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Transport security in the structure of Russia's national security: new modern challenges

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Abstract

Currently, Russian legislation on transport security issues is fragmented and has the form of a set of legal acts that require systematization. Responding to a public request, as well as executing the order of the President of the Russian Federation, the State Duma of the Russian Federation accepted for consideration the Draft Federal Law “On Amendments to the Federal Law “On the Sanitary and Epidemiological Welfare of the Population”. Based on this document, it was planned to create conditions for the unhindered exercise of the legal rights to travel in transport for vaccinated persons, having immunity to the disease, as well as for those who legally cannot yet be vaccinated (minors, persons with medical contraindications). However, under public pressure, the draft bill was excluded from consideration, which is an extremely indiscreet decision, since as a result, public transport passengers were left unprotected from the spread of new strains of coronavirus. In order to ensure transport security, the legislator should return to the discussion of the analyzed draft bill as soon as possible, since the life and health of the population, in accordance with the Constitution of the Russian Federation, is the highest value in the state.

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1. Introduction

The existence of any state is accompanied by a significant number of periodically emerging threats that potentially and actually encroach on both the internal foundations of the country and its external relations. Accordingly, the state, in protection of its own sovereignty, develops and implements a system of measures to ensure its protection from various dangers, Nordfjærn and Rundmo (2018). Being the fundamental law of the country, the Constitution of the Russian Federation lists the most important objects of protection, such as citizens, society, the economy, the information space, etc. A more complete list has already been contained in the Federal Law “On Security”, “On security …” (2010), as well as in the strategic planning document – the National Security Strategy of the Russian Federation (hereinafter – the Strategy), “On the National Security …” (2021).

National security as a state of protection of the interests of the state from all kinds of threats is ensured through the implementation of a set of measures outlined in the Strategy. The text of this document provides a definition of the concept of “national security of the Russian Federation”, paying special attention to the transport complex in the section “state and public security”. Among the most important tasks of ensuring national security, the Strategy notes the need to increase the level of anti-terrorist protection of the transport infrastructure, leveling its deterioration, as well as minimizing the impact of climate change on the transport complex (Kazaryan, 2021). Despite the fact that some issues affecting the functioning of transport are mentioned in the listed legal acts, however, they do not have a holistic definition of the concept of “transport security”, (Zaikova, 2021).

The Federal Law “On Transport Security”, “On transport … “, (2007), most specifically defines the concept of “transport security” concerning the state of protection of transport infrastructure facilities and vehicles from acts of unlawful interference. However, this definition in modern life has ceased to reflect the whole range of threats caused by the operation of transport, (Beecroft, 2019).

Nowadays, in terms of the COVID-19 pandemic, society has faced a new threat – the spread of dangerous infections. Until recently, a terrorist act (damaging the integrity of the vehicles themselves and transport infrastructure facilities), (Reggiani, 2013; Gray, 2004; Akcay et al, 2021; Kesseler, 2004; Urciuoli, 2016; Skorupskiet al, 2015), was considered the main source of danger in transport, however, passengers of vehicles are no less afraid of the possibility of contracting a new coronavirus infection, (Beck et al, 2021; Burns, 2021). Therefore, the events of the past years force us to turn to the topic of transport security from the standpoint of protecting public transport passengers from pandemic threats, which is the purpose of this study.

2. Materials and methods

The methods of scientific cognition were used as the main method of research, which made it possible to consider the problem of ensuring transport security from the point of view of public transport passengers. In addition to the methods of analysis, synthesis, comparison and analogy, a formal-logical method was applied to identify legal and organizational contradictions related to ensuring the transport safety of passenger transportation in the context of the coronavirus pandemic.

3. Results

It is obvious that the migration of the virus between continents, countries, cities, and any other settlements is carried out with the help of a carrier of the disease and a vehicle in which a person moves. That is why, at the very beginning of the COVID-19 pandemic, most countries made a well-founded decision to cancel air travel in order to neutralize existing threats.

