republic of Lithuania, and managers of legal entities or other responsible persons are fined EUR 140-600. Some of the decisions regarding the quarantine regime have been delegated to municipalities, and fines for non-compliance are lower. According to Article 46 of the ANK, non-compliance or late compliance with the decisions of municipal councils or orders of directors of municipal administrations regarding the fight against outbreaks of infectious diseases and epidemics may result in fines of EUR 250-800 for individuals, and EUR 800-1500 for managers of legal entities or other responsible persons.

If there was a risk of the spread of the coronavirus due to non-compliance with the quarantine restrictions, stricter liability is applied: 500-1500 EUR for individuals, and 1500-6000 EUR for managers of legal entities or other responsible persons.

### Case law analysis

This article separately analyzes decisions related to the administrative responsibility of legal entities and provides examples of violations of the quarantine restrictions for which administrative responsibility was applied:

#### a) Safety requirements

The manager of the flower shop was fined for the fact that the distances between customers were not marked, it was not ensured that the customers kept their distances, information was not provided at the entrance that it is not recommended to visit the shopping place for high-risk individuals and about the need to observe good hygiene, partitions were not installed, the temperature of the employees was not measured, the seller was not wearing disposable gloves, and store's cleaning and disinfection was not ensured. 1500 Eur.<sup>9</sup>

At the butcher shop, the cashiers worked without a mask, the flow of customers was not controlled, customers did not keep a safe distance, there were no restrictive signs, no disinfectants. The cashiers were informed about the quarantine restrictions only verbally. The director was fined. 500 Eur<sup>10</sup>

An inspection conducted by the National Center for Public Health found that a store clerk did not check the temperature in the workplace and did not fill out an activity log. In the instructions, the employer instructed the employees to check the temperature and fill in the records independently, but there was no thermometer in the workplace. The store manager was fined. 1500 Eur<sup>11</sup>

The manager of the gas station was fined for the fact that the customer bought and prepared coffee at the gas station without wearing a face and protective equipment, despite warnings. 1500 Eur (reduced to 500 Eur)<sup>12</sup>

<sup>9</sup> „Šiaulių apygardos teismo 2020 m. spalio 21 d. nutartis administracinio nusižengimo byloje Nr. AN2-126-282/2020“, INFOLEX, <https://www.infolex.lt/tp/1936805>.

<sup>10</sup> „Vilniaus miesto apylinkės teismo 2020 m. birželio 29 d. nutarimas Nr. A1.-1709-1057/2020“, INFOLEX, <https://www.infolex.lt/tp/1917512>.

<sup>11</sup> „Klaipėdos apygardos teismo 2020 m. lapkričio 18 d. nutarimas administracinio nusižengimo byloje Nr. AN2-235-557/2020“, INFOLEX, <https://www.infolex.lt/tp/1944407>.

<sup>12</sup> „Klaipėdos apygardos teismo 2020 m. liepos 16 d. nutartis administracinio nusižengimo byloje Nr. AN2-141-651/2020“, INFOLEX, <https://www.infolex.lt/tp/1905811>.

## b) Prohibited activities

A mobile phone seller was selling phones in the marketplace, which was prohibited during the quarantine. The seller was punished 250 Eur.<sup>13</sup>

During the quarantine, the store of pet supplies and veterinary supplies operated in physical premises. During the quarantine, physical trade in pet products was restricted, but not in veterinary medicines, which was the store's primary activity. Veterinary products accounted for 61 percent of the store's assortment. When the manager left, she left a power of attorney for the pharmacy manager to run the store during the quarantine. Administrative proceedings against the manager have been terminated. Opened a store when trading in physical premises was prohibited; during the inspection, there were potential buyers on the premises. Warning was issued to the manager.<sup>14</sup>

The construction goods store was operating in the physical premises. The director was fined. 1500 Eur<sup>15</sup>

The funeral service company sold flowers for 15 EUR to the Financial crimes investigation office officer performing the inspection. The director was fined. 500 Eur<sup>16</sup>

The journalist entered the homeless shelter for journalistic purposes without separate permission and contacted its residents. At that time, visits to social service companies were restricted. Punished as a natural person. 500 Eur<sup>17</sup>

This article separately analyzes decisions related to the administrative responsibility of natural persons and provides examples of violations of the quarantine restrictions for which administrative responsibility was applied:

## a) Masks

At night, an individual was in the common areas (hallway) of the apartment building without a mask. 1000 EUR (reduced to 500 EUR)<sup>18</sup>

The buyer did not wear a mask in the shopping center, arguing that the store is not a public shopping place. 500 EUR<sup>19</sup>

An individual walked the dog in the yard without a mask. 250 Eur (changed to warning)<sup>20</sup>

<sup>13</sup> „Kauno apygardos teismo 2020 m. spalio 7 d. nutartis administracinio nusižengimo byloje Nr. AN2-411-290/2020“, INFOLEX, <https://www.infolex.lt/tp/1930877>.

