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ACT ON PREVENTION AND CONTROL
OF INFECTIONS AND INFECTIOUS DISEASES
IN PEOPLE AND COVID DISEASE—19

1. INTRODUCTION

Infectious diseases, the source of the epidemic, have been with the mankind since the dawn of time. Plague, leprosy, smallpox, or the so-called Spanish flu, took millions of lives and left some previously inhabited areas completely depopulated. The progress of civilization, the development in field of modern medicine and pharmacy, have made us feel, that we are no longer threatened by an outbreak of the epidemic, and we perceived infectious diseases as a marginal phenomenon.

The COVID-19 epidemic, followed by the outbreak of pandemic, showed the scale of neglect and shortcomings—the most valuable goods were masks and protective suits. Some governments even bought out stock of respirators, that were reserved by other countries. In this rivalry, governments often did not look at whether or not they met safety standards. The existing legal regulations revealed their shortcomings and some anachronisms, which were quickly amended to adapt them to the existing epidemiological situation, and when it was not possible, the new laws were passed.

Already at this point it can be clearly stated that the COVID-19 pandemic caused a number of social and economic turbulences, and above all the death of hundreds of thousands people. These negative effects will not be eliminated even by the development of a vaccine, although it will of course reduce the scale of problems related to this infectious disease.

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The aim of this article is to indicate a number of changes that have taken place in the contents of leading act designed to the fight infectious diseases in Poland, that is the Act of 5 December 2008 on the prevention and combating of infections and infectious human diseases (consolidated text, Journal of Laws of 2019, item 1239), under the influence of COVID-19. Due to the selection of the topic, the considerations taken do not include the regulations contained in the Act of March 2, 2020 on special solutions related to the prevention, counterreaction and combating of COVID-19, other infectious diseases and the crisis situations caused by them.

2. SUBJECTIVE AND OBJECTIVE SCOPE
OF THE ACT OF 5 DECEMBER 2008
ON THE PREVENTION AND COMBATING OF INFECTIONS
AND INFECTIOUS HUMAN DISEASES

The basic legal act regulating the issues of preventing and combating infectious diseases in Poland is the Act of 5 December 2008 on the prevention and combating of infections and infectious human diseases, hereinafter referred to as UZL (consolidated text, Journal of Laws of 2019, item 1239). With its objective scope it covers, in accordance with first article: the principles and procedures for preventing and combating infections and infectious human diseases, including the principles and procedures for recognizing and monitoring the epidemiological situation, and taking anti-epidemic and preventive measures to neutralize the sources of infection, cut the paths of spreading infections and infectious diseases, and immunize people susceptible to infection; tasks of public administration bodies in the field of preventing and combating infections and infectious human diseases; rights and obligations of service providers and persons residing in the territory of the Republic of Poland in the field of preventing and combating infections and infectious human diseases.

The law in question also defines the basic concepts related to the occurrence of infectious diseases. Among them, the definitions of particular importance are: infectious disease,¹ a particularly dangerous and highly infectious disease,²

¹ Infectious disease—a disease that was caused by a biological pathogen.

² A particularly dangerous and highly contagious disease—an easily spreading infectious disease with high mortality, posing a particular threat to public health and requiring special control methods, including cholera, plague, smallpox, viral hemorrhagic fever.

epidemic,³ state of epidemic,⁴ epidemic emergency,⁵ isolation⁶ or quarantine.⁷ However, under the influence of the COVID-19 disease, the following concepts were introduced into the Act: isolation at home, recognizing that it is the isolation of a sick person with a course of an infectious disease that does not require absolute hospitalization for medical reasons in his place of residence or stay, in order to prevent the spread of particularly dangerous and highly infectious diseases; zero zone, i.e. the area where the epidemic occurred, directly around the virus outbreak, subject to restrictions, in particular bans, orders and control measures; buffer zone, i.e. the area around the zero zone which is subject to restrictions, in particular prohibitions or orders relating to the movement of people; vulnerable zone which is considered an area where there is a possible risk of an epidemic; or finally the endangered area understood as the area of one or more units of territorial division of a country or an area defined otherwise than by reference to units of territorial division of the country.