Fig. 1. The number of passengers transported over 5 years. All airlines. Data of the International Civil Aviation Organization - ICAO (regular transportation, million passengers)
Total – 60% decrease in
International air lines – 74% decrease in
Domestic air lines – 50% decrease in

However, even the abolition of transport communication could not completely stop the spread of the virus among the world's population, (Beecroft, 2019). Moreover, the inability of citizens to move from one territory to another has led to serious financial losses, forcing the leaders of many countries to cancel or weaken previously imposed bans and restrictions. This initiative was also supported by the World Health Organization (hereinafter referred to as WHO), which, in its recommendations dated January 2022, called for the restoration of international transport links. According to WHO experts, practice has shown that travel restrictions have not brought tangible benefits, and their absence has contributed to the economic and social stress that states are now experiencing. The representative of the WHO Committee on Emergency Situations also noted that movement control should cover only infected people, while for people who have developed immunity to the disease, who have been vaccinated, all conditions should be created for the unhindered exercise of the legal rights of citizens to enter and leave the country.

The resumption of passenger traffic in the absence of clear and reasonable transport security rules that ensure the protection of citizens from the potential possibility of contracting a new infection provoked another wave of the pandemic in Russia. The emergence of each next strain of coronavirus infection has not yet affected the creation of new or updating existing sanitary regulations used in transport. Although the development of health-saving technologies in Russia has always been declared as one of the priority areas of state policy. So, 2021 was even declared by the Government of the Russian Federation as the “Year of a Healthy Lifestyle” as part of the “Healthy Nation – Healthy Russia” program.

Certain changes were to take place in February 2022, when it was planned to enact the Federal Law “On Amendments to the Federal Law “On the Sanitary and Epidemiological Welfare of the Population” (hereinafter referred to as the Code of Administrative Offenses of the Russian Federation) as well as the Draft bill “On Amendments ...” (2021). This document was developed in order to fulfill the order of the President of the Russian Federation dated October 24, 2021, No. Pr-1998 in connection with the need to ensure the protection of the population from the spread of a new coronavirus infection.

The obvious positive aspects of the Draft bill include:
1. A proposal to increase the protection of passengers from a new coronavirus infection by introducing an obligation for all adult citizens to provide QR codes confirming vaccination when boarding aircraft, and later on other types of public transport.
2. Determination by the legislator of the procedure for the admission of military personnel and foreign citizens vaccinated with vaccines not registered in the Russian Federation to public facilities. Unlike the World Health Organization, which in its recommendations focuses on vaccines that have received its approval, the Russian legislator was going to recognize all vaccination certificates, including foreign drugs, based on the availability of vaccines for foreigners. If at the time of vaccination, a foreign vaccine was available to a person, and he used it, then this behavior is commendable, since a person vaccinated with any official coronavirus vaccine is less at risk of getting sick than a person who is not vaccinated at all.

Among the shortcomings of the Draft bill, one should point out the unsuccessful wording of Article 31-1 “Procedure for the provision of services in the event of a threat of the spread of a new coronavirus infection” proposed for implementation in the federal law being reformed. In general, such a situational approach has already become traditional for Russian legislation. Amendments integrated into legal acts increasingly reflect the momentary needs of our society. This was manifested most clearly during the preparation of Russia for the 2014 Olympics in Sochi, when many changes were made to the Code of Administrative Offenses of the Russian Federation (hereinafter referred to as the Code of Administrative Offenses of the Russian Federation), establishing liability for acts that could only be committed during the Games. Thus, Articles 3.5, 3.12, 14.15.1, 23.1, 28.3 and 29.6, “Code of the …” (2013), were modernized, and in all of them the innovations contained a wording mentioning “sporting events and ceremonies of the XXII Olympic Winter Games and XI Paralympic Winter Games in 2014 in the city of Sochi”. After the end of the Olympics, the legislator had to remove urgently all the listed norms from the Code of Administrative Offenses of the Russian Federation, since they had lost their relevance. In this regard, the question arises of the admissibility of such manipulations with codified legislation. Indeed, logically, codification implies the creation of universal “templates” from prohibitions that are suitable for many similar cases. In the
situation with the Olympics, it was necessary to formulate new norms so that they would be suitable for subsequent international sporting events held on the territory of our country (for example, for the same 2018 FIFA World Cup, which was also held in Russia). If the legislator allowed himself such an attitude towards the Code, then the transformation of the usual federal law in the draft of which the title of the article contains the term “new coronavirus infection”, was quite expected. It seems that after the creation of reliable means of protection against this disease and the loss of relevance of this problem, the legislator will have to reform the specified norm again, excluding the “new coronavirus infection” from the text of the law. Moreover, when another dangerous infection appears, it should be reintroduced, but under a new title, reflecting the essence of the new disease. The authors consider such work to be unpromising and requiring a different, more universal approach.

