

The Impact of Covid-19 Pandemic on International Law and the Consequences for International Relations

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Abstract

The COVID-19 pandemic has had an unprecedented impact on the daily lives of people around the world. It has not only put a strain on healthcare systems, but has also caused major economic, social and political repercussions.

Against this background, the present analysis will examine the impact of the COVID-19 pandemic on international law and the consequences for international relations.

The COVID-19 pandemic has had important implications for international law, in particular with regard to freedom of movement, the protection of human rights and global governance.

For example, quarantine and isolation measures implemented by governments around the world have had a significant impact on freedom of movement and the protection of human rights, such as freedom of assembly and expression.

Furthermore, the COVID-19 pandemic has highlighted the need for greater global cooperation and coordination for the management of health crises of this magnitude. This has led to increased attention to global governance and the need for greater collaboration between nations to manage the crisis and prevent its further spread.

Keywords: *free movement, COVID-19, pandemic, international law, healthcare system.*

INTRODUCTION

The methodology of the work will be qualitative, as each it will be based on data that will be benefited from different texts, i.e. secondary sources.

An interpretation will be made of the data that will be obtained and a comparative methodology will also be used.

The research done in the literature, the theoretical knowledge, my experience, have made it possible and helped me to create a picture regarding the selection of the right methodology.

To achieve the objectives of the paper, the collection of secondary information was done by dividing the literature into theoretical and empirical, literature which was obtained from the Library of the University of Padua and the University of Urbino, in the Department of the Faculty of Law, and from University Aleksander Moisiu Durres.

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Another important source for collecting information has been the electronic libraries of these universities, electronic addresses of various international institutions, scientific journals.

An important role has also been played by academic works, such as scientific research, international conferences held abroad, which have completed the framework of secondary sources.

The type of information used has made it possible to analyze the hypotheses and research questions posed, to highlight the changes due to COVID 19 Pandemic.

DISCUSSION

The COVID-19 pandemic has represented a particular scenario in which the restriction of free movement has become a reality for many people. However, it is important to understand that this limitation is not without consequences on a legal level and, in particular, on the protection of human rights.

Free movement is one of the pillars of international law and is guaranteed by many legal sources, including the European Convention on Human Rights (ECHR), the Universal Declaration of Human Rights (HRHR) and the International Covenant on Economic, Social Rights and cultural (PIDESC).

It implies the right of a person to enter, leave and move within one state and from one state to another, without suffering unjustified or discriminatory restrictions.

However, this right is not absolute and may be limited if necessary for the protection of public health or national security.

At the European level, the European Commission has published several directives to guide Member States in adopting such measures.

For example, Directive (EU) 2020/1475 of 24 September 2020 provided guidelines for the management of the external borders of the European Union during the COVID-19 pandemic.

Considering that citizenship of the Union confers the right to every citizen to move freely in the Schengen area, also on the basis of Article 21, paragraph 1, of the Treaty on the Functioning of the European Union (TFEU), without prejudice to the limitations and conditions provided for by the treaties and by the provisions adopted in application of the same, the European Commission has adopted this recommendation, to safeguard and protect public health in response to the COVID-19 pandemic.

This Directive specifies that: "All restrictions on the free movement of people within the Union, implemented to limit the spread of COVID-19, should be based on specific and limited reasons of public interest, namely the protection of health public. It is necessary that such limitations are applied in compliance with the general principles of Union law, in particular proportionality and non-discrimination. All measures adopted should therefore not go beyond what is strictly necessary to protect public health."

In this sense, reference must be made to the health policy in the Treaty of Lisbon, according to which the EU intervenes in this sector in support of the policy of the member states for the improvement of public health, prevention of physical and mental illnesses and for the elimination of sources of danger to physical and mental health

Furthermore, the Member States have adopted internal regulations and decrees to implement the restrictive measures.

However, it is important that these limitations are proportionate and based on scientific evidence, and that they are implemented in a way that avoids the denial of human rights.

For example, a person who is denied entry to a country without a valid reason or without an adequate complaints procedure could enforce their rights under the European Convention on Human Rights (ECHR).