The introduction of the above-mentioned new concepts into UZL was absolutely justified in order to improve the prevention and combating of not only COVID-19 but also other infectious human diseases. It made it possible to fill a specific legislative gap in this important area from the point of view of public health. Public administration authorities have been able to introduce in zero zones, appropriate orders and bans concerning people staying in them, and instruments to control their compliance. Similar possibilities are foreseen in the case of buffer zones, with the difference, however, that the restrictions apply only to the possibility of human movement. Of course, it is debatable whether they excessively interfere with the sphere of individual rights and freedoms. In order to make the activities of public administration more flexible and to increase its effectiveness, it was found that the endangered area may be defined in a different

³ Epidemic—the occurrence of infections or incidence of an infectious disease in a given area in a number significantly greater than in the previous period, or the occurrence of infections or infectious diseases that did not occur so far.

⁴ Epidemic status—a legal situation introduced in a given area in connection with an epidemic in order to take anti-epidemic and preventive measures specified in the Act to minimize the effects of an epidemic.

⁵ State of epidemic threat—the legal situation introduced in a given area in connection with the risk of an epidemic in order to take preventive measures specified in the act.

⁶ Isolation—isolation of a person or group of people suffering from an infectious disease or a person or group of people suspected of having an infectious disease in order to prevent the transmission of a biological pathogen to other people.

⁷ Quarantine—isolation of a healthy person who was exposed to infection in order to prevent the spread of particularly dangerous and highly infectious diseases.

way than by units of the basic territorial division of the state, i.e. municipalities, poviats of the voivodeship, which should also be considered right.

In order to effectively prevent and combat infectious human diseases, the legislator of the UZL has defined a number of common obligations in this matter. They can be grouped and classified into the following categories: obligations related to submission to certain activities and processes referred to in Art. 5 sec. 1 point 1 of UZL⁸; obligations of refraining from performing work where there is a possibility of transferring an infection or an infectious disease to other people – if they are infected, ill with an infectious disease or carriers; obligations to comply with the orders and bans of the State Sanitary Inspectorate's bodies for preventing and combating infections and infectious diseases; obligations to provide data and information to public administration bodies indicated in art. 5 sec. 1 point 4 of UZL.⁹

3. WHAT'S NEW IN THE ACT OF 5 DECEMBER 2008 ON THE PREVENTION AND COMBATING OF INFECTIONS AND INFECTIOUS HUMAN DISEASES UNDER THE INFLUENCE OF COVID-19 DISEASE

One of the legislative novelties is the introduction of domestic insulation. Due to the scale of the phenomenon of COVID-19, the introduction of this provision was necessary to relieve the state's health care system.

Subsequent changes to the UZL are related to sanitary and epidemiological tests, because pursuant to art. 6 sec. 2a UZL in the case of people seeking employment or other gainful work, the performance of which there is a possibility of transferring an infection or an infectious disease to other people, sanitary and epidemiological examination is performed at the request of that person. The person subjecting the examination indicates what type of work the sanitary and epidemiological examination is to concern and a medical certificate issued on its basis for sanitary and epidemiological purposes. Medical examinations of these persons are carried out by primary healthcare doctors, within the meaning of the

⁸ Persons staying on the territory of the Republic of Poland are obliged under the terms of the Act to undergo: sanitary treatments, preventive vaccinations, post-exposure prophylactic use of drugs, sanitary and epidemiological tests, including procedures aimed at collecting or providing material for these tests, epidemiological supervision, quarantine, treatment, hospitalization, isolation, isolation at home.

⁹ These are the structures of the State Sanitary Inspection, the Military Sanitary Inspection, the Veterinary Inspection, the Military Veterinary Inspection, the Environmental Protection Inspection, and units referred to in art. 30 sec. 1 UZL, and reference centers and research institutes; competent state sanitary inspectors; bodies of the State Sanitary Inspection.

provisions of the Act of 27 October 2017 on primary healthcare (Journal of Laws of 2019, items 357 and 730), or by doctors performing the tasks of the occupational medicine service, in within the meaning of the provisions of the Act of 27 June 1997 on the occupational medicine service (Journal of Laws of 2019, item 1175). On the other hand, laboratory tests are carried out by art. 7 (4) of the UZL, laboratories. The costs of sanitary and epidemiological tests performed on the above persons are financed by the person applying for them.

