

Some Aspects of the Administrative and Legal Consequences of the Distribution of the COVID-19 Coronavirus

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Abstract: In this article, the authors try to analyze the legal consequences of spread of a new coronavirus infection both in the Russian Federation and abroad. 2019 became the starting point for development of antiviral activities, including those of a regulatory nature. The problems of checking QR codes among foreign citizens who were vaccinated in other countries were especially acute. Adoption of new restrictive measures, including those of a regulatory nature, helped stabilize the epidemiological situation in the country. Topical problematic issues of implementation of the legislation of the constituent entities of the Russian Federation on administrative offenses in the field of countering the spread of COVID-19 are also considered. The main conclusion of the study is that there is currently no clear mechanism and criteria for assessing the verification of QR codes among the population, including foreign citizens, in the legislation of the Russian Federation, when traveling within the country. The issue under consideration is essentially of high relevance and legal significance. The relevance of this topic is beyond doubt. The authors put forward the original conclusions of the offer aimed at regulating the legal status of foreign citizens during the period of restrictive measures in Russia, as well as improving legislation aimed at stabilizing the epidemiological situation and preventing the commission of new offenses.


1 INTRODUCTION


The legislation on administrative offenses has undergone significant changes over the past two years. In 2019, the first case of infection with the new coronavirus infection COVID-19 was detected, after which the authorities of many countries began to adopt regulations aimed at tightening existing and introducing new sanctions for violating self-isolation regimes and other high-risk rules. Since the beginning of introduction of new restrictive measures, responsibility for their failure to comply was accepted both in the Code of Administrative Offenses of the Russian Federation and in the Criminal Code of the Russian Federation. However, it is administrative and legal legislation that has become the main way to suppress the spread of a new

coronavirus infection, because it is obvious that offenses are committed several times less than crimes (Kurakin and Karpukhin, 2020).

Especially during adoption of measures of new regulations, the status of foreign citizens located in the territory of the Russian Federation was taken into account. In 2021, the President of the Russian Federation signed a Decree on temporary measures to settle the legal status of foreign citizens and stateless persons in the Russian Federation due to the threat of the further spread of the new coronavirus infection. In accordance with it, foreign citizens also have the right to leave Russia to go to the states of their citizenship (without transit through the territories of other foreign states) on documents that prove their identity and are recognized in the Russian Federation in this capacity and which expired after March 14, 2020 (Savinov, Kirillov and Taranovskaya, 2020).

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The President of the Russian Federation also signed a decree on temporary measures to regulate the legal status of foreigners and stateless persons in the Russian Federation during the period of overcoming the consequences of the spread of COVID-19. This document establishes that from June 16, 2021 until the expiration of 90 days from the date of removal of the temporary restrictions imposed by the Russian Federation on transport links with a foreign state (the list of states in respect of which they have been removed, is approved by the Government of the Russian Federation), the following deadlines have been suspended (Pankova, 2020):

- temporary stay in the Russian Federation of foreigners and stateless persons who are in it and have citizenship of such a state or a residence permit or other document confirming the right to permanent residence in it, the periods for which such persons are registered at the place of stay, and the validity periods of the visa and migration card with the stamps affixed in it, issued to these foreigners and stateless persons;
- validity of certificates of a participant in the state program for the resettlement of compatriots living abroad, valid as of March 15, 2020;
- validity of permits for temporary residence in the Russian Federation and residence permits, valid as of March 15, 2020, if foreigners and stateless persons with such documents are outside the Russian Federation;
- stay outside the Russian Federation of the participants of the said state program and members of their families, as well as foreigners and stateless persons who have received a temporary residence permit in the Russian Federation or a residence permit or are VKS, if such persons have not entered the Russian Federation before the expiration of 6 months the period of stay outside, after which the certificate of a participant in the state program, a temporary residence permit in the Russian Federation, a residence permit, a work permit issued by the VKS are canceled.

