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An International Perspective

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COVID-19 IN RUSSIA: NOVELS OF LEGAL REGULATION OF HEALTHCARE

Svetlana I. Pospelova* , Natalia A. Kamenskaya*, Maria V. Posadkova*, ** and Sergey V. Pospelov*, ****

Abstract: The article describes the timeline of the spread of COVID-19 in Russia, examines the legal nature of the high alert regime and restrictions and the grounds for their phased withdrawal. Newly defined administrative and criminal liabilities, in the context of epidemic, are introduced. A set of measures is considered to overcome the healthcare system's organizational crisis during the pandemic: changing the rules for providing medical care; the mechanism of work of medical organizations; and introducing state support measures, including for medical experts working with patients with COVID-19.

The patient's legal status during a pandemic is investigated: general innovations of a supportive nature; restrictive measures for patients with COVID-19; and the situation of people with other serious illnesses. Introduction of power measures without defined legal parameters risks the balance of rights.

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Keywords: Pandemic; COVID-19; Restrictive Measures; Liability; Medical Care; Government Support Measures; Patient Rights; Human Rights

Introduction

On January 30 2020, at a meeting of the World Health Organization's (WHO) emergency committee, the outbreak of the new coronavirus was recognized as a public health emergency of international concern. On March 11 2020, the WHO officially recognized it as a pandemic.

In Russia, the first case of COVID -19 infection was recorded on January 31 2020.[1] The virus's source seemed to be beyond Russian borders: it was detected in the Trans-Baikal Territory and the Tyumen Region of two arrived Chinese citizens. The main increase in the number of detected cases began in mid-March, due to timely preventive measures taken by executive authorities.

Acting in advance of a rapidly growing pandemic, on January 24, 2020, the Chief State Sanitary Doctor of the Russian Federation issued Decree No. 2 "*On additional measures to prevent the importation and spread of a new coronavirus infection caused by 2019-nCoV,*" and on January 30 2020, the Russian Federation Government imposed a ban on border crossing by Chinese citizens, arriving from China.

The restrictions were introduced in Russia for the first time in history. The measures to prevent the increase in COVID infections were as follows: self-isolation; communication with foreign countries; classified non-working days; introduction of the regime limits measures; widespread thermometry of the population; establishment of adaptive patient-medication systems; and state control of pricing of medical devices, which is a significant element in protecting against potential infection. New measures of administrative and criminal liability for violation of restrictions were introduced.

The spread of COVID -19 in Russia, at the beginning of the pandemic, did not exceed the European average and amounted to ~20% and, after the introduction of more stringent restrictive measures, including self-isolation, it fell to 3%. Less than 2 months after the introduction of the self-isolation, the distribution coefficient of coronavirus in Russia decreased to 0.89 and to 0.72 in Moscow.[2]

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1 https://www.rospotrebnadzor.ru/region/korono_virus/epid.php.

2 https://tass.ru/obschestvo/8506237.

According to the Ministry of Health of Russia, more than 40% of citizens testing positive for coronavirus did not have any clinical manifestations.[3] Though in 3rd place, in terms of detected cases, the number of deaths, as of May 24th 2020, amounted to 3249 people – less than 1% of the detected cases.[4]

In Russia, as of May 24th 2020, according to WHO and The Russian Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing, more than 8 million tests for Coronavirus were completed - the second largest count internationally.[5] To obtain data, on the emerging collective immunity in Moscow, free testing for antibodies to COVID -19 began on May 15th 2020. The data accumulated by May 22nd indicated that among the 40 thousand tested, 14% were positive for the antibodies.[6]

The Minister of Health of the Russian Federation believes that the first vaccines against coronavirus will appear in late July,[7] with a statement supported by Russia's chief sanitary doctor statedthat vaccination against coronavirus will begin with at-risk groups.[8]

The article discusses and systematizes the novels of Russian legislation on:

- restrictions and prohibitions introduced in the territory, as well as liability for failure to comply
- measures aimed at organizing the provision of medical care during a pandemic
- the legal status of patients, particularly the general innovations of a supportive nature; restrictive measures for patients with COVID-19 and the legal status of persons with other serious illnesses.

1. Restrictions in the Context of the Epidemic Spread of COVID-19 and the Liabilities for their Violation

3 https://ria.ru/20200413/1569992364.html.
4 https://www.rospotrebnadzor.ru/region/korono_virus/epid.php.
5 https://www.rospotrebnadzor.ru/about/info/news/news_details.php?ELEMENT_ID=14556.
6 https://rg.ru/2020/05/22/stali-izvestny-rezultaty-massovogo-testirovaniia-na-antitela-k-koronavirusu.html.
7 https://www.interfax.ru/russia/708427.
8 https://www.kommersant.ru/doc/4350795.

1.1 *Legal Basis for the Introduction of High Alert Status and Removal of Restrictions and Prohibitions*

High alert was introduced in the constituent entities of the Russian Federation, based on the provisions of Article 72 of the Constitution of the Russian Federation[9] which established joint jurisdiction of the Russian Federation and its constituent entities in relation to the implementation of measures to combat disasters, natural disasters, epidemics and the elimination of their consequences on the basis of Federal Laws[10].

The Decree of the President of the Russian Federation, on April 2, 2020, No. 239[11] and continued acts of the federal government[12,13] propelled highest officials of said entities to develop a set of restrictive measures to counteract the spread of COVID-19. This national effort was based on the sanitary and epidemiological situations in each entity.