When analyzing the issue of changes in UZL in the context of COVID-19 disease, it is worth referring to activities undertaken in the event of suspicion or diagnosis of infection, infectious disease or death due to them. Pursuant to art. 24 sec. 2 of the Act, in the event of suspicion or diagnosis of infection, infectious disease or death due to them, occurring among soldiers, officers and employees of units and other persons covered by the scope of the inspection, between entities specified in the Act in question, may be transferred, in paper form or electronic, data of these persons, including: name and surname; date of birth; PESEL number, and if the person has not been given this number—the series and number of the passport or the identification number of another document on the basis of which it is possible to determine personal data; sex; home address; clinical diagnosis of an infection or an infectious disease, characteristics of the basic clinical symptoms, circumstances of the infection, illness or death due to infection or infectious disease, with particular emphasis on risk factors and biological characteristics of the infectious agent, and other information necessary for epidemiological supervision, in accordance with the principles of modern medical knowledge.

The above information is intended to improve the prevention and control of infectious diseases, including, of course, COVID-19. Moreover, the authorities of the State Sanitary Inspection, Military Sanitary Inspection, Veterinary Inspection, Military Veterinary Inspection, Environmental Protection Inspection, as well as reference centers and research institutes are obliged to cooperate in order to prevent and combat infections and infectious diseases, recognize and monitor the epidemiological situation and ensure the early notification of an epidemic threat in the country.

Subsequent changes in the UZL concern the obligation to report the suspicion or diagnosis of an infectious disease infection or death due to them, as well as the obligation to report a positive laboratory test result for a biological pathogen. Under art. 27 sec. 1 and 2 of the UZL, a doctor or a medical assistant who suspects or diagnoses an infection, an infectious disease or death due to an infection or an infectious disease, is obliged to report this fact to the competent state

sanitary inspector. The notification shall be made immediately, but not later than within 24 hours from the moment of suspecting or diagnosing an infection, an infectious disease or death due to an infection or an infectious disease, unless the competent state sanitary inspector decides otherwise due to the type of infection or infectious disease. However, according to art. 29 sec. 1 UZL, a laboratory diagnostician or another person authorized to independently perform laboratory diagnostics, in the case of testing for a biological pathogen, in the cases specified in these provisions, to report the result of this test to the competent state sanitary inspector. The notification is made immediately, but not later than within 24 hours from the moment of obtaining the result.

In both the above-mentioned cases, quick identification of sick people enables their isolation and thus contributes to limiting the spread of COVID-19 and other infectious human diseases.

4. AMENDMENTS TO THE ACT OF 5 DECEMBER 2008 ON THE PREVENTION AND COMBATING OF INFECTIONS AND INFECTIOUS HUMAN DISEASES UNDER THE INFLUENCE OF COVID-19 DISEASE IN THE SCOPE OF COMPULSORY HOSPITALIZATION, ISOLATION, QUARANTINE AND EPIDEMIOLOGICAL SUPERVISION

Many changes in UZL occurred in the area of responsibilities imposed on an infected, sick, suspected or ill person or a person having contact with pathogens. One of them is the refusal to provide a decision imposing obligations on a given person in writing, or the lack of a requirement to justify it. These decisions are made immediately enforceable, which is justified by the need to protect the public interest in the form of public health. Provided in a manner other than in writing, they are then delivered in writing after the reasons preventing delivery in this way have ceased to exist. This is to maintain the possibility of their control and verification both in administrative and court-administrative proceedings.

A number of new regulations in the UZL concern issues related to compulsory hospitalization, isolation, isolation at home, quarantine, as well as epidemiological surveillance. According to art. 34 sec. 1 UZL, in order to prevent the spread of infections and infectious diseases, people suffering from an infectious disease or people suspected of contracting an infectious disease may be subject to compulsory hospitalization, isolation or isolation at home. As you can see, this is a far-reaching restriction of the rights and freedoms of an individual. Moreover, the legislator then states that persons who have been exposed to an

infectious disease or have been in contact with a source of a biological pathogen, and do not show disease symptoms, are subject to compulsory quarantine or epidemiological supervision, if so decided by sanitary inspection authorities, for a period not longer than 21 days from the day following the last day of exposure or contact, respectively.

Restrictions in the form of compulsory quarantine or epidemiological surveillance may be applied to the same person more than once, until it is established that there is no risk to human health or life. A person staying in isolation, home isolation or quarantine is forbidden to leave the place where he or she is, unless the person requires hospitalization or the sanitary inspection authority decides otherwise.

