ORGANIZING THE INTERACTION AMONG DIFFERENT LEVELS OF PUBLIC AUTHORITY IN THE RUSSIAN FEDERATION IN THE CONTEXT OF COVID-19 RESTRICTIONS: SOCIAL-LEGAL ISSUES AND POSSIBLE SOLUTIONS

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INTRODUCTION

The latest coronavirus (COVID-19) disease pandemic has become an additional strength test for each state, i.e. not only for their health care system but also for the existing model of interaction among various levels of public authority. Currently, it is an area of forming the political responsibility of public entities for the decisions made (GABIEVA, 2020). In the acute phase of countering the spread of COVID-19 (March-April 2020), the Russian Federation organized work at unprecedented scale and speed to improve the current legislation. The concept of an emergency was expanded to include new situations associated with the “spread of diseases that pose a danger to others”. Legislators took important measures to endow the Government of the Russian Federation with new functions of a coordination center for the Unified Emergency Prevention and Response State System.

They dwelled on the powers of public authorities within constituent entities of the Russian Federation related to the introduction and regulation of special legal restrictions. Finally, legislators specified elements of crimes and administrative offenses in the field of sanitary and epidemiological well-being of the population, failure to comply with the established behavior in a high alert regime, dissemination of knowingly false information about circumstances that pose a threat to the life and safety of citizens. Despite the lifting of the heaviest restrictions, the situation with the new COVID-19 infection remains tense in Russia. When the SARS-CoV-2 cannot be considered completely defeated, the established regulatory framework can and should be subject to an objective critical assessment to reveal and overcome the existing problems and plan the further agreed measures to counter the spread of COVID-19. The study aims at assessing legal norms governing the interaction of public authorities in the Russian Federation in the context of the COVID-19 pandemic and the practice of organizing such interaction.

METHODS

Within the framework of this article, we studied the regulatory legal acts adopted in Russia in the field of constitutional, civil, labor, entrepreneurial, insurance, medical, criminal, and administrative law to determine special rules governing the interaction of different levels of public authority in the context of the COVID-19 pandemic. We also considered the implementation of these norms with the help of analytical and statistical materials, as well as reviews of litigation practice. The methodological basis was formed by general philosophical (materialistic, dialectical), general (logical, system-structural, axiological), and special (formal-legal, historical-legal, systemic) scientific methods. This enabled to study regulatory legal acts and their implementation within the key areas of interaction (with the introduction of special legal restrictions to manage the system of protecting the population from emergencies and maintain the health care system, economy, and social protection of citizens in the context of the COVID-19 pandemic).

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RESULTS

1.1. The interaction among different levels of public authority in the Russian Federation upon the introduction of special restrictive legal regimes aimed at preventing the spread of COVID-19

The critical analysis of legal regulation in this sphere emphasizes two key aspects: firstly, the centralized adoption of random legal acts that do not establish specific rights and obligations but determine the nature of a particular threat and induce specific actions of authorized officials at the level of constituent entities of the Russian Federation and their municipalities; secondly, the dissemination of legal norms on specific procedures and conditions of restrictive legal regimes aimed at fighting the spread of COVID-19 in a huge array of laws related to two independent areas of legal regulation, i.e. the actions of the population and public authorities in the face of emergencies and the activities ensuring the sanitary and epidemiological well-being of the population.

The starting point for the development of situational legal regulation was Decree of the President of the Russian Federation of April 2, 2020 No. 239. This document determined the primary responsibilities of senior officials of constituent entities of the Russian Federation during the outbreak of COVID-19, including the selection of the most suitable legal regime for a particular region (high alert or emergency) and the establishment of specific restrictions within its territory. Although the above-mentioned Decree does not explain the regulation of such measures exclusively in accordance with the chosen legal regime, a comprehensive assessment of these provisions within the current legal system suggests the need to act in conformity with Clause 8 and Clause 10 of Article 4.1 of the Federal Law “About Protection of the Population and the Territories against Emergency Situations of Natural and Technogenic nature” (hereinafter referred to as “the Law on Protection against Emergencies”). The latter determined the powers of local and regional leaders to establish rules of conduct for citizens and organizations applicable in the relevant cases.