The activities of organizations and individual entrepreneurs were suspended and limited and a special procedure for movement was established to involve the methodological recommendations of consumer protection agency, Rospotrebnadzor[14] and chief state doctors. These measures did not apply to medical and pharmacy organizations, grocery organizations and others providing emergency and essential services[15].

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9 Constitution of the Russian Federation (adopted by popular vote on December 12, 1993).

10 Federal law of December 21, 1994 No. 68-FL "On the Protection of the Population and territories from natural and man-made emergencies" and in order to ensure compliance with the provisions of the Federal Law of March 30, 1999 No. 52-FL "On the Sanitary and Epidemiological Well-Being of the Population".

11 Decree of the President of the Russian Federation of 02.04.2020 N 239 "On measures to ensure the sanitary and epidemiological well-being of the population in the Russian Federation in connection with the spread of a new coronavirus infection (COVID-19)".

12 Decree of the Government of the Russian Federation of April 2, 2020, No. 417 "On the Approval of the Rules of Conduct Mandatory for Execution by Citizens and Organizations upon Introducing a High Availability or Emergency Situation".

13 Decree No. 2 of the Chief State Sanitary Doctor of the Russian Federation dated January 24, 2020 "On additional measures to prevent the importation and spread of new coronavirus infection caused by 2019-nCoV" and dated March 2, 2020 No. 5 "On additional measures for reducing the risks of importation and spread of a new coronavirus infection (2019-nCoV)".

14 The Russian Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing.

15 Decree of the President of the Russian Federation of 02.04.2020 N 239 "On measures to ensure the sanitary and epidemiological well-being of the population in the Russian Federation in connection with the spread of a new coronavirus infection (COVID-19)".

The effectiveness of these restrictions will be evaluatedat the end of the pandemic. This is a topic for our further comparative study of different nations' situations.

Rospotrebnadzor proposed[16] the **phased removal of restrictive measures** which will involve 3 stages. The decision on specific measures at each stage is assigned to the head of the region at the suggestion of the chief sanitary doctors and in case of complications of the epidemic, restrictive measures may be resumed.

Some rules are expected to be maintained, until the creation of a vaccine against COVID -19. To adapt to life with the virus, special guidelines have been developed for various industries.[17]

Restrictive measures differ in the territories of constituent entities depending on the degree of infection within that region.

1.2 *Restrictive Measures on the Example of Moscow*

On May 24 2020, the recorded cases totaled 326 448 with 163 913[18] in Moscow - more than 50% of all identified cases. After May 25, less than half of the cases in Russia were recorded in Moscow and the number of people who recovered exceeded the number of those infected.[19]

In Moscow, where COVID-19 had the highest spread, the most restrictive measures were introduced.

By a decree of the Mayor of Moscow, dated as early as March 5 2020[20], a high-alert mode was introduced due to the threat of the spread of COVID-19. Complementing federal bans, it included a ban on all public events, religious facilities (until June 14, 2020), suspension of visiting city cemeteries, except if participating in a burial. It suspended: restaurant operations excepting take-away and delivery services; provision of short-term car rental services (car-sharing

16 "MR 3.1.0178-20. 3.1. Prevention of infectious diseases. Methodological recommendations. Determination of a set of measures, as well as indicators that are the basis for the phased removal of restrictive measures in the context of the epidemic spread of COVID-19" (approved by the Chief State Sanitary Doctor of the Russian Federation 05/08/2020).

17 tass.ru/obschestvo/8429201.

18 Operational Headquarters for Combating coronavirus in Russia, https://t.me/COVID2019_official.

19 Ibid.

20 Decree of the Mayor of Moscow dated March 5, 2020, No. 12-UM "On the introduction of a high alert mode" with subsequent amendments.

services); and passenger transportation services on request, with the exception of taxi services. Operating facilities were also mandated to implement personal respiratory (masks, respirators) and hands (gloves) sanitation and protection.

From March 21st, students were suspended from visiting educational organizations, with rapid spread to include all student facilities throughout the country.

City authorities required people to use personal protective equipment for respiration (masks, respirators) and hands (gloves) when on public transport and visiting locations of trade. It became obligatory to maintain a distance of at least 1.5 meters (social distance) between individuals in public places and public transport. Visiting the nearest food store or pharmacy, walking pets, taking out garbage - at a distance not exceeding 100 meters from the place of residence, applying for emergency medical care, going to work werethe only exeptions to self-isolation.

Moscow authorities obliged visitors of "COVID-19 countries" to inform about return the Russian Federation, regarding: place(s) visited; dates of stay in these areas; contact information on the hotline of Moscow; and self-isolate at home for 14 days from the day of returning together with cohabiting ones.

COVID-19 infected and[21] suspected individuals, as well as people with symptoms of acute respiratory diseases and co-habitants to enable monitoring of compliance with self-isolation (isolation) at home, were required to use electronic technology monitoring their locations. These individuals were only allowed to mobilize when requiring necessary medical care.

As the number of cases increased, digital skipping mode was introduced to keep as many people as possible at home.[22] An electronic pass, was issued on the website or via SMS, for 1 calendar day, but no more than 2 times a week, for any purpose, and without restriction, in case of movement to receive medical care. For those who continued to work, a pass was issued without any limitations.