The provision of art. 34 sec. 5 of the UZL, pursuant to which the minister responsible for health was delegated to issue an ordinance specifying: infectious diseases causing the obligation of hospitalization, isolation or isolation at home; duties of a doctor or a medical assistant in the event of suspicion or diagnosis of an infection or an infectious disease resulting in the obligation to hospitalize, isolate or isolate at home; the authority to which information on compulsory hospitalization, isolation or home isolation is provided; hospital duties in the event of a person subject to compulsory hospitalization being left the hospital by himself; communicable diseases giving rise to mandatory quarantine or epidemiological surveillance and periods of compulsory quarantine.¹⁰

The changes also affected issues related to hospitalization, isolation, ordering isolation at home or quarantine. In the event of a suspicion or diagnosis of a particularly dangerous and highly infectious disease, a doctor admitting to a hospital, referring to isolation, quarantine or home isolation, based on his own assessment of the degree of risk to public health, subjects a person suspected of falling ill, suffering from a particularly dangerous and highly contagious disease or a person exposed to infection, hospitalization, isolation, quarantine, tests or orders for isolation at home, also in the absence of a decision referred to in art. 33 paragraph. 1 UZL, and the person suspected of falling ill or at risk of infection does not consent to hospitalization, isolation, quarantine, examination or isolation at home. Thus, we are dealing here with the possibility of taking imperative actions and a kind of administrative coercion.

¹⁰ Regulation of the Minister of Health of 6 April 2020 on infectious diseases resulting in the obligation of hospitalization, isolation or isolation at home, and the obligation to quarantine or epidemiological supervision (Journal of Laws of 2020, item 607).

In order to ensure the effectiveness of actions taken regarding admission to hospital, referral to isolation, home isolation or quarantine, doctors are required to immediately notify the state poviát sanitary inspector competent for the hospital, place of isolation, quarantine or isolation at home, about that fact.

5. ADMINISTRATIVE AND DIRECT COERCION
IN THE ACT OF 5 DECEMBER 2008
ON THE PREVENTION AND COMBATING OF INFECTIONS
AND INFECTIOUS HUMAN DISEASES

Due to the importance of the problem of COVID-19, the legislator has provided for the possibility of applying not only administrative coercion but also direct coercive measures. According to art. 36 sec. 1 UZL, to a person who does not undergo the compulsory vaccination, sanitary and epidemiological examinations, sanitary procedures, quarantine or isolation of compulsory hospitalization, in whom a particularly dangerous and highly contagious disease is suspected or diagnosed, posing a direct threat to the health or life of other people, a measure of direct coercion may be used, involving the holding, immobilization or forcible administration of drugs. As you can see, this is a very far-reaching possibility of interfering with the sphere of individual freedom.

Before applying a direct coercive measure, the person to whom the direct coercive measure is to be used is informed about it and this fact is noted in the medical records. When choosing a direct coercive measure, one should choose the least burdensome measure for this person, and when using a direct coercive measure, one should exercise particular caution and care for the welfare of this person.

The decision on the application of a direct coercive measure is made by a doctor or a medical assistant, who determines the type of the direct coercive measure used and personally supervises its implementation by medical professionals. Each use of a measure of direct coercion is recorded in the medical records. A doctor or a medical assistant may ask the Police, Border Guard or Military Police for help in applying a measure of direct coercion. Assistance is provided on condition that officers or soldiers are equipped with measures to protect against infectious diseases by the doctor or medical assistant.

Direct coercion involving immobilization may not be used for more than 4 hours. If necessary, the application of this compulsion may be extended for further 6 hour periods, but not longer than 24 hours in total. Immobilization is

a longer-lasting incapacitation of a person with the use of belts, handles, sheets or a straitjacket. In contrast to immobilization, holding is a temporary, short-term immobilization of a person with the use of physical force. On the other hand, compulsory administration of a drug is an emergency or, in accordance with the treatment plan, introducing drugs into a person's body without their consent.

6. THE USE OF THE ARMED FORCES TO COMBAT THE COVID-19 DISEASE EPIDEMIC AND THE RULES OF CONDUCT IN THE EVENT OF AN EPIDEMIC THREAT AND EPIDEMIC

Another novelty in the UZL is the possibility of using branches of the Polish Armed Forces to carry out activities related to the state of epidemic threat, state of epidemic or in the event of a threat of spreading an infection or an infectious disease, as provided for in article 44a of the UZL. On its basis, if the use of other forces and means is impossible or may turn out to be insufficient, the Minister of National Defense may place at the disposal of the Chief Sanitary Inspector or the voivode, in whose area activities related to the state of epidemic threat, state of epidemic or in the event of danger of spreading an infection or an infectious disease that may pose a threat to public health, in particular the occurrence of a particularly dangerous or highly contagious disease, subunits or units of the Armed Forces of the Republic of Poland, together with assigning them to perform related tasks. In the above case, subunits and units of the Armed Forces of the Republic of Poland remain under the command of official superiors and perform tasks specified by the Chief Sanitary Inspector or the voivode.