From June 16 to December 31, 2021 inclusively, the following deadlines have been suspended:

- temporary or permanent residence in the Russian Federation of foreigners and stateless persons who are in the Russian Federation;
- the terms for which foreigners and stateless persons are registered at the place of residence;

- the validity period of refugee certificates and certificates of temporary asylum in the territory of the Russian Federation.

From June 16 to December 31, 2021 inclusive:

- citizens of the EAEU member states can conclude labor contracts (civil law contracts for performance of work, provision of services) with employers (customers of work, services) without considering the requirements for the stated purpose of the visit to the Russian Federation;
- foreigners and stateless persons who arrived in the Russian Federation on a visa-free basis have the right to apply for the issuance (renewal) of a patent without taking into account the requirements for the deadline for submitting documents for its registration and for the stated purpose of the visit to the Russian Federation;
- employers (customers of work, services) who have received permission to attract and use foreign workers can apply for issuance (extension) of foreigners and stateless persons who arrived in the Russian Federation on a visa basis, work permits without taking into account the requirements for the stated purpose of the visit in the RF. They can do this only subject to implementation of the established restrictions and other measures aimed at ensuring the sanitary and epidemiological well-being of the population.

These foreigners and stateless persons who have entered into such employment contracts (civil law contracts for performance of work (provision of services)), or have received such patents and work permits, have the right to carry out labor activities in the Russian Federation until the expiration of these contracts and documents (Voronin, 2020; Bonaccorsi, 2016).

Subsequently, the Ministry of Internal Affairs of Russia issued clarifications to the provisions of Decree of the President of the Russian Federation of June 15, 2021 No. 364 (on temporary measures to regulate the legal status of foreigners and stateless persons in the Russian Federation during the period of overcoming the consequences of the spread of COVID-19). Namely, it is specified that foreigners and stateless persons who have regulated their legal status, in accordance with the law provided by the said Decree, can, within the permitted period of stay in the Russian Federation, apply to the territorial bodies of the Ministry of Internal Affairs of Russia for execution of permits for implementation of labor

activities, or temporary or permanent residence in Russia (Lendel, 2010).

2 STUDY METHODS

The method basis of this study was formed by general scientific methods of cognition, including the principles of objectivity, consistency, induction, deduction, etc. Along with general scientific methods of cognition, the following private and scientific methods were used: descriptive, linguistic, comparative and legal. Disclosure of the topic under study is carried out from the standpoint of general scientific methods (sociological, systemic, structural-functional, concrete historical, statistical), general logical methods of theoretical analysis, private scientific methods (comparative jurisprudence, technical and legal analysis, concretization, interpretation). Due to foregoing, it seems relevant to conduct a comparative study of the state of Russian legislation to prevent the spread of a new coronavirus infection. Comparison and analysis will be carried out on the basis of foreign experience in the legal regulation of restrictive measures for COVID-19, checking QR codes for both Russian citizens and foreign citizens.

3 RESULT DISCUSSION

In 2020-2021, the Ministry of Justice of Russia completed works on the analysis of the practice of applying regulatory legal acts adopted in order to combat the spread of the new coronavirus infection (Cevinc, 2014). As a result of the study, the Ministry of Justice of Russia believes that the measures introduced in the territory of the Russian Federation (including decrees of the Mayor of Moscow and regulatory legal acts of the Moscow Government) have been adopted within the competence of the relevant authorities and certainly meet the constitutional goals of protecting the life and health of citizens proportionate to the threat of the spread of the epidemic in the territory of the Russian Federation (Nanushek, 2016).

As part of the analysis of international law, it is noted that the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the practice of the Council of Europe bodies, presuppose that the authorities are not only given the right, but under the threat of responsibility they are obliged to act in the most effective way to save

people's lives. A similar approach is enshrined in a number of articles of the Constitution of the Russian Federation (Behsudi, 2020).

General constitutional and international legal approaches have found their development in specific norms of Russian legislation, which allow the authorities of the constituent entities of the Russian Federation to establish a high alert regime, as well as mandatory rules of conduct when introducing an appropriate regime to protect the life and health of people (Coronavirus (Covid-19) - Information for Exporters).