<sup>14</sup> „Utenos apylinkės teismo Visagino rūmų 2020 m. gegužės 21 d. nutarimas Nr. A18.-262-758/2020“, INFOLEX, <https://www.infolex.lt/tp/1902067>.

<sup>15</sup> „Utenos apylinkės teismo Visagino rūmų 2020 m. gegužės 22 d. nutarimas Nr. A1.-267-844/2020“, INFOLEX, <https://www.infolex.lt/tp/1893109>.

<sup>16</sup> „Klaipėdos apylinkės teismo Klaipėdos rajono rūmų 2020 m. birželio 11 d. nutarimas Nr. A1.-670-729/2020“, INFOLEX, <https://www.infolex.lt/tp/1900936>.

<sup>17</sup> „Šiaulių apygardos teismo 2020 m. spalio 21 d. nutartis administracinio nusižengimo byloje Nr. AN2-126-282/2020“, INFOLEX, <https://www.infolex.lt/tp/1936805>.

<sup>18</sup> „Alytaus apylinkės teismo Varėnos rūmų 2020 m. rugpjūčio 6 d. nutartis Nr. II-78-547/2020“, INFOLEX, <https://www.infolex.lt/tp/1917864>.

<sup>19</sup> „Utenos apylinkės teismo Utenos rūmų 2020 m. rugpjūčio 13 d. nutartis Nr. II-69-958/2020“, INFOLEX, <https://www.infolex.lt/tp/1937474>.

<sup>20</sup> „Kauno apylinkės teismo Kauno rūmų 2020 m. liepos 30 d. nutartis Nr. II-348-720/2020“, INFOLEX, <https://www.infolex.lt/tp/1915115>.

An individual from rural village came to the city store to buy a mask, but got caught before having time to do so. 500 EUR (changed to a warning).<sup>21</sup>

A person was without a mask outside, near a residential building. 1000 EUR (reduced to 500 EUR).<sup>22</sup>

An intoxicated person did not wear a mask in the store, resisted the officers, violated public order, tried to remove the mask from another customer. 100 EUR<sup>23</sup>

A minor was in a public place without a mask. 250 EUR<sup>24</sup>

Four minors played basketball in an open space without masks. 20 EUR<sup>25</sup>

An intoxicated person went to smoke without a mask. 550 EUR.<sup>26</sup>

A person without a mask took out the garbage. In the argumentation, the court relied on the public statements of the prime minister and the head of operations regarding the specifics of wearing masks. 1050 Eur (reduced to 300 Eur)<sup>27</sup>

A person was walking on the district road without a mask. 500 EUR (reduced to 100 EUR).<sup>28</sup>

A person did not wear a mask in the store, he put on a rubber one when he was warned. 500 EUR.<sup>29</sup>

An intoxicated person was in a public place without a mask. 500 EUR<sup>30</sup>

The buyer did not wear a mask covering his face and nose or other protective equipment in the supermarket, began to conflict with the security guard, refused to leave the store, started filming with his mobile phone, refused to buy a mask in the supermarket, later categorically refused to accept and wear the mask offered by the officials, and by his actions caused the risk of the spread of the COVID-19 disease. Buyer was fined. 500 EUR<sup>31</sup>

The buyer did not wear a mask covering his face and nose or other protective equipment in the shopping center but claimed that it was the security worker who bore the responsibility for violation because he allowed the buyer inside when he should have prevented him from entering the store and prevented the violation. Buyer was fined. 500 EUR<sup>32</sup>.

<sup>21</sup> „Panevėžio apylinkės teismo Rokiškio rūmų 2020 m. liepos 29 d. nutartis Nr. II-113-233/2020“, INFOLEX, <https://www.infolex.lt/tp/1915544>.

<sup>22</sup> „Panevėžio apylinkės teismo Rokiškio rūmų 2020 m. liepos 29 d. nutartis Nr. II-113-233/2020“, INFOLEX, <https://www.infolex.lt/tp/1915544>.

<sup>23</sup> „Vilniaus miesto apylinkės teismo 2020 m. birželio 23 d. nutarimas Nr. A18.-1675-818/2020“, INFOLEX, <https://www.infolex.lt/tp/1907679>.