The measures, taken by the Russian authorities, turned out to be timely and effective, although some experts noted that the restrictions could have been

21 Effective from April 22, 2020.

22 Decree of the Mayor of Moscow of April 11, 2020, N 43-UM "On approval of the Procedure for processing and using digital passes for moving around the territory of the city of Moscow during the period of high availability in Moscow".

introducedearlier. Despite the decisions, which were prepared by the state authorities in advance, not all of them were implemented at an earlier date due to citizens' negative attitudes towards these restrictive measures. Only later did society endorse severe restrictions.[23] State power found itself in a difficult situation, the precedents of which had not existed in modern history. Introduction of tough measures was justified for reducing the spread of the epidemic while protests could be provoked by early severe restrictions and lower the level of approval of government decisions resulting in a refusal to follow such mandates.[24]

It is necessary to clearly define the legal mechanism for the introduction and implementation of appropriate preparation for this pandemic, considering the constitutional division of powers between federal and regional government bodies, as per the Constitution of the Russian Federation (part 3 of article 55), to restrict constitutional human rights and freedoms only through the adoption of federal law.[25]

1.3 *COVID-19 Novels of Administrative and Criminal Liability*

The media continued disseminating information about non-compliance, indicating a lack of motivation for people to ensure the safety of life and health of both for themselves and those around them. Failure to comply with sanitary and epidemiological rules inevitably would lead to defeat in the fight against the spread of COVID -19.

On April 1st 2020, the deputies of the State Duma of the Russian Federation and the Government of the Russian Federation developed and entered into force two new federal laws that strengthened administrative[26] and criminal[27] liability for violations of sanitary and epidemiological rules, including violation of quarantine, and self-isolation, and introducing liability for the distribution of fake information, as described below, related to the coronavirus epidemic.

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23 rg.ru/2020/03/24/strogij-karantin-podderzhali-bolshinstvo-rossiian.html.

24 Pospelov S.V. Abstracts of the MGIMO (U) International Online Conference "Pandemic as a Transformation Engine".

25 Constitution of the Russian Federation adopted by popular vote on December 12, 1993.

26 Federal Law of April 1, 2020, N 99-FL "On Amendments to the Code of the Russian Federation on Administrative Offenses" (amended by the Government of the Russian Federation).

27 Federal Law of 01.04.2020, No. 100-FL "On Amending the Criminal Code of the Russian Federation and Articles 31 and 151 of the Criminal Procedure Code of the Russian Federation" (as amended by deputies of the State Duma of the Russian Federation V.V. Volodin, P.V. Krasheninnikov).

The new laws aimed at improving mechanisms to protect health of citizens from the spread of disease (including coronavirus infections) and to increase the social responsibility of those infected, potential carriers and uninfected individuals.

Unlike criminal liability, administrative liability can be established both at the federal level and that of the subject of the Russian Federation. The regions are not entitled to impose fines in the amount higher than those imposed in the federal code.

The authorities of some constituent entities of the Russian Federation imposed fines for failure to comply with the rules of conduct associated with high alert statuses. In such entities, regional fines applied and, in the entities in which penalties for violation of said rules of conduct, were not imposed, federal standards applied. In Moscow, a fine of 4,000 rubles[28] was imposed for violating the self-isolation regime (if the offender was driving a car - 5,000 rubles) and at the federal level - from 1,000 to 30,000 rubles.[29]

Violation of the Legislation in the Field of Ensuring the Sanitary and Epidemiological Welfare of the Population

1/Administrative Responsibility

Until April 1st 2020, Article 6.3 of the Administrative Code of the Russian Federation (hereinafter – AC RF) provided for administrative liability only for violation of legislation regarding sanitary and epidemiological welfare of the population, defined as both violation of and failure to comply with sanitary, hygienic and anti-epidemic measures (maximum fine for individuals — 500 rubles).

From April 1[30], this article was supplemented by 2 new parts[31]. According to one of them, administrative responsibility entails the commission of the same act **during the emergency situation regime or when there is a threat of the spread of a disease that poses a danger to others, or during the quarantine.**

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28 1 usd = 69 rub, www.cbr.ru/eng/currency_base/daily/.

29 Law of Moscow dated 01.04.2020, No. 6 "On Amendments to Articles 2 and 8 of the Law of the City of Moscow dated December 10, 2003 No. 77 On Public Law Enforcement Points in Moscow" and the Law of the City of Moscow dated November 21, 2007, No. 45 "Moscow City Code of Administrative Offenses".

30 Federal Law of April 1, 2020, N 99-FL.

31 Parts 2 and 3 of Article 6.3 of the AC RF.

Penalties set for those violating quarantine were much higher: for individuals a fine of 15,000-40,000 rubles, for officials 50,000-150,000 rubles and for legal entities 200,000-500,000 rubles or suspension of activity for up to 90 days.

If such violation resulted **in harm to human health or death of one person,** the punishment would be more severe: a fine of 150,000-300,000 rubles for individuals, for officials 300,000-500,000 rubles or disqualification for a period of 1 to 3 years and for individual entrepreneurs and legal entities 500,000-1 million rubles or suspension of activity for up to 90 days.

2/Criminal Liability

If a violation of the sanitary and epidemiological rules, by negligence, **resulted in a massive illness or poisoning of people or posed a threat of same,** the offender could face 2 years in prison[32] and, if by negligence, causes **the death of a person** – this could be up to 5 years.[33] If **2 or more people died,** the maximum penalty could be imprisonment for 5 to 7 years.[34]

Before the introduction of these amendments to the Russian criminal law, liability for violation of sanitary-epidemiological rules only occurred if such violation, caused by negligence, resulted in mass illness, poisoning of people or death of a person.

In accordance with the new law, **only the threat** of the spread of mass disease was enough to prosecute violators.