Therefore, since the beginning of the coronavirus pandemic, in a short time, both at the federal level and at the level of the constituent entity of the Russian Federation, new compositions of administrative offenses have been formulated and officials of the relevant executive bodies authorized to draw up protocols on new compositions of administrative offenses have been identified (Potential impact of coronavirus on international supply chains).

However, the adopted legal prescriptions both at the federal level and at the level of the subjects were not devoid of potential conflicts related, first of all, to the amount of fines imposed. Another problem of formulating the compositions of administrative offenses at the level of the constituent entities of the Federation is their competition with the compositions of administrative offenses recorded in the Code of Administrative Offenses of the Russian Federation (Kurakin and Karpukhin, 2020). Thus, the authors note that "in violation of Art. 1.3.1 of the Administrative Offenses Code of the Russian Federation, according to which the jurisdiction of the constituent entities of the Russian Federation in the sphere of legislation on crimes of an administrative nature includes the determination of administrative responsibility for the fact that the law and other regulatory legal acts of the constituent entities of the Russian Federation were violated, regulatory legal acts of local government bodies, laws of the constituent entities of the Russian Federation on administrative offenses, there is responsibility for the fact that rules and regulations have been violated that are not defined either by the laws of the constituent entities of the Russian Federation, or other regulatory legal acts of the constituent entities of the Russian Federation, or legal acts of local self-government bodies". In the same place, the authors cite the legislation of the Kaluga region, where the powers of the police officers included drawing up protocols on administrative offenses under Art. 2.7 "Violation of Living Conditions in a family" of the Law of the Kaluga Region of February 28, 2011 No. 122-OZ

"On Administrative Offenses in the Kaluga Region". However, the formulations "obvious disrespect", "destruction and (or) damage to property" used in this article are not considered in the regulatory legal acts of the subject, which led to the problem of law enforcement practice. The authors rightly point out that, depending on the factual circumstances, such cases may cause competition with the administrative offenses provided for by the Code of Administrative Offenses of the Russian Federation, namely: Part 1 of Art. 5.61 "Insult", Art. 7.17 "Destruction or damage to other people's property" and 20.1 "Petty Hooliganism", as well as Art. 167 of the Criminal Code of the Russian Federation "Intentional Destruction or Damage to property" (Kurakin and Karpukhin, 2020).

This point of view correlates with the situation in the area of adoption of administrative orders in the regulatory legal acts of the city of Moscow. So, in Decree No. 12-UM and Art. 3.18.1 of the Administrative Code of the city of Moscow, the category "Self-Isolation Regime" appears. This category is absent in federal legislation, the laws of the city of Moscow and, in fact, is considered in the context of the high alert regime, which was introduced by Decree No. 12-UM. This could potentially lead to competition from Art. 3.18.1 of the Administrative Code of the city of Moscow and Art. 20.6.1 of the Administrative Code of the Russian Federation in law enforcement practice (Sun and Sharman).

The Supreme Court of the Russian Federation made a certain amount of clarity to the actively emerging mechanism of administrative and legal regulation associated with countering the spread of the coronavirus pandemic. In Review No. 1 of the Supreme Court of the Russian Federation it is noted: "From the analysis of the above norms in their systemic relationship, it follows that citizens, officials, persons engaged in entrepreneurial activities without forming a legal entity, legal entities are subject to administrative liability under part 1, Art. 20.6.1 of the Code of Administrative Offenses of the Russian Federation both for violation of the Rules and for violation of mandatory, as well as additional mandatory for citizens and organizations, rules of conduct when a high alert or emergency regime is introduced in the territory of a constituent entity of the Russian Federation" (Wrede, 2020; Kostennikov, Kashkina, Sultanov, 2020).