When referring to the rules of conduct in the event of an epidemic emergency and an epidemic, a number of changes have occurred here as well under the influence of COVID-19. First, they relate to the possibility of identifying the endangered area and the restrictions, orders and bans that apply there. Therefore, if there is an epidemic or epidemic threat of a nature and size exceeding the capabilities of the competent government administration bodies and local government units, the Council of Ministers may determine, by way of a regulation, on the basis of data provided by the minister competent for health, the minister competent for internal affairs, the minister responsible for public administration, the Chief Sanitary Inspector and voivodes: the endangered area with an indication of the type of zone where the epidemic or epidemic threat occurred, the type of solutions applied, i.e. the restrictions, orders and

bans applicable in this area—taking into account the scope of applied solutions and taking into account the current possibilities of the state budget and budgets of local government units.¹¹

This regulation may lay down: temporary restriction of a certain way of movement; temporary restriction or prohibition of the marketing and use of certain items or food products; temporary limitation of the functioning of certain institutions or workplaces; prohibition of organizing shows and other gatherings of people; obligation to perform specific sanitary procedures, if their performance is related to the operation of specific production, service, commercial or other facilities; an order to provide real estate, premises, land and to provide means of transport for anti-epidemic activities provided for by anti-epidemic plans; obligation to carry out preventive vaccinations and groups of persons subject to these vaccinations, type of preventive vaccinations; temporary limitation of specific scopes of business activity; temporary regulation of the supply of certain types of articles; obligation to undergo medical examinations and use other preventive measures and treatments by sick and suspected persons; an obligation to submit to quarantine; place of quarantine; temporary limitation of the use of premises or land and the obligation to secure them; an evacuation order at a specified time from specific places, areas and facilities; an order or prohibition to stay in specific places and facilities and in specific areas; prohibition of leaving the zero zone by sick and suspected persons; an order for a certain way of movement.

Secondly, it is considered justified that in the event of announcing an epidemic threat or state of an epidemic, the minister responsible for health could define, by way of a regulation, simplified types and scope of medical documentation, a simplified method of its processing and a shortened storage period, valid from the date of announcement of the state of emergency epidemic or epidemic status, taking into account the need to quickly and effectively take action to prevent the spread of an epidemic and protect data and information on the patient's health.¹²

Third, the legislator decided that public procurement provisions do not apply to contracts for services, supplies or construction works issued in connection with the prevention or combating of an epidemic in an area where an epidemic threat

¹¹ Regulation of the Council of Ministers of August 7, 2020 on the establishment of certain restrictions, orders and bans in connection with an epidemic (Journal of Laws of 2020, item 1356).

¹² As at the date of delivery of the text, the minister responsible for health did not make use of this option.

or state of an epidemic was announced. Therefore, it excluded the application of the provisions on public procurement in this respect.

Fourth, the Material Reserves Agency was obliged to provide the assortment necessary to prevent and combat infections and infectious diseases in humans and to create strategic reserves of such assortment. The decision in this matter was left to the minister responsible for health.

Fifth, the provisions of the UZL regarding the delegation to work in combating epidemics have been made. Employees of medical entities, people practicing medical professions and people with whom contracts for the provision of health services have been signed, may be assigned to work in combating epidemics. Other people may also be referred to work on combating the epidemic, if their referral is justified by the current needs of the entities managing the epidemic. A referral to work in combating an epidemic is made in form of decision. The exception applies to: people who are under 18 or above 60 years of age; pregnant women; single parents raising a child up to the age of 18; people raising a child under the age of 14; persons raising a child with a certificate of disability or the need for special education; persons diagnosed with partial or total incapacity for work; invalids and people diagnosed with chronic diseases; Polish deputies and senators; persons referred to in art. 2 of the Act of July 31, 1981 on the Remuneration of Persons Holding State Managerial Positions (Journal of Laws of 2019, item 152). By introducing the above changes, the legislator took into account the possibility of a situation where a child over the age of 14 is raised up by two persons who are entitled to parental responsibility. In this case, only one of them may be assigned to work in combating the epidemic.