Criminal liability for violation of sanitary and epidemiological rules that created a threat of such consequences could occur only if ***this threat*** was ***real***, namely when the consequences were not as a result of measures taken by the authorities, medical workers or other people to prevent the spread of the disease, or resulting from other circumstances that were independent of the will of the person who violated these rules.[35] If an infected person left hospital and took used public transport, then such actions could theoretically lead to criminal liability.

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32 Part 1 of Article 236 of the Criminal Code of the Russian Federation dated 13.06.1996 N 63-FZ (hereinafter – CC RF).

33 Part 2 of Art. 236 of the CC RF.

34 part 3 of article 236 of the CC RF.

35 Review on selected issues of judicial practice related to the application of legislation and measures to counteract the spread in the territory of the Russian Federation of a new coronavirus infection (COVID-19) No. 2 (approved by the Presidium of the Supreme

Failure to Comply with the Rules of Conduct when Introducing High Alert

A new law[36] introduced administrative liability for **failure** to **comply with the rules of conduct when introducing a high alert** on the territory in which there was a threat of an emergency or in the emergency zone.[37] It could be violation of self-isolation by individuals who had to stay home, in accordance with the act of the authority of the relevant constituent entity of the Russian Federation.[38]

The new article provided for the following sanctions: for individuals - a warning or a fine of 1,000-30,000 rubles; for officials - 10,000-50,000 rubles; and for legal entities - 100,000-300,000 rubles.[39] In the event of a repeated violation, as well as if such actions entailed harm to human health or property, increased liability was available.[40]

Spread of Fake Information about COVID-19

1/Administrative Responsibility

Article 13.15 of the AC RF "Abuse of freedom mass information" was supplemented by 2 new parts, making it possible to bring administrative liability for legal entities disseminating false information via the media and information and telecommunication networks (as per the Internet) **knowingly producing inaccurate information about the circumstances that posed a threat to life and people's safety and/or measures taken to ensure the safety of the population and territories, methods and methods of protection from these circumstances**. These violations attracted a fine of between 1.5 million to 3 million rubles.[41]

If the dissemination of such information resulted in **the death of a person, harm to human health, massive violation of public order or public safety,** then the fine could be from 3 million to 5 million rubles.[42]

Court of the Russian Federation on April 30, 2020).

36 Federal Law of April 1, 2020, N 99-FL.

37 Article 20.6.1 of the AC RF.

38 For example, in Moscow it is the Decree of the Mayor of Moscow dated March 29, 2020, No. 34-UM "On Amendments to the Decree of the Mayor of Moscow dated March 5, 2020, No. 12-UM".

39 Part 1 of article 20.6.1 of the AC RF.

40 Part 2 of article 20.6.1 of the AC RF.

41 Part 10.1 of article 13.15 of the AC RF.

42 Part 10.2 of article 13.15 of the AC RF.

2/Criminal Liability

For individuals, the new law provided for **criminal liability for the dissemination of knowingly false information:**

- about the circumstances that pose a threat to the life and people's safety (epidemics, disasters, other emergencies, including the circumstances of the spread of COVID-19 in the Russian Federation), and about the measures taken **to ensure the safety of the population and territories,** measures **and ways of protection against these circumstances** - shall be punishable by a fine of 300 thousand to 700 thousand rubles to restriction of liberty for a term of up to 3 years[43]

- socially significant information that caused grave consequences (harm to health, death of a person or other grave consequences) - the maximum sentence of imprisonment is up to 5 years.[44]

One of the conditions for the onset of criminal liability was the ***dissemination of knowingly false information under the guise of reliability.*** Misrepresenting false information as reliable coulds include forms, methods of its presentation (links to competent sources or statements by public figures), the use of false documents, video and audio recordings or documents and records related to other events. Knowingly false information includes information that does not correspond to reality, where the truth was known to the person who disseminated the falsehood.[45]

The adoption of innovations aimed at strengthening administrative and criminal liability for violations of sanitary and epidemiological rules improved the mechanisms for protecting people from the threat of the spread of COVID-19 and other infectious diseases, and increased social responsibility, thereby ensuring the prevention of the spread of mass diseases.

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43 Article 207.1 of the CC RF.

44 Article 207.2 of the CC RF.

45 Review on selected issues of judicial practice related to the application of legislation and measures to counteract the spread in the territory of the Russian Federation of a new coronavirus infection (COVID-19) No. 2 (approved by the Presidium of the Supreme Court of the Russian Federation on April 30, 2020).

2. Measures Aimed at Organizing the Provision of Medical Care during a Pandemic

2.1 *Temporary Changes in the Organization of Medical Care*

As a result of changes to federal legislation, in connection with the prevention and liquidation of emergency situations, the Government of the Russian Federation was vested with additional powers, including establishing the specifics of implementing the federal program of compulsory medical insurance, in the event of a threat of the spread of diseases that poses a danger to others.[46] Based on these powers, the Government adopted a set of measures on the organization of medical care, which adjusted the rules for the provision of medical care until the end of 2020.[47]

The regional leaders were given the right to increase the waiting time for non-essential, planned medical care, which had been established in the states' guarantees of free medical care for citizens. The procedure for sending citizens to receive planned medical care recognised the need to ensure an adequate level of organising planned patients in the context of re-profiling a number of medical organizations required to work with patients with coronavirus infection.