The only difference is that restrictions on the access of persons and vehicles, as well as the suspension of the activities of organizations, are locally limited to an “emergency zone” or “emergency threat”. In general, the Decree does not regard the current situation in the country connected with the spread of the novel coronavirus as requiring the imposition of a state of emergency, but rather adapts the existing regulatory provisions for making managerial decisions in such realities and serves as a kind of instruction. The basis for its adoption is Article 80 of the Constitution of the Russian Federation which consolidates the constitutional power of the President of the Russian Federation to ensure the coordinated functioning and interaction of government bodies (ZHAVORONKOVA, SHPAKOVSKII, 2020).

In the absence of the federal restrictive regime, the rules of conduct issued by the Government of the Russian Federation and binding on citizens in case of the imposition of high alert and emergency regimes play a similar role. A distinctive feature of this document is the fact that it was supposed to eliminate the legal uncertainty in regulating the actions of the population in the face of an emergency threat, regardless of its types and preconditions. While considering the general provisions formulated in the above-mentioned rules (to observe public order, to refrain from actions that pose a threat to safety, etc.), we can highlight only one significant legal norm, namely the obligation to comply with the legal requirements and instructions of officials taking measures to prevent and eliminate emergencies.

Thus, the Government of the Russian Federation rejected not only to make the federal response to an emergency threat in connection with the spread of COVID-19 but also to impose any mandatory or standard rules in each region of the country. Instead of an emergency or high alert regime imposed at the federal level, it was proposed to establish up to 85 emergency or high alert regimes that would provide specific prohibitions and restrictions based on a specific sanitary and epidemiological situation, at the initiative and exclusively in the area of responsibility of the heads of constituent entities of the Russian Federation. This approach was used all over the country, except for Krasnodar Krai where the regional authorities decided to impose a lockdown.

When establishing the mandatory rules of behavior for citizens and organizations during the high alert regime, most constituent entities of the Russian Federation adhered to the following
scheme: firstly, special requirements for behavior in public space and transport (social distancing, the use of personal respiratory protective equipment, etc.); secondly, a temporary ban on holding or changing the format of certain activities (for educational institutions, catering, physical training and sports organizations, etc.); thirdly, the requirement of “self-isolation”, suggesting the ability to leave the place of residence for strictly established purposes (for seeking medical help, disposing household waste, etc.). To ensure the latter condition, electronic or paper passes were issued. These documents confirmed the right of their owner to move across the territory of some region. Their form and issuance were approved by the relevant executive authority.

Assessing the validity of the restrictions imposed, most Russian regions did not understand the scope of powers granted to them by the federal government. They were guided only by the possibility of establishing obligatory rules for citizens and organizations without considering the limits of such restrictions determined by the chosen legal regime. The nature of additional measures protecting the population and territories from the threat of emergencies is determined by Clause 10 of Article 4.1 of the Law on Protection against Emergencies. According to this law, restrictions can be established within the competence of the highest official of a constituent entity of the Russian Federation in the form of changing the procedure for using state property and organizing the work of government bodies, state institutions, and enterprises, suspending the activities of organizations posing the corresponding threat to security, restricting the access of citizens to the territory where such a threat was created and currently exists.

Any other measures conditioned by the development of an emergency and required for its prevention should not limit human rights and civil freedoms. For example, these are the requirements to wear respiratory protection equipment in shops and transport that do not restrict the rights of citizens in terms of movement, use of the relevant services provided by organizations and individual entrepreneurs, etc., but protect the population from COVID-19. If there are no additional legal prerequisites, a high alert regime should consist of such measures, but constituent entities of the Russian Federation could not distinguish between the chosen legal regime and an array of other laws.