According to the Supreme Court of the Russian Federation, to provide development of the specified provisions of the legislation of the Russian Federation, which establish generally binding rules at

the federal level, the constituent entities of the Russian Federation have adopted regulatory legal acts in the field of protecting the population and territories from emergencies. Among them, the highest court included, namely, Decree of the Mayor of Moscow No. 12-UM, Decree of the Governor of the Moscow Region of March 12, 2020 No. 108-PG, and etc. "So, - noted the Supreme Court of the Russian Federation, - according to part 1, Art. 20.6.1 of the Administrative Code of the Russian Federation, for example, the actions of an individual are subject to qualification, expressed in violation of subparagraph 3.2.4, paragraph 3.2, section 3, paragraphs 12.1 and 12.3, section 12 of Decree of the Mayor of Moscow dated March 5, 2020 No. 12-UM "On Introduction of a High Alert Regime" (as amended by the Decree of the Mayor of Moscow dated April 10, 2020 No. 42-UM)". Among the measures named by the Supreme Court of the Russian Federation in Decree No. 12-UM were bans on visiting city-wide territories, leaving places of residence (except in emergency cases), observing a social distance of at least 1.5 meters.

Therefore, development of administrative legislation in terms of structuring and applying norms on administrative responsibility at the level of federal legislation and laws of the constituent entities of the Federation illustrated (Universal Declaration of Human Rights), on the one hand, the effect of constitutional provisions on subjects of joint jurisdiction, to which, in accordance with clause "k", part 1, Art. 72 of the Constitution of the Russian Federation and include administrative and procedural legislation. On the other hand, subjects of joint jurisdiction in the formal legal dimension are associated with risks of legal conflicts, which can be avoided by acts of interpretation of law.

Based on the available data in the public domain, it is difficult to judge to what extent the administrative practice for the consideration of cases under Art. 3.18.1 of the Administrative Code of the city of Moscow. However, the opinion of the Supreme Court of the Russian Federation that the actions of individuals, expressed in violation of the provisions of Decree of the Mayor of Moscow No. 12-UM "On Introduction of a High Alert Regime", are subject to qualification on the basis of an administrative offense under Part 1, Art. 1 of the Code of Administrative Offenses of the Russian Federation, indicates that the scale in the administrative prosecution of persons in terms of violations of the requirements established during introduction of the high alert regime tilted in favor of federal legislation, which, of course, will significantly reduce the conflict of laws and the risks

of competition between blanket orders of the Code of Administrative Offenses of the Russian Federation and the Code of Administrative Offenses of the city of Moscow.

Wherein, earlier the higher courts indicated that in the Code of Administrative Offenses of the Russian Federation there can be the liability only for violation of federal, not regional legislation (Lum and Clayton, 2020).

Namely, as the Supreme Court of the Russian Federation explained: according to clause "k", part 1, Art. 72, Art. 73, part 4, Art. 76 of the Constitution of the Russian Federation, administrative and administrative and procedural legislation, environmental protection and environmental safety are under the joint jurisdiction of the Russian Federation and its subjects. Outside the jurisdiction of the Russian Federation and the powers of the Russian Federation in matters of joint jurisdiction of the Russian Federation and the constituent entities of the Russian Federation, the constituent entities of the Russian Federation have full state power, the territory, region, cities of federal significance, the autonomous region and autonomous okrugs exercise their own legal regulation, including adoption of laws and other regulatory legal acts.

According to subparagraph 39, paragraph 2, Art. 26.3 of Federal Law of October 6, 1999 No. 184-FZ "On the General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Constituent Entities of the Russian Federation", the bodies powers implemented independently at the expense of the budget of the constituent entity of the Russian Federation (with the exception of subventions from the federal budget), the resolution of issues of establishing administrative responsibility for violation of laws and other regulatory legal acts of the constituent entity of the Russian Federation, regulatory legal acts of local government bodies was attributed.

Art. 1 of the Code of Administrative Offenses of the Russian Federation determines that the legislation on administrative offenses consists of the Code and the laws of the constituent entities of the Russian Federation on administrative offenses adopted in accordance with it.