To ensure the safety of patients and medical workers, the Ministry of Health recommended that citizens postpone non-essential planned medical care both in outpatients and inpatients, in the absence of a threat to their life and health.[48] The Federal Ministry of Health charged regional health authorities with the obligation to monitor possible violations in the provision of medical care, indicating that it is unacceptable to arrange additional places for the treatment of patients with new coronavirus infections that risks the health of patients with other diseases, and in conditions of removal or relaxation of restrictions, patients with COVID-19 should not be denied hospitalization.[49]

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46 Federal Law of April 1, 2020, N 98-FL "On Amending Certain Legislative Acts of the Russian Federation on the Prevention and Response of Emergencies".

47 Decree of the Government of the Russian Federation of April 3, 2020, N 432 "On the features of the implementation of the basic program of compulsory health insurance in the face of the threat of the spread of diseases caused by a new coronavirus infection".

48 Clarifications of the Ministry of Health of the Russian Federation of April 8, 2020, "Clarifications of the Russian Ministry of Health regarding the provision of planned medical care".

49 Letter of the Ministry of Health of the Russian Federation of May 15, 2020, N 30-4 / 326.

To ensure the safety of patients, preventive medical consultations were temporarily suspended. The Ministry of Health recommended that the regions make decisions on the temporary suspension of routine immunization of children within the framework of the National Calendar, based on the prevailing epidemiological situation.[50] When deciding whether to continue vaccination, as recommended by the WHO, "*Guidance on routine immunization during the COVID-19 pandemic in the WHO European Region*".[51] It is necessary to provide isolation and restrictive measures to minimize the possibility of exposure to COVID-19.

With the current epidemiological circumstances, there was a decreased level of preventive measures in the healthcare system, including dispensary observation and preventive examinations. There were risks associated with the need to redistribute the volume of planned care and certify adequate direction of non-essential planned patients while managing appropriate reassignment of specific medical organizations to work with COVID-19 patients.

2.2 *The Organization of Work of Medical Workers and Medical Organizations Working with COVID -19*

The Ministry of Health of the Russian Federation made temporary changes to the procedures and principles outlining the work of medical organizations to reduce the incidence of COVID- 2019 infections.[52] Federal Remote Consultative Centers were established and the regions instructed to create similar centers in the territories. They organized remote seminars for medical workers, on the diagnosis and treatment of new coronavirus infections, and round-the-clock consultations for the regions to identify individuals with suspected COVID-19. The Ministry of Health determined the minimum requirements for medical activities aimed at the prevention, diagnosiss and treatment of new coronavirus infections.

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50 Letter of the Ministry of Health of the Russian Federation of April 14, 2020, N 15-2 / I / 2-4706.

51 http://www.euro.who.int/__data/assets/pdf_file/0005/433814/Guidance-routine-immunization-services-COVID-19-pandemic-rus.pdf?ua=1.

52 Order of the Ministry of Health of the Russian Federation of March 19, 2020, N 198n "On a temporary procedure for organizing the work of medical organizations in order to implement measures to prevent and reduce the risks of the spread of a new coronavirus infection COVID-19".

Issues regarding recruitment of specialist doctors, to work with the new coronavirus infections, were in the spotlight of the national health system. The Ministry of Health established a moratorium on obtaining specialist certificates and certificates of accreditation forspecialists throughout 2020, with the validity period of expiring documents automatically extended by a year. the Ministry of Health allowed people with a certain level of medical and pharmaceutical knowledge to work in a pandemic during the pandemic. Individuals allowed to work with ordinary patients included:[53]

- medical and pharmaceutical workers without accreditation (just submit an education document);
- clinicians, after completing a 36-hour training course, as trainees under the supervision of a specialist physician;
- graduate students with a secondary medical education, after completing a 36-hour training course, as secondary nurses under the supervision of a senior nurse; and
- People who had a medical education in Russia but had not worked for the last five years, after completing a 36-hour training course as a trainee or paramedical staff under the supervision of a doctor / nurse;

These same people, subject to additional requirements, could arrange a special unit for new cases of coronavirus infection.

If the epidemiological situation deteriorated, non-specialized specialists could be involved, following 36-hour training, to assist patients with COVID -19. They could assist under the supervision of a specialist. The heads of medical organizations were required to determine the composition of the doctors who provided care to patients with COVID-19.[54]

Unprecedented measures were adopted to mobilize health workers to ensure smooth operation in the pandemic. It was necessary to employ temporary

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53 Order of the Ministry of Health of the Russian Federation of April 14, 2020, N 327n "On the specifics of admitting individuals to carry out medical activities and (or) pharmaceutical activities without a specialist certificate or a certificate of accreditation of a specialist and (or) for specialties not provided for by a specialist certificate or certificate of accreditation of a specialist".

54 Order of the Ministry of Health of the Russian Federation of April 29, 2020, N 385n "On Amending the Order on the Temporary Procedure for Organizing the Work of Medical Organizations ".

procedures for attracting non-core specialists, after additional education and training, including university medical students.

2.3 *Government Support Measures for the Health System during a Pandemic*

The President of the Russian Federation by decree, before the adoption of the relevant federal law, introduced a mechanism for social insurance and appointed additional lump-sum insurance payments to medical workers working with patients who had a new coronavirus infection or suspected COVID-19.[55] The insurance payment was a lump-sum and paid according to the results of the investigation of the insured event (according to the rules of the Labor Code of the Russian Federation). Complementing other social insurance payments, the size of the payments depended on the scale of the consequences. The death of a medical worker resulted in payment of approximately 2.7 million rubles, Disability of a health care worker, consequent to transferred COVID -19, resulted in a payment of - from 680 thousand to 2 million rubles and with temporary disability (without the onset of permanent disability) - 68 thousand rubles. The source of payment was also determined to eminate from intergovernmental transfers from the federal treasury. It is likely that a more detailed regulation of the mechanisms for financial support of payments will require a federal law. The Presidential Decree was adopted based on Article 80 of the Constitution of the Russian Federation.