As the European Parliament underlined, “even in a state of public emergency, the fundamental principles of the state of law, democracy and respect for fundamental rights must prevail”.

In this sense, the Charter of Fundamental Rights plays a very important role regarding the actions of the Union and those of the Member States that fall within the scope of application of EU law.

However, even facing such a state of global health emergency, both the EU and its Member States have made many efforts to support their healthcare, education and social protection systems. Furthermore, they sought to help businesses and citizens to face the economic recession and the risk of unemployment.

An example in this sense is also Albania, which, although not yet part of the EU, has tried with all possible means to help citizens and businesses, providing facilities for the payment of taxes and duties, thus as regards the monthly payment of rent, both for businesses and individual citizens.

In addition to the unprecedented dimension of the economic and social crisis, the European Union also found itself having to face the suspension of the Schengen zone, the limits to fundamental rights, such as free movement, repatriation and reintegration of citizens of third countries.

Since the beginning of this pandemic, Commission President Ursula Von Der Leyen has called on member states to defend the Schengen zone and the European single market by stating that “.....a crisis that knows no borders cannot be resolved by building walls between us.....”.

In April 2020, the European Parliament proposed the relaunch of the Union's legal basis on public health, through its "simplification", i.e. that "the provision of health services is first and foremost a national competence, while health public is a shared competence of the states and the Union"; considers that “so far the European Union's response to the COVID 19 pandemic has been characterized by a lack of coordination between Member States in terms of public health measures, in particular with regard to restrictions imposed on the movement of persons at national and cross-border levels and the suspension of other rights and rules

Most member states have instituted mandatory social distancing measures for the entire population, such as the suspension of gatherings, forced stay at home, including quarantine measures, the closure of non-essential commercial activities and public spaces, social distancing physical and social.

These measures affect many fundamental rights guaranteed by the Charter, such as the rights to freedom and security (art. 6), to private and family life (art. 7), freedom of thought, conscience and religion (art. 10), freedom of expression and information, freedom of movement and residence (art. 45). Member States have introduced sanctions for violations of restrictive measures in the form of fines, and in some cases include the possibility of prison sentences.

One of the limitations added by member states was the closure of schools. In this sense it is necessary to specify that based on the best interests of the child (art. 24 of the Charter and the right to education), every child has the right to education.

In the framework of the Council of Europe, the question arises whether the derogation clause of Article 15 of the ECHR provided for "in the event of war or other public danger that threatens the life of the nation" is applicable to a health emergency situation.

While recognizing that national emergencies require flexibility, the clause provides only certain rights as mandatory, such as the right to life, the prohibition on slavery and torture, and the right not to be subject to retroactive legislation .

Therefore, with the exception of these mandatory rights, the other rights are subject to the doctrine of the "double margin of appreciation". The first margin is left to the contracting states in relation to what is necessary in a democratic society for reasons of public order, security, morality and health; the second is reserved for judicial control by the European Court of Human Rights.

Currently, in the health crisis in which we have found ourselves and continue to find ourselves, European governance is characterized by the orientation activity of the Commission, which represents a point of reference for states and citizens themselves, allowing legality and the compatibility of national measures with Union law, in particular as regards the principle of proportionality .

CONCLUSIONS

2020 marked an important year, not only for having changed the world as a whole, but also because December 7th was the 20th anniversary of the Charter of Nice.

Although the pandemic crisis has put pressure on the protection of fundamental rights, it has also brought greater attention to the European Union's bill of rights.

In these conclusions I would like to specify how the EU institutions should ensure that the evidence brought on this topic by national actors, who best know the state of their states, is listened to.

Furthermore, in my opinion, Member States should consider creating focal points dedicated to the Charter, as this would allow governments to coordinate national actions with actions at EU level. Ideally, such implementation should follow a structured process based on concrete goals, milestones and deadlines.

Building on the lessons brought to us by the COVID 19 pandemic, the European legislator should continue to examine all directives on equal treatment, and thus allow the European Union to offer greater global protection against discrimination on grounds as diverse as religion, disability, age or sexual orientation.

Finally, European Union institutions, together with member states, should continue to raise awareness of fundamental rights guarantees on a large scale.

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