4. Discussion

Speaking about the content of the Draft bill, then the need for its full support for its early adoption becomes obvious. However, under pressure from the Public Chamber of the Russian Federation, which issued a negative opinion on the Draft bill (hereinafter referred to as the Conclusion), on January 17, 2022, it was excluded from consideration. In the Conclusion, the public drew attention to the following negative circumstances:

1. The bill allegedly “infringes” on the rights of persons who have medical contraindications to vaccination. The authors of the Conclusion, on the one hand, consider “the importance of securing mechanisms that provide those who have been vaccinated, recovered and have immune protection against a new coronavirus infection with additional opportunities to return to a normal lifestyle.” On the other hand, they insist on revising the mechanism for implementing the concept of the Draft bill – “through the use of documentation with the presence of a two-dimensional bar code (QR code) to establish the fact of the immune protection of citizens”, referring to “the presence in society of wide groups for which, for reasons of ideological nature, the use two-dimensional barcodes, even in the context of sanitary and anti-epidemic measures, is unacceptable.” This thesis of the authors of the Conclusion, is puzzling at least. Instead of proposing options for amendments that take into account “the infringed rights of persons with medical contraindications to vaccination” (and the Ministry of Health of the Russian Federation had already worked out this issue by the time the Draft bill was withdrawn from consideration, “On approval …” (2022)), social activists refer to some “ideological problems of broad groups.” Firstly, it is not entirely clear what “broad groups” we are talking about, if more than 75 million people in Russia out of 146 million of our citizens have already been vaccinated with two components of domestic vaccines and received a QR code. Secondly, it seems that any “ideological reasons” should not become an obstacle to the return to a normal way of life for most people who do not have such reasons. Indeed, in accordance with the well-known expression of the classic, “the rights and freedoms of one person end where the rights and freedoms of another person begin”.

2. The discussion of the Draft bill was accompanied by “speculations in the information field”, hacker attacks and other illegal actions by some journalists and public figures. The server of the Public Chamber was allegedly attacked by suspicious network activity, because of which 53% of requests were unverified. Among the Internet applications of verified users who opposed the adoption of the Draft bill, the authors of the Conclusion note claims regarding the restrictions imposed by the Draft bill on “the right to free movement guaranteed by the Constitution of the Russian Federation (Article 27) and others.” In this regard, a well-founded question arises: does the goal of protecting the life and health of most citizens not justify some restrictions for people who disagree with vaccination? In the end, the state, with the help of the Draft bill, provides and guarantees the possibility of avoiding these restrictions in the presence of a QR code. The choice of course of action remains with the citizens themselves. Moreover, the world has accumulated relevant experience: due to the emergence of a new coronavirus infection, many countries have already introduced a system for confirming the immune status of a citizen for this disease. Accordingly, some intrusion into the sphere of personal rights is quite acceptable when it is required by a socially significant goal.