A package of state support measures provided for payments to medical workers for special working conditions and additional workloads when dealing with patients with COVID-19. Those medical workers who received a stimulus payment was established by the local regulatory act of the medical organization. The list couldalso be approved by the regional Ministry of Health. This payment was initially recommended for each month, from the beginning of the provision of medical care, for the time actually worked (with the exception of periods of absence of a medical worker from the workplace for appropriate reasons, including illness, vacation or other cases, as stipulated by law).[56]

Necessary amendments were made to the regulation of the payment mechanism.[57] The previous wording - "*a local act of a medical organization*

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55 Decree of the President of the Russian Federation of May 6, 2020, N 313 "On the provision of additional insurance guarantees to certain categories of medical workers".

56 Letter of the Ministry of Health of the Russian Federation of May 6, 2020, N 16-3 / I / 2-5951.

57 Decree of the Government of the Russian Federation of May 15, 2020, N 678 "On amendments to the Rules for the provision in 2020 of other inter-budget transfers".

establishes the amount of payment for actually worked time" - generated many regional interpretations calculated based on the minutes spent next to the patient. Medical workers received very small amounts of incentive payments and the Ministry of Health of the Russian Federation considered such accrual of payments as an "*incorrect interpretation*".[58] Payments should have been based on the risk of working with patients with COVID-19 and were to be paid in full, regardless of the number of shifts and/or hours, if the employee worked in accordance with the established schedule. The Ministry of Health demanded that the governors recount and reimburse medical workers the correct amount of incentive payments without accounting for the "actually worked hours" and reportcorrespondingly. Medical workers who have not received the due payments could complain to the Ministry of Health through the public services portal.

Among the general packages of state support for the health care system, an "accelerated" mechanism for the social insurance of medical workers was introduced and incentive payments were provided for special working conditions and the added risks when working with COVID-19 patients.

3. The Legal Status of the Patient during a Pandemic

Patients, not limited to those diagnosed with COVID-19, were the most vulnerable group, in terms of both medical and legal repercussions in the healthcare sector. Additional supportive and restrictive measures were introduced to find a balance between preventing the spread of infection (protecting the health of the entire population) and respect for human rights. The recent changes in Russian law required an appreciation of whether the patient's legal status and basic rights were left intact.

3.1 *Support Measures for Patients: General*

When the first coronavirus infection was detected in Russia (before the introduction of the high-alert mode), the healthcare sector's federal executive body adopted general explanations on priority areas in the organization and implementation of medical care.

58 Letter of the Ministry of Health of the Russian Federation of May 16, 2020, N 11-0 / I / 2-6574.

A temporary procedure, for the remote issuance of sick leave certificates was introduced for all people returning from abroad.[59] Prescription drugs were allowed to be obtained by relatives, friends and volunteers. The developed electronic coronavirus service was launched, providing the opportunity to determine a citizen's level of risk of infection and guiding him/her accordingly.[60] It was recommended to prescribe medications with maximal permitted quantities amounts and calling patients with chronic diseases.[61]

Some norms were not innovations, rather they were simply "lost" in the entire array of existing legislation and were not practically implemented. Unlimited to this period of pandemic, the attending physician could prescribe medications with a long validity period: from 15 days (narcotic and psychotropic drugs), to 90 days (for citizens entitled to free drug supplies or at a discount) and up to 180 days (for citizens with chronic diseases).

There were additional guarantees for patients, parallel to the application of restrictive measures.

The pharmacy organizations' remote sales and retail distribution of medication became a norm.[62] The demand for such a legislative provision was voiced by the public for a long time withthe current epidemiological situation accelerating its implementation. The rights of the subjects and possible legal risks, with clarification of requirements for the pharmacies' online platforms and organization of delivery were illucidated. Not all pharmacy institutions automatically acquired the authority to carry out distance trading which was restricted to those that received the appropriate permission from Roszdravnadzor. Prior to the pandemic, online sales for prescription drugs, narcotics, psychotropics and alcohol-containing drugs with a volume fraction of ethyl alcohol of more than 25% was impossible. In an emergency and/or when there was a threat of the spread of a disease that posed a danger to others, the Government could execute a temporary order permitting the sales and

59 Temporary procedure for registration of sick leave http://www.consultant.ru/document/cons_doc_LAW_348460/.

60 Information from the Ministry of Health of Russia "The Ministry of Health of Russia has launched an electronic coronavirus service for citizens".

61 http://www.consultant.ru/document/cons_doc_LAW_348636/.

62 Federal Law of April 3, 2020, N 105-FL "On Amending Article 15.1 of the Federal Law "On Information, Information Technologies and the Protection of Information" and the Federal Law "On the Circulation of Medicines".

delivery of the above prescription drugs(paragraph 9).[63] It is currently valid until December 31, 2020.

The approach to the online sale of medicines expanded the possibilities of electronic commerce and provided medicines, not only under the current restrictive measures, but also post-pandemic to address patients' right to quality and availability of medical care.