<sup>24</sup> „Marijampolės apylinkės teismo Vilkaviškio rūmų 2020 m. birželio 22 d. nutarimas Nr. AN1.-605-831/2020“, INFOLEX, <https://www.infolex.lt/tp/1904675>.

<sup>25</sup> „Marijampolės apylinkės teismo Vilkaviškio rūmų 2020 m. birželio 22 d. nutarimas Nr. AN1.-605-831/2020“, INFOLEX, <https://www.infolex.lt/tp/1904675>.

<sup>26</sup> „Alytaus apylinkės teismo Varėnos rūmų 2020 m. birželio 17 d. nutartis Nr. II-72-445/2020“, INFOLEX, <https://www.infolex.lt/tp/1901891>.

<sup>27</sup> „Alytaus apylinkės teismo Varėnos rūmų 2020 m. liepos 7 d. nutartis Nr. II-79-922/2020“, INFOLEX, <https://www.infolex.lt/tp/1909690>.

<sup>28</sup> „Panevėžio apylinkės teismo Rokiškio rūmų 2020 m. liepos 2 d. nutartis Nr. II-91-233/2020“, INFOLEX, <https://www.infolex.lt/tp/1921808>.

<sup>29</sup> „Telšių apylinkės teismo Mažeikių rūmų 2020 m. liepos 1 d. nutartis Nr. II-33-853/2020“, INFOLEX, <https://www.infolex.lt/tp/1918535>.

<sup>30</sup> „Panevėžio apylinkės teismo Rokiškio rūmų 2020 m. liepos 29 d. nutartis Nr. II-113-233/2020“, INFOLEX, <https://www.infolex.lt/tp/1915544>.

<sup>31</sup> „Panevėžio apygardos teismo 2020 m. lapkričio 3 d. nutartis administracinio nusižengimo byloje Nr. AN2-124-879/2020“, INFOLEX, <https://www.infolex.lt/tp/1940153>.

<sup>32</sup> „Telšių apylinkės teismo Mažeikių rūmų 2020 m. liepos 1 d. nutartis Nr. II-33-853/2020“, INFOLEX, <https://www.infolex.lt/tp/1918535>.

The buyer did not wear a mask covering his face and nose in the shopping center due to his subjective beliefs, although he had one and put it on only when the police officers arrived. Buyer was fined.500<sup>33</sup>

The shopper in the shopping center did not wear a mask covering her face and nose, insulted the store employee with gestures and words, and did not comply with the demands of legal officials. Buyer was fined.500 EUR<sup>34</sup>

The buyer did not wear a mask covering his face and nose in the shopping center.250 EUR (half of the minimum fine).<sup>35</sup>

An intoxicated person fell asleep in the cafe. When the officers were called and woken him up, he did not have a mask, resisted the officers, insulted their honor and dignity. 500 EUR<sup>36</sup>

A person was negotiating with a car salesman in the parking lot without wearing a mask. The court took into account the fact that all the people present in this situation live in the same household except for the car salesman and that the negotiations lasted for a short period of time. Therefore he received a smaller fine than the minimum. 200 EUR.<sup>37</sup>

A person in a group of three people was drinking vodka in the corridor of a residential building, and when the neighbors called the authorities about the noise, he was fined for not wearing a mask. 250 EUR.<sup>38</sup>

A minor was at the bus stop without a mask. 50 EUR<sup>39</sup>

The resident of the dormitory, while talking to the police officer in the public areas (kitchen of the dormitory), disobeyed the lawful order of the officer to put on protective equipment covering her nose and mouth. The resident was fined. 1000 EUR<sup>40</sup> He did not wear a mask at the gas station and tried to cover his face with a sweater, violating public order.1000 Eur (reduced to 600 Eur).<sup>41</sup>

A person was running on the side of the regional road without a mask. The court took into account the different level of risk when compared to the shopping centers and the statements of the Government representatives regarding the wearing of masks in secluded places. 500 EUR (reduced to 100 EUR)<sup>42</sup>

<sup>33</sup> „Šiaulių apygardos teismo 2020 m. rugpjūčio 31 d. nutartis administracinio nusižengimo byloje Nr. AN2-107-519/2020“, INFOLEX, <https://www.infolex.lt/tp/1929444>.

<sup>34</sup> „Kauno apygardos teismo 2020 m. liepos 23 d. nutartis administracinio nusižengimo byloje Nr. AN2-290-478/2020“, INFOLEX, <https://www.infolex.lt/tp/1908152>.

<sup>35</sup> „Utenos apylinkės teismo Utenos rūmų 2020 m. spalio 12 d. nutarimas Nr. II-101-373/2020“, INFOLEX, <https://www.infolex.lt/tp/1940946>.