In accordance with clause 3, part 1, Art. 1.3 of the Code of Administrative Offenses of the Russian Federation, the jurisdiction of the Russian Federation in the field of legislation on administrative offenses includes the establishment of administrative responsibility on issues of federal importance, including administrative responsibility for violation of the rules and regulations provided for by federal

laws and other regulatory legal acts of the Russian Federation.

The jurisdiction of the constituent entities of the Russian Federation in the field of legislation on administrative offenses includes the establishment by the laws of the constituent entities of the Russian Federation on administrative offenses of administrative responsibility for violation of laws and other regulatory legal acts of the constituent entities of the Russian Federation, regulatory legal acts of local governments (clause 1, part 1, Arti. 1.3.1 of the Administrative Code of the RF).

From a systematic analysis of the above norms, it follows that a constituent entity of the Russian Federation has the right to establish administrative responsibility for violation of those rules and norms that are provided for by regulatory legal acts of this constituent entity of the Russian Federation, regulatory legal acts of local governments, by specifying in disposition of an article on an administrative offense of specific illegal actions, excluding the coincidence of the signs of the objective side of an administrative offense established by the law of the constituent entity of the Russian Federation, with the signs of the objective side of an administrative offense, the responsibility for which is provided for by the Code of Administrative Offenses of the Russian Federation (Kostennikov, Kashkina and Sultanov, 2020).

Therefore, when assessing and applying regional rules on administrative responsibility, the following shall be taken into account:

- 1) presence in federal legislation of a norm governing public relations in the sphere of jurisdiction of the Russian Federation, as well as in the sphere of joint jurisdiction of the Russian Federation and its subjects, excludes the possibility of establishing in a regional law a norm on administrative responsibility in this area;

- 2) a constituent entity of the Russian Federation, establishing administrative responsibility, has no right to intrude into those spheres of public relations, the regulation of which is the subject of the jurisdiction of the Russian Federation;

- 3) absence of a federal regulatory norm on issues of joint jurisdiction of the Russian Federation and its constituent entities allows the establishment of a regional norm on administrative responsibility in this area, if there is no corresponding composition in the Code of Administrative Offenses of the Russian Federation;

- 4) presence in the Code of Administrative Offenses of the Russian Federation of a "general" composition of an administrative offense, covering

issues of federal, regional and local significance, excludes the possibility of establishing a similar composition in the law of a constituent entity of the Russian Federation.

The foregoing indicates that presence of regional regulatory legal acts adopted within the jurisdiction of the state authorities of the Russian Federation does not yet indicate that the subject of the Russian Federation has the right to establish administrative responsibility for violations of the norms contained therein, just as absence of regional regulatory norms does not exclude the possibility of adopting a regional administrative-tort norm, if the legal regulation in this area refers to the exclusive jurisdiction of the constituent entity of the Russian Federation or its powers on the subject of joint jurisdiction. In both cases, presence or absence of the "general" composition of an administrative offense in the Code of Administrative Offenses of the Russian Federation, covering the corresponding violations of both federal and regional legislation, will be of decisive importance.

4 CONCLUSIONS

The study shows that the measures taken are predetermined by the degree of threat in the territory of each constituent entity of the Russian Federation, and are also accompanied by full-scale state support for the most vulnerable sectors of the economy, material support for broad categories of citizens. This confirms that when the urgent measures were introduced, the requirements of proportionality and reasonableness of restrictions on rights and freedoms were met.

The measures taken by the federal center and the constituent entities of Russia are of an exclusively temporary nature and are regularly reviewed for compliance with the current situation. The gradual easing of restrictions due to improvement of the epidemiological situation confirms that the purpose of these measures was precisely the protection of people's health, and not arbitrary interference with their privacy.

The complex of measures taken in the Russian Federation corresponds to the world experience. A detailed analysis of foreign practice also showed that in a number of states (Germany, USA, Italy, France, etc.), the judicial authorities checked the procedure and validity of establishing restrictions comparable to those introduced in Russia, and even exceeding them in terms of the degree of impact. Such measures were recognized as lawful by foreign courts.

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