Lacking guidelines at the beginning of the pandemic, some individuals were more vulnerable to disabilities, potentially caused by COVID-19. The authorities established temporary procedures for obtaining disability status: the initial examination was carried out in absentia and the status of a disabled person was automatically renewed for 6 months.[64] The procedure for establishing disability remained a prominent issue for Russian patients, especially when considering the dependence of preferential drug provisions and the physical/health status of a "disabled person". Many patients awaited the above changes, including the transition to electronic document management, and new opportunities to exercise their rights, including the hope for prolonging such services post-pandemic.

Another developing area was the introduction and development of telemedicine consultations.[65] This has become especially relevant for some large regions that are most affected by the pandemic and were forced to introduce additional restrictive measures (such as requiring passes for moving around the city). In Moscow, with the support of the regional health authority, telemedicine consultations were already in use, although limited to patients with COVID-19 sufficiently mild to be treated at home.[66] At the federal level, such a legal regulation has not yet been introduced - the bill is under consideration by the legislative body and provides for telemedicine (without special restrictive measures) only in emergency situations and when there is a threat of the spread of a particularly dangerous disease.[67] Telemedicine has a

63 Ibid.

64 Decree of the Government of the Russian Federation of April 9, 2020, No. 467.

65 About legal regulation of telemedicine in Russia see: Beran, R. G., Pereira, A. D., Barbosa, C., Pospelova, S. I., Pavlova, Y. V., & Kamenskaya, N. A. Legal regulation and role of telemedicine in Australia, Portugal and Russia. Medicine and Law, 2019, 38(4), 677-710.

66 Doctors in touch: how medicine helps in the fight against coronavirus https://www.mos.ru/news/item/72444073/

67 Bill No. 930215-7 "On Amendments to the Federal Law "On the Basics of Protecting the Health of Citizens in the Russian Federation" (regarding the specifics of providing medical care in emergency situations).

unique potential aimed at improving the quality and accessibility of medical care for patients and its immediate implementation would be welcomed. There is concern over the "slowdown" of its introduction, at the federal level, citing the length of the adoption procedure (especially by comparison with the timing of the introduction of restrictive measures) and the inclusion of additional and sometimes unreasonable conditions that are most apparent during critical situations (such as a pandemic). This includes the possibility of using telemedicine consultations with a doctor only from his workplace during self-isolation periods and the lack of an appropriate doctor to diagnose or write a prescription, without in-person consultations when re-profiling all medical institutions for COVID-19.

The state responded to the existing legal realities and embodied new mechanisms for the implementation of the established rights of patients in the "letter of the law". The concern remians the actual implementation of the established measures and their real ability to smooth out the conflict between private and public interests: A question is raised: what were the reasons for the delay of these supportive measures pre-pandemic for the rights of patients?

3.2 *Patients with COVID -19: Save Lives and Preserve their Rights*

In addition to the supportive standards introduced in relation to patients, some categories of patients were subjected to restrictive measures. Patients with COVID -19 had to deal with legislative innovations restricting constitutional rights, including its immediate inclusion in the list of diseases that pose a danger to others.[68]

After a diagnosis of mild symptoms is established or after recovery in stationary conditions, a patient with COVID -19 and their cohabitants, citizens with a suspected presence of COVID-19 and citizens with a manifestation of acute respiratory viral infection and other infections, are all subject to electronic monitoring of their locations (through an application on their mobile phone) - the main resource of interagency interaction between government bodies and a fixator for violation of legislative norms. Such patients lost the right to refuse the monitoring or replace it with an alternative measures although the authorities claim complete safety of the information and privacy.[69] Given

68 Decree of the Government of the Russian Federation of January 31, 2020, N 66 "On Amending the List of Diseases that Danger Others", Coronavirus infection (2019-nCoV).

69 Order of the Moscow Department of Information Technologies dated April 29, 2020, N 64-16-186 / 20 "On approval of the Procedure for applying electronic monitoring technology of

the haste of introduction and the lack of a personalized approach (the norm is relevant not only for patients with COVID-19, but also for at-risk groups), there is a potential risk of self–medication as well as a disproportionate restriction of the right to privacy, especially in those with suspected COVID-19 infection. The introduction of electronic monitoring is not yet mandatory for all regions of Russia and the decision on the need for its introduction, as well as many other restrictions, remains with the heads of the Russian regions.

The inclusion of COVID-19 on the list of diseases that pose a danger to others automatically provided the opportunity for people suffering from its infection to undergo medical intervention without personal consent nor that of a parent or legal representatives (paragraph 9 of article 20)[70]. This was reinforced by possible forced isolation and hospitalization of all the above categories of people, besides a person with a a clear diagnosis (Article 33).[71] The norms under consideration were not new to Russian legislation.Certain categories of diseases had clear legal mechanisms already developed for implementation in appropriate scenarios, including all entities subject to the norms (including active tuberculosis, the process of introducing forced intervention is fixed at the level of a separate federal law).[72] The procedure was enshrined in the recommendations of the chief sanitary officer of the Russian Federation, which raised some doubts about the formal (not federal law) and substantive (mechanism and areas of responsibility not detailed) constitutionality of the innovation. The Supreme Court of the Russian Federation already confirmed the existence of such powers for the chief sanitary doctors and their deputies in one of their reviews,[73] despite the lack of an optimal functioning model.

It seems obvious that the introduction of adaptive mechanisms to monitor COVID-19 patients into the regulatory framework is logical and mandatory to protect the health of the entire population. It remains important to comply with current legislation, in order to prevent potential and future legal uncertainties and human rights violations.

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a citizen's location in a specific geolocation using the Social Monitoring mobile application".

70 Federal Law "On the Basics of Protecting the Health of Citizens in the Russian Federation" of November 21, 2011, N 323-FL.