<sup>36</sup> „Plungės apylinkės teismo Plungės rūmų 2020 m. spalio 26 d. nutarimas Nr. A1.-503-363/2020“, INFOLEX, <https://www.infolex.lt/tp/1944832>.

<sup>37</sup> „Marijampolės apylinkės teismo Marijampolės rūmų 2020 m. spalio 26 d. nutartis Nr. II-150-416/2020“, INFOLEX, <https://www.infolex.lt/tp/1945256>.

<sup>38</sup> „Šiaulių apylinkės teismo Šiaulių rūmų 2020 m. spalio 23 d. nutartis Nr. II-277-322/2020“, INFOLEX, <https://www.infolex.lt/tp/1943930>.

<sup>39</sup> „Plungės apylinkės teismo Kretingos rūmų 2020 m. birželio 4 d. nutarimas Nr. AN1.-229-1081/2020“, INFOLEX, <https://www.infolex.lt/tp/1898404>.

<sup>40</sup> „Šiaulių apygardos teismo 2020 m. spalio 1 d. nutartis administracinio nusižengimo byloje Nr. AN2-121-354/2020“, INFOLEX, <https://www.infolex.lt/tp/1928622>.

<sup>41</sup> „Vilniaus apygardos teismo 2020 m. rugsėjo 7 d. nutartis administracinio nusižengimo byloje Nr. AN2-322-932/2020“, INFOLEX, <https://www.infolex.lt/tp/1920169>.

<sup>42</sup> „Panevėžio apygardos teismo 2020 m. rugsėjo 2 d. nutartis administracinio nusižengimo byloje Nr. AN2-85-334/2020“, INFOLEX, <https://www.infolex.lt/tp/1920127>.



A person was drunk in a public place on the Palanga city bridge without wearing a face mask. 500 EUR (reduced to 250 EUR).<sup>43</sup>

He was eating kebabs in a public place, and when asked by the police to put on a mask, he said that he would put it on when he had eaten. At that time, there were no exceptions for not wearing a mask while eating. 500 EUR (reduced to 100 EUR).<sup>44</sup>

The person was without a mask on the street. The court took into account the fact that there were no other persons and reclassified it to Article 45 of the Code of Administrative Offenses. 1 part.70 EUR.<sup>45</sup>

A person was reading a book in the park and wearing a mask that did not cover the nose. When interviewed by the officers, he did not want to repair the mask, citing illness. 500 EUR (reduced to 100 EUR).<sup>46</sup>

### **b) Isolation**

After returning from abroad, a person left the place of self-isolation and was fined 500 EUR (reduced to 250 EUR).<sup>47</sup>

### **c) Gathering**

A minor was in a group of 3 persons in a public place - on the street. 250 (125) EUR (half of the statutory minimum fine)<sup>48</sup>.

A minor who already had a prior violation was in a group of 3 persons in a public place, was fined - 350 EUR.<sup>49</sup>

The person was in a group of 3 people at the gas station. The court recognized that the gas station is not an "open public place", the data on the violation of the obligation to observe a safe distance of 2 meters and safe contact (<15 years) was not proven, therefore the lawsuit was justifiably terminated<sup>50</sup>.

Four persons were travelling by car. The court clarified that the car should not be considered an open public place where assembly is restricted. The defendant also stated that the person who was in the car with her corresponded with the General Commissioner of Lithuania and the latter explained to him that a fine should not be imposed for his actions and that the case against him should be terminated due to the lack of composition of the violation, but the police officers did not consider this and still fined him. The court explained that it does not

<sup>43</sup> „Plungės apylinkės teismo Palangos rūmų 2020 m. rugsėjo 1 d. nutartis Nr. II-64-588/2020“, INFOLEX, <https://www.infolex.lt/tp/1925616>.

<sup>44</sup> „Marijampolės apylinkės teismo Marijampolės rūmų 2020 m. rugpjūčio 27 d. nutartis Nr. II-134-610/2020“, INFOLEX, <https://www.infolex.lt/tp/1924203>.

<sup>45</sup> „Vilniaus apygardos teismo 2020 m. rugpjūčio 24 d. nutartis administracinio nusižengimo byloje Nr. AN2-307-873/2020“, INFOLEX, <https://www.infolex.lt/tp/1916211>.

<sup>46</sup> „Kauno apylinkės teismo Kauno rūmų 2020 m. rugpjūčio 17 d. nutartis Nr. II-350-917/2020“, INFOLEX, <https://www.infolex.lt/tp/1920748>.