3. The authors of the Conclusion speak about the “disproportionateness of the established rules” existing in the Draft bill in order to protect the life and health of citizens of the new coronavirus infection. They urge “to maintain a balance of interests of all categories of citizens” and to implement the rules listed in the Draft bill “subject to significant information and educational work by both relevant state authorities, and the media and public associations.” Moreover, the question arises: what prevented social activists on November 12, 2021 and still
prevents them from doing such work? After all, during this period of time they held several meetings (on November 26, 2021 and on December 06, 2021) “with groups of citizens with different worldview positions”, the purpose of which was to achieve a public consensus on the use of two-dimensional bar codes when traveling by public transport. Citizens expressed concerns about the safety of their personal data, which is transmitted to medical institutions during vaccination to receive a QR code. However, the invited experts assured all those present that there is no risk of losing personal data through the QR code, since the machine-readable optical label (two-dimensional barcode) does not provide for the placement of information other than the validity of the issued certificate. Why is this thesis the basis of the negative opinion on the Draft bill? It is open to guesswork.

4. Among the options for “unreasonable restriction of the rights of citizens”, public activists drew attention to cases when, for technical reasons, citizens will not be able to present their QR code: communication downtime at the places of boarding the vehicle; lack of internet connection; lack of charge of a mobile device and other similar difficulties. It seems that this problem can be solved without the participation of the legislator. It is enough to carry out explanatory work with the population through the media, in which to tell that citizen can take a screenshot of the QR code, as well as print it on a printer and present its paper version to the security service of railway stations, Dash et al. (2021), airports, Cunha (2022), and other places of boarding transport.

5. An omission of the legislator should be recognized as the absence of the obligation of citizens enshrined in the Draft bill to present an identity document to employees who check the presence of a QR code. In accordance with the current legislation, the right to check identity documents is vested in a strictly limited circle of persons, which do not include, for example, employees of private security organizations. If the Draft bill is adopted, it would be advisable to make appropriate amendments to it, defining the grounds for checking identity documents upon presentation of QR codes by citizens.

6. There is a certain percentage of people who have fake QR codes among the total number of people who have vaccination certificates. The authors of the Conclusion argue that the proportion of these individuals in the total number of those vaccinated reaches “significant figures”, without confirming this thesis in any way. Based on it, social activists state, that “such persons, fearing responsibility for the offense committed, hide the fact of acquiring a certificate and are not vaccinated”. In this regard, in order to ensure the safety of both the named category of persons and citizens interacting with them, the authors of the Conclusion consider it expedient “to develop and implement measures aimed at vaccinating these persons with their consent”. Moreover, public activists leave the mechanisms for identifying “specified persons” as well as the question of what to do with criminal liability under Article 327 of the Criminal Code of the Russian Federation outside the scope of their Conclusion. The authors hereof believe that by committing a crime by deliberate purchase of a deliberately fake certificate of vaccination, people consciously choose not be vaccinated. What measures should change their minds is not explained in the text of the Conclusion.

Indeed, the difficulties associated with the illegal acquisition of fake vaccination certificates by citizens may neutralize all efforts of the state to create a secure environment for the movement of passengers on public transport. However, it seems to us that the authors of the Conclusion clearly exaggerate the scale of the problem.

7. The authors of the Conclusion draw attention to the unsettled issues of providing QR codes to citizens who have been vaccinated with Russian vaccines produced on the territory of foreign countries (for example, in Serbia). Indeed, this procedure should have been reflected in the Draft bill.

8. The authors of the Conclusion single out “the errors in the terminology used” among the comments to the Draft bill. Social activists argue that the legislator needs to “refuse to mention the term “QR-code” in the text of the Draft bill and use words that are more understandable to a wide audience, including the elderly.” In their opinion, the term “QR-code” is “obscure and even frightening for a large number of citizens”, and “such difficulties in applying the proposed legislative norms can directly affect the quality of life of citizens, the availability of important social services for them”. Therefore, the authors of the Conclusion recommend using the most understandable terminology in the Draft bill regarding documentation confirming preventive vaccination against a new coronavirus infection or the presence of medical contraindications for such vaccination, or confirming that a citizen has had a disease. As one of the options, the public offer “certificate of immune health”. It seems that the term “certificate of immune health” is hardly simpler and more understandable than the term “QR code”. Moreover, this remark should not appear among the reasons for which a negative conclusion was made to the Draft bill as a whole.