71 Federal Law N 52-FL "On the Sanitary and Epidemiological Well-Being of the Population".

72 Federal Law of June 18, 2001, N 77-FL "On Prevention of the Spread of Tuberculosis in the Russian Federation".

73 Review of selected issues of judicial practice related to the application of legislation and measures to counteract the spread of the new coronavirus infection (COVID-19) No. 1 in the Russian Federation, approved by the Presidium of the Supreme Court of the Russian Federation on April 21, 2020.

3.3 Persons with Chronic Illnesses are Hostages of a Pandemic

Due to the rapid increase in the number of patients with COVID-19 in Russia, priority public health efforts were committed to the fight against infection. Patients with chronic and rare diseases remained in a more vulnerable position and there was not, and has not been, enough financial support, nor manpower to assist their needs. The introduced universal restrictions made it difficult for such patients to receive high-quality and affordable medical care: more than 62% of respondents experienced difficulties in providing medicines during a pandemic.[74]

Despite the norm introduced at the federal level, providing patients with drugs on an outpatient basis remotely, its potential has not yet been fully realized. In the early days of the high alert, many patients received unreasonable refusals due to inaccessibility of medical institutions, leaving people without vital medications. To address this, a large-scale drug provision was organized in large cities, but some regions were still not adequately prepared and forced patients to visit hospitals (converted for COVID-19) and pharmacies. Supporting the remote provision of drugs, as well as for long-term prescriptions, remained only a recommendation for the attending physician at the federal level and failed to receive emphasis during this pandemic. A "shift" of state responsibility to the attending physician seems unjustified and has become an obstacle to the proper implementation of the established norm.

At the regulatory level, planned medical care was limited in stationary conditions (day and round-the-clock).[75] In this period of high preparedness, planned medical care could be organized only if there was a referral for hospitalization issued by the attending physician, the regional Ministry of Health or the federal executive body (paragraph 1.11). In all other cases, patients could be rejected due to the epidemiological situation, without consideration of all the possible risks for patients.

After some time, the norm was supplemented by a list of nosologies, people with whom they could receive full inpatient care. These included oncological, cardiovascular, endocrinological diseases and those on dialysis. They were

74 How a pandemic is experienced by patients with chronic diseases. https://vademec.ru/article/otrazhenie_sleduet-_kak_pandemiyu_covid-19_perezhivayut_patsienty_s_khronicheskimi_zabolevaniyami_/.

75 Order of the Ministry of Health of Russia dated 19.03.2020 N 198n "On a temporary procedure for organizing the work of medical organizations in order to implement measures to prevent and reduce the risks of the spread of a new coronavirus infection COVID-19".

forced to dispute the legality of the introduced rules as the list of diseases was completely new and its hasty preparation failed to include some rare diseases, for which medications were essential.

A month after the imposiiton of the rules, the Federal Compulsory Medical Insurance Fund has stated that the postponing of planned hospitalization of inpatient did not apply to patients with conditions and diseases that endanger their life and health. The Fund expanded the restrictive list of the introduced illnesses, in order to avoid illegal refusals to provide medical care, but since this was not implemented in the legal act, one cannot exclude the possibility that some patients will encounter this problem.

Another obstacle for patients wasthe requirement to take an antibody-analysis for COVID -19, and in some regions being forced to pay for such an analysis. Learning of this perverse practice, the Compulsory Medical Insurance Fund accepted clarifications that refusals to carry out planned hospitalizations, without a certificate of COVID -19, would qualify as unreasonable refusals to provide medical care to insured individuals.[76]

People suffering from other diseases are currently a most vulnerable. A main function of public authorities is not only a prompt and strategic response to the current situation, but also the introduction of a response for uniform application and practice. It is propose to supplement the legal regulation (Order of the Ministry of Health No. 198n) with provisions for hospitals' emergency medical responses to apply for patients with serious illnesses to with a standardized approaches and to consolidate the resources and guidelines for greater availability of telemedicine technologies.

The role of legislative innovations was determined by the number of scenarios andt the real impact on the legal field and patients. Some patients are trapped: they received necessary supportive measures, yet encountered difficulties in benefiting from their implementation and the tightened control of the restrictions introduced, which required the adoption of federal laws and regulations (and not conclusions and clarifications that are not normative) to prioritize protection and advocacy of human rights and the patient's legal status.

76 Letter No. 6235 / 30-2 / i of the Federal Compulsory Medical Insurance Fund of May 8, 2020.

Conclusion

The state is in a pandemic and has been forced to take a series of measures aimed at restricting the rights and freedoms of its citizens to achieve the public good - as guided by the national and supranational legislations. The issue of maintaining a balance between private and public interests persists, expressed through the proportionality of restrictions and introduction of supportive measures for vulnerable communities.

In the Russian legal system, a certain level of legal uncertainty remains due to the current epidemiological situation and forced operational restrictive measures.

It is very important not only to respond promptly to the current critical circumstances with the adopted draft laws, but also to keep under control their further implementation and promotion of human rights and freedoms.

Even in the conditions of the global crisis, the legal system should be ready for the prompt introduction of additional and appropriate regulations and the development of optimal functioning models, balancing consistency with existing legislations and the translation of global standards. An important task, in the development and implementation of novel legislation, is to find a balance between personal rights of the individual (maintaining the protection of his/her legal status) and protection of public health (preventing the spread of infection). There is a need for a constructive dialogue between the authorities, society and the public to protect the rights of citizens, improve the quality of healthcare and effectively combat the pandemic.

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