<sup>47</sup> „Klaipėdos apylinkės teismo Klaipėdos miesto rūmų 2020 m. rugpjūčio 27 d. nutartis Nr. II-194-903/2020“, INFOLEX, <https://www.infolex.lt/tp/1924316>.

<sup>48</sup> „Kauno apygardos teismo 2020 m. rugpjūčio 3 d. nutartis administracinio nusižengimo byloje Nr. AN2-314-919/2020“, INFOLEX, <https://www.infolex.lt/tp/1910794>.

<sup>49</sup> „Vilniaus apygardos teismo 2020 m. rugpjūčio 24 d. nutartis administracinio nusižengimo byloje Nr. AN2-307-873/2020“, INFOLEX, <https://www.infolex.lt/tp/1916211>.

<sup>50</sup> „Kauno apygardos teismo 2020 m. liepos 23 d. nutartis administracinio nusižengimo byloje Nr. AN2-292-317/2020“, INFOLEX, <https://www.infolex.lt/tp/1908153>.

consider the comments of the Commissioner General of Police submitted with the complaint, but points out that in the announcements made in the public space, the Commissioner General of Police emphasized that there is no ban on having more than 2 people in the car, i.e., such information was still disseminated to the public when presenting the quarantine measures.<sup>51</sup>

Two young men played basketball outside without wearing masks. The court annulled the penalty, because the duration of the video filmed by the police was short and insufficient to confirm that the persons >15 min. did not keep a safe distance.<sup>52</sup>

Two young men played basketball outside without wearing masks and explained that they were not wearing them due to the remoteness of the place, but the police recorded the passers-by. 500 EUR<sup>53</sup>

4 people walked in a group, were intoxicated, resisted the officers. 500 EUR<sup>54</sup>

## Conclusions

After reviewing more than 200 court procedural decisions for the 2020-2021 period regarding non-compliance with the requirements of the quarantine regime, several trends emerged.

Most common court cases were due to not wearing the masks, gatherings, and performance of economic activities when doing so was restricted. Courts tended to award minimal or milder fines and reduce the fines given by officials in most of the reviewed cases for violations of the quarantine restrictions. Even in cases of complex violations of quarantine requirements, a minimum fine was imposed on legal entities. Thus, it can be assumed that an effort was made to maintain a general balance of the system of fines established in the Code of Administrative Offenses and to observe the principles of reasonableness and proportionality. On the other hand, in the reviewed cases, there were also arguments that ten times higher fines are imposed in other states.

Only a small proportion of the cases were tried in court, although the media reported that hundreds were fined in one weekend. This is probably due to not only the traditional reasons, such as the sluggish realization of the right to go to court due to lack of legal knowledge, but also the slowdown of all processes in the state during the quarantine and uncertainty about the work of the courts during the quarantine period. Legal regulation was constantly and quickly changing, so the same actions were punished during some periods but not others. There were plenty of quick but absolute decisions that received widespread criticism from the public. Later, correcting the situation the prime minister and the head of operations issued statements about the quarantine restrictions, which were formulated as absolute in the legal acts, but according to their interpretation – they were not absolute, which allowed the courts to rely on the authentic interpretation of the law and to assign more lenient fines.

From the factual circumstances presented in the court decisions, a more pronounced trend is that the officials, after tightening the fines for the violations of the quarantine restrictions, gained more serious criminal power against repeat offenders, or those offenders who committed

<sup>51</sup> „Vilniaus regiono apylinkės teismo Širvintų rūmų 2020 m. rugsėjo 1 d. nutartis Nr. II-141-522/2020“, INFOLEX, <https://www.infolex.lt/tp/1925112>.

<sup>52</sup> „Marijampolės apylinkės teismo Šakių rūmų 2020 m. rugsėjo 28 d. nutartis Nr. II-122-876/2020“, INFOLEX, <https://www.infolex.lt/tp/1935762>.

<sup>53</sup> „Klaipėdos apylinkės teismo Klaipėdos miesto rūmų 2020 m. rugsėjo 14 d. nutartis Nr. II-250-890/2020“, INFOLEX, <https://www.infolex.lt/tp/1929938>.

<sup>54</sup> „Panevėžio apylinkės teismo Rokiškio rūmų 2020 m. rugsėjo 7 d. nutarimas Nr. A18.-437-504/2020“, INFOLEX, <https://www.infolex.lt/tp/1930376>.

several administrative offenses at the same time. If previously the fine for natural persons after consolidation amounted to tens of euros, now fines of 500 or even 1000 euros were imposed. It was also noticed that procedural violations, insufficiently accurate and biased protocols, and insufficient evidentiary material were used quite successfully in the court proceedings.

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