When there are infectious disease threats, the broadest interpretation of "a territory within which a security threat is created" can be referred only to an area or zone where sources of infection might be located rather than the whole territory of some region. The literal interpretation of the "self-isolation" term as "voluntary isolation or social distancing" (MAKSUROV, 2020) compromises a high alert regime in relation to prohibitions and restrictions influencing the freedom of movement. Some constituent entities of the Russian Federation enshrined self-isolation provisions as recommendations in their mandatory rules for citizens and organizations, and the application of Article 20.6.1 of the Code of Administrative Offenses of the Russian Federation did not become widespread.

To prevent the spread of infectious diseases, the legislation on the sanitary and epidemiological well-being of the population provides for the possibility of introducing another restrictive legal regime (quarantine). Within the framework of a high alert regime, quarantine can restrict economic and other activities, the movement of citizens, vehicles, cargo, goods, etc. The mechanism for its imposition includes the following components: firstly, a limitation to a specific zone (checkpoints along the state border, the territory of a specific object, etc.); secondly, the orders issued by chief state sanitary doctors of the corresponding level; thirdly, the decision made by the Government of the Russian Federation or other competent authorities to impose quarantine. The compliance with this mechanism guarantees the legality of such restrictions on human rights and civil freedoms in accordance with Clause 3 of Article 55 of the Constitution of the Russian Federation.

At the federal level, quarantine measures in the form of self-isolation or observation were provided specifically for persons arriving in Russia from abroad and those who came into contact with COVID-19 patients (ADYGEZALOVA, 2020). Based on the orders of the Government of the Russian Federation adopted in the period from March 18, 2020 to May 1, 2020, temporary restrictions also covered the entry of foreign citizens and stateless persons into the country. In other cases, the recommendations developed by the Russian Federal State Agency for Health and Consumer Rights of the Russian Federation for
preventing the novel coronavirus infection in different industries and services laid the basis for the mandatory rules of conduct and activities for citizens and organizations in constituent entities of the Russian Federation, including, the requirement to keep a social distance, clean and disinfect premises, etc.

Quarantine over the entire territory of a constituent entity of the Russian Federation was imposed only in Krasnodar Krai due to the special status of this region as a popular resort. Its functioning in a high alert regime would not reduce the influx of tourists and morbidity rates. The coordinated work of the federal government during the pandemic did not help to avoid the confusion of legal regimes that establish the rules of conduct and the activities of citizens and organizations in emergency, high alert, and quarantine regimes. This was caused by conflicts between legal regulatory acts in various spheres of public relations. Constituent entities of the Russian Federation did not fully utilize the constitutional mechanism for limiting human rights and civil freedoms but made attempts to introduce many quarantine restrictions in the system of mandatory rules for citizens and organizations introduced under the high alert regime. The most striking example is "self-isolation" that originated from "isolation" as a quarantine measure developed for a specific group of citizens and became a universal recommendatory-mandatory protective measure supported, on the one hand, by the introduction of administrative responsibility and, on the other hand, insufficiently controlled by the competent authorities and officials in the absence of a legal basis for such activities.

1.2. The interaction among different levels of public authority in the Russian Federation aimed at managing the system of protecting the population from emergencies

The Law on Protection against Emergencies does not form a clear idea of the competence of various bodies in terms of countering the development of emergencies, in general, and their threat in the form of a dangerous infectious disease, in particular. It states that the Universal State System of Prevention and Response to Emergency Situations embraces the management bodies, forces, and means of the federal executive authorities, the relevant regional bodies, and local self-government bodies, whose duties include solving the relevant issues. For this reason, the initial management of the above-mentioned system and development of the regulatory framework in this area did not use the potential of the basic elements (the Government Commission on Emergency Prevention and Elimination, similar commissions at the territorial level, and the EMERCOM of the Russian Federation) but rather formed and governed additional advisory structures to adjust efforts of different levels of public authority.

In January 2020, a unified federal headquarters was established on the initiative of the Government of the Russian Federation to combat COVID-19, analyze the current situation and develop proposals for its regulation and control. Next, the Government Coordination Council was formed to curtail the spread of the novel coronavirus infection in the territory of the Russian Federation. In addition to such functions as to consider the problems, threats, and challenges associated with the spread of COVID-19 and to develop counteracting measures, it