The decision on the referral to work in combating the epidemic in the voivodship in which the person referred has his place of residence or is employed, is issued by the competent voivode, and in the event of a referral to work in the area of another voivodeship—the minister competent for health matters. These decisions may be communicated in any possible way ensuring that the decision reaches the addressee, including orally, and do not require justification. For the sake of completeness, it should be added that decisions communicated in a manner other than in writing are then delivered in writing after the reasons preventing their delivery in this way have ceased to exist. The decision may be appealed against, but it does not suspend the obligation to execute it.

The legislator, wanting to compensate the person assigned to work in combating the epidemic of various types of inconvenience, found it justified that he or she should be entitled to basic salary in the amount not lower than 150% of the average basic salary provided for a given position in the establishment indicated

in this decision or in another similar establishment. If there is no such position in the indicated establishment, the salary may not be lower than the salary that the person assigned to work in combating the epidemic received in the month preceding the month in which the decision on assigning him to work in combating the epidemic was issued.

This person is also entitled to reimbursement of the costs of travel, accommodation and meals, on the terms set out in the provisions on determining and the amount of receivables due to employees of state units for business trips within the country. The reimbursement of costs for accommodation or meals is not payable if free accommodation or meals are provided at the place of work.

7. FINANCIAL PENALTIES FOR NON-COMPLIANCE WITH THE ORDERS,
BANS OR RESTRICTIONS ESTABLISHED
IN THE STATE OF EPIDEMIC THREAT OR STATE OF EPIDEMIC,
AND FOR FAILURE TO COMPLY WITH DECISION TO PLACE WORK
IN COMBATING THE EPIDEMIC

Financial penalties for non-compliance with the orders, bans or restrictions established in the state of epidemic threat or epidemic, and for failure to comply with the decision to send to work in combating an epidemic, established in the amended UZL, deserve a separate discussion.

Based on article 48a paragraph. 1 UZL, who in the state of epidemic threat or epidemic does not apply to established on the basis of article 46 or article 46b of the orders, prohibitions or restrictions referred to in: article 46 sec. 4 paragraph 1¹³ or in article. 46b points 5 and 9-12¹⁴, shall be subject to a financial penalty in the amount from PLN 5,000 to PLN 30,000; article 46 sec. 4 paragraph 2¹⁵ or in

¹³ The legislator has in mind: a temporary restriction of a specific mode of movement; temporary restriction or prohibition of the marketing and use of certain items or food products; temporary limitation of the functioning of certain institutions or workplaces; prohibition of organizing shows and other gatherings of people; obligation to perform specific sanitary procedures, if their performance is related to the operation of specific production, service, commercial or other facilities; an order to provide real estate, premises, land and to provide means of transport for anti-epidemic activities provided for by anti-epidemic plans; obligation to carry out preventive vaccinations.

¹⁴ In this case, it is about: the obligation to submit to quarantine; an order to evacuate at a specified time from specific places, areas and facilities; ordering or prohibiting staying in specific places and facilities and in specific areas; a ban on leaving the zero zone by sick and suspected persons; an order for a certain mode of movement.

¹⁵ It will therefore breach the temporary restriction or prohibition of the marketing and use of certain items or food products.

article 46b point 3¹⁶, shall be subject to a financial penalty in the amount from PLN 10,000 to PLN 30,000; article 46 sec. 4 points 3-5¹⁷ or in the article 46b points 2 and 8¹⁸, shall be subject to a financial penalty in the amount from PLN 10,000 to PLN 30,000; article 46 sec. 4 point 6¹⁹, shall be subject to a financial penalty in the amount of PLN 5,000 to PLN 10,000; article 46 sec. 4 paragraph 7²⁰ or in article 46b point 4²¹, shall be subject to a financial penalty in the amount of PLN 5,000 to PLN 10,000.

In turn, according to article 48a paragraph. 2 of the UZL, who, in an epidemic emergency or state of epidemic, does not comply with the decision to put to work in an epidemic, is subject to a financial penalty in the amount of PLN 5,000 to PLN 30,000.

The decision on the financial penalty is immediately enforceable on the day of its delivery. The decision is delivered immediately. As you can see, it is the above-mentioned fines constitute a set of strong disciplinary measures of a financial nature. With their help, you can effectively force an individual to comply with the orders, prohibitions and restrictions established by UZL.

The last novelty of the law, which appeared just under the influence of the COVID-19 disease, is the introduction to its chapter 9 devoted to criminal provisions, article 52 point 5, according to which, who, contrary to the obligation to report a positive result of a laboratory test for a biological pathogen, does not report the result of a test for biological pathogens that cause infection or an infectious disease—shall be punishable by a fine.

8. END

To conclude our considerations on the changes in UZL that took place under the influence of COVID-19, it is worth mentioning that we apply this act

¹⁶ It will break the temporary rationing of the supply of certain types of articles.

¹⁷ Thus, a given person will not respect the temporal limitation of the functioning of specific institutions or workplaces; prohibition of the organization of shows and other gatherings of the population; the obligation to perform certain sanitary procedures, if their performance is related to the operation of specific production, service, commercial or other facilities.

¹⁸ When the following is violated: the temporary limitation of certain scopes of business activity; temporary limitation of the use of premises or land and the obligation to secure them.

¹⁹ When the order for the provision of real estate, premises, land and the provision of means of transport for anti-epidemic measures provided for by anti-epidemic plans is not fulfilled.

²⁰ When a person fails to comply with the obligation to undergo immunization.

²¹ We are talking about the obligation to undergo medical examinations and the use of other preventive measures and treatments by sick and suspected persons.

to all human infectious diseases. Their list was defined in the form of an annex to the Act on preventing and combating infections and infectious human diseases — the provisions of the Act in question apply to the diseases specified in this list. In a situation where a given disease is not included in the list of infectious diseases, it is the responsibility of the Minister of Health to announce by regulation such an infectious disease or infection, and also, if necessary, also—a specific procedure of service providers and people at risk of infection or disease.

An infectious disease caused by the SARS-CoV-2 coronavirus was not included in the list of infectious diseases in the annex to the act, therefore the Minister of Health issued a regulation on February 27, 2020 on SARS-CoV-2 coronavirus infection, announcing that the infection has been included in the provisions on preventing and combating infections and infectious human diseases. On this basis, the provisions of the Act on preventing and combating infections and infectious human diseases apply to the situation caused by the occurrence of the SARS-CoV-2 coronavirus.

The Act of 5 December 2008 on preventing and combating infections and infectious human diseases is universal and largely comprehensive in the scope indicated in its title. The outbreak of the COVID-19 pandemic, however, exposed a number of legislative shortcomings, which did not allow the state to respond optimally to the disease. For this reason, it was amended and appropriate changes were introduced. In addition, the so-called special act in the form of the Act of March 2, 2020 on special solutions related to the prevention, counteraction and combating of COVID-19, other infectious diseases and the emergencies caused by them, which, however, is not as universal as the UZL, its scope covers issues related only to COVID-19 disease.

By means of new provisions contained in the such important concepts as: home isolation, zero zone, buffer zone, danger zone, hazardous area, assigning to them the possibility of establishing orders, prohibitions, obligations or restrictions specified in the act. Thanks to these new solutions, the activities of public administration bodies aimed at preventing and combating infectious diseases, including, of course, COVID-19, have been improved. Unfortunately, they are not able to counteract the carelessness of some people in 100%, because the media report more and more cases of escapes from the place of isolation at home, or violations of other obligations, e.g. wearing a mask.

The imposition of an obligation to cooperate between various entities and public administration bodies should also be assessed positively. It excludes a priori obstruction of measures taken to prevent and combat COVID-19 actions

and bureaucratic aversion. Negligence in this respect constitutes a bureaucratic delict for which one is legally responsible.

Also the introduction of the obligation to report a suspicion or diagnosis of infection with an infectious disease or death due to them, as well as the obligation to report a positive result of a laboratory test for a biological pathogen, should be clearly assessed positively. Obligatory sanitary and epidemiological tests deserve a similar assessment.

The possibility of using branches of the Polish Armed Forces to carry out activities related to the state of epidemic threat, the state of an epidemic or the risk of spreading an infection or an infectious disease, improves the effectiveness of fighting infectious diseases, including COVID-19 disease. Therefore, this change should be considered as justifiable.

Subsequent changes to the UZL concern the formulation and extension of the existing obligations, orders, prohibitions and limitations and the possibility of imposing sanctions in the form of a fine or a fine for non-compliance. Lack of the possibility of punishing people who violate the provisions of the UZL would significantly reduce the effectiveness of preventing and combating infectious diseases. Respecting the above obligations would depend solely on the goodwill of the entities to which they would be addressed.

Doubts, however, are raised by the introduction, by way of the Regulation of the Council of Ministers of August 7, 2020, on the establishment of certain restrictions, orders and bans in connection with the occurrence of an epidemic (Journal of Laws of 2020, item 1356), restrictions on constitutional rights and freedoms. According to Art. 31 sec. 3 of the Constitution, restrictions on the exercise of constitutional freedoms and rights may be established only by Act and only if they are necessary in a democratic state for its safety or public order, or for the protection of the environment, public health and morals, or the freedom and rights of other persons. These limitations can not affect the substance of freedoms and rights.

In the case at hand, the UZL formulated a statutory delegation to issue the said regulation, without itself clearly formulating these restrictions. In the author's opinion, this is a mistake that requires urgent improvement in the form of an amendment to the UZL and clearly indicating the limitations of constitutional rights and freedoms of an individual.

Summing up the considerations, it can be stated that the changes in the UZL introduced as a result of the COVID-19 disease should be generally assessed positively. However, strong reservations can be raised with regard to the legal form of some of the restrictions introduced, which interfere with the sphere of rights and

freedoms, which is done by means of regulations. As already mentioned, this state of affairs should be changed by amending the UZL.

LIST OF LEGAL ACTS

- Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws of 1997, No. 78, item 483, as amended).
- The Act of 5 December 2008 on preventing and combating infections and infectious human diseases (consolidated text, Journal of Laws of 2019, item 1239, as amended).
- The Act of March 2, 2020 on special solutions related to the prevention, counteraction and combating of COVID-19, other infectious diseases and the emergencies caused by them (Journal of Laws of 2020, item 374, as amended).
- Regulation of the Minister of Health of February 27, 2020 on SARS-CoV-2 coronavirus infection (Journal of Laws of 2020, item 325).
- Regulation of the Minister of Health of April 6, 2020 on infectious diseases resulting in the obligation of hospitalization, isolation or isolation at home, and the obligation to quarantine or epidemiological supervision (Journal of Laws of 2020, item 607).
- Regulation of the Council of Ministers of August 7, 2020 on the establishment of certain restrictions, orders and bans in connection with an epidemic (Journal of Laws of 2020, item 1356).

ACT ON PREVENTION AND CONTROL OF INFECTIONS AND INFECTIOUS DISEASES IN PEOPLE AND COVID DISEASE—19

Summary

The outbreak of the COVID-19 epidemic in China, and its subsequent spread throughout the world, including Poland, revealed that many countries are not prepared for such negative occurrence. Deficiencies and shortcomings could be observed in practically every sphere of the state's functioning, which also applied to our country. Deficits were also observed in the scope of the applicable legal regulations, which underwent a certain petrification and did not sufficiently take into account the possibility of a new infectious disease, such as COVID-19.

This text presents considerations on the Act of 5 December 2008 on the prevention and combating of infections and infectious human diseases in the context of COVID-19. The purpose of those deliberations was to present the latest changes to the above-mentioned act and to assess their validity.

Keywords: COVID-19; an epidemic; the Act of December 5; 2008 on the prevention and combating of infections and infectious human diseases.

USTAWA O ZAPOBIEGANIU ORAZ ZWALCZANIU ZAKAŻEŃ
I CHORÓB ZAKAŻNYCH U LUDZI A COVID-19

Streszczenie

Wybuch epidemii choroby COVID-19 w Chinach, a następnie rozprzestrzenienie się jej praktycznie na cały świat, w tym i Polskę, obnażył nieprzygotowanie wielu państw na to negatywne zjawisko. Braki i niedostatki zaobserwować można było właściwie w każdej sferze funkcjonowania państwa, co dotyczyło także naszego kraju. Deficyty odnotowano również w zakresie obowiązujących regulacji prawnych, które uległy pewnej petryfikacji i niedostatecznie uwzględniały możliwość wystąpienia nowej choroby zakaźnej w postaci chociażby COVID-19.

Niniejszy tekst prezentuje refleksję odnoszącą się do ustawy z dnia 5 grudnia 2008 r. o zapobieganiu oraz zwalczaniu zakażeń i chorób zakaźnych u ludzi w kontekście choroby COVID-19. Celem podjętych rozważań było przedstawienie najnowszych zmian w wyżej wymienionej ustawie i ocena ich zasadności.

Słowa kluczowe: COVID-19; epidemia; ustawa z dnia 5 grudnia 2008 r. o zapobieganiu oraz zwalczaniu zakażeń i chorób zakaźnych u ludzi.