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PROTECTING HUMAN RIGHTS AND PUBLIC HEALTH
IN GLOBAL PANDEMICS:
A MAP OF THE STANDARDS APPLIED BY EU AND US COURTS

Dr Patrycja Dąbrowska-Kłosińska

**HEALTH AND HUMAN RIGHTS UNIT, SCHOOL OF LAW, QUB
(University of Warsaw, on leave)**



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BACKGROUND OF THE PROJECT

- RISK OF GLOBAL PANDEMICS
 - PREPAREDNESS LAWS
 - SECURITISATION OF HEALTH
 - POLITICISATION OF RISK
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- SEE EG. THE CASE OF KACI HICKOX
[„New Jersey Accepts Rights for People in Quarantine to End Ebola Suit”](#) , SOURCE: NEW YORK TIMES, 27.07.2017.

RESEARCH OBJECTIVES AND Qs



- Developing the first map of the standards applied by EU/US courts
- Discovering what is the role of risk, public health, epidemiology and gender, time & site-specific factors in judicial reasoning on HR protection and pandemics
- Comparing how EU/US courts construe lawful HR derogations (proportionality & intensity of review)

HYPOTHESIS & CONCEPTUALISATION

- Traditionally hands-off in risk to health cases judges increasingly engage in more restrictive review of public powers
- Eg through review of plausibility of evidence (incl. scientific evidence)
- Eg through judicial dialogue (with other courts, but also expert bodies)
- Risk AND human rights (T. Murphy & N. Whitty, 2009)
 - „Risk within rights”

METHODOLOGY AND SCOPE

- Comparative interpretive approach (T.S. Orlin & M. Scheinin, 2000).
- Material scope: (i) subject matter, ie, a conflict between HR protection and public health in cases of (risk of) pandemics; (ii) relevance to one or more of the main three aspects of regulatory control of infectious diseases: detection, prevention, and treatment.
- Normative scope: selected jurisdictions (EU/US), including both national/state and supranational/federal court decisions; and ECHR, ECJ.

THANK YOU.



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