In addition to negative comments, the authors of the Conclusion made suggestions for finalizing the Draft bill:
1. To form a list of categories of citizens who will be granted the right to use transport services in the absence of certificates. In particular, with documentary confirmation that the only mode of transport communication is air transportation, in the following cases:
   - return to the Russian Federation;
   - administrative expulsion from Russia, deportation or readmission;
   - directions to the place of treatment or back;
   - accompanying a disabled passenger to the place of treatment or back;
   - if the passenger is going to the funeral of a family member and back;
   - in other difficult life situations.

At the same time, according to the authors of the Conclusion, it is important to provide for the possibility of undergoing a PCR test in an express format at railway stations, Asmer et al. (2019), or at airports, Elisov et al. (2021), Djeriouat et al. (2021), for such categories of citizens.

2. To clarify the validity periods of certificates, since a situation is possible in which at the time of issuing a ticket the certificate is valid, however, by the date of the trip (considering that many citizens purchase tickets for the summer period in winter), its validity will expire. At the same time, following the results of the revaccination by the passenger and the presentation of a new certificate upon boarding, a refusal to travel due to a discrepancy between the presented certificate and that specified when purchasing the ticket is not ruled out. The bill does not provide a solution for such a situation.

Moreover, foreign booking systems and foreign airlines are not authorized to request confirmation from the FSIS “Unified Portal of State and Municipal Services (Functions)”. This may lead to additional difficulties for citizens who will buy tickets using foreign services.

The Draft bill also does not regulate the procedure for appealing against refusals to sell travel documents to citizens due to lack of information about certificates.

In this regard, it is important to introduce changes that provide for the sale of air and railway tickets without presenting certificates, however, with the obligation to download a certificate 1 day before the departure of the train, and in case of air travel – before check-in for the corresponding flight.

3. To regulate the procedure for providing citizens with transport services on interregional bus routes. In this vein, it seems appropriate to supplement the Draft bill with provisions on the provision of such services in order to ensure the safety of passengers during long trips.

The proposals made by the authors of the Conclusion to finalize the Draft bill undoubtedly deserve attention and approval. However, comparing the amount of negative criticism and positive judgments about the addition of the Draft bill with new provisions, we come to the conclusion that in this case, the public activists were more striving not to adopt the Draft bill in an amended form in accordance with the indicated wishes, but by all means sought to remove it from consideration.

5. Conclusion

Under pressure from social activists, the legislator preferred to refuse to consider the Draft bill in the State Duma of the Russian Federation instead of making appropriate changes and amendments to it and adopting it in the wording that would take into account all the comments made. We believe this decision was extremely reckless, because, as a result, public transport passengers in Russia remained unprotected from the spread of new strains of coronavirus. Whereas the experience of foreign countries shows, that many countries have nevertheless introduced a system for confirming the immune status of a citizen for this disease. Thus, on the territory of the European Union countries, a digital passport is valid, which can be obtained by uploading to the appropriate application a certificate of vaccination against COVID-19 with a vaccine approved for use in its territory. In the United States, several states have introduced COVID-19 passports. In Canada, citizens are required to show proof of vaccination against COVID-19 when traveling within the country by air, rail or cruise ship. Israel has introduced a system of so-called “green passports” (passes), (Gerson et al, 2021). This list is not final.

Based on the foregoing, the authors hereof believe that the State Duma of the Russian Federation should take into account the recommendations of the World Health Organization, international experience, as well as the order of the President of the Russian Federation of October 24, 2021 No. Pr-1998, and return to consideration of the draft bill on
the protection of citizens traveling to public transport, from possible infection with dangerous infections. Since the life and health of the population, in accordance with the Constitution of the Russian Federation, is the highest value in the state, and also, given the general unfavorable demographic situation in the country, it seems that the protection of these benefits should be given special attention in matters of legislative regulation and the practice of implementing regulatory requirements. The implementation of our proposals will help reduce mortality, prevent the spread of a new coronavirus infection and the consequences of a pandemic for the life and health of citizens traveling by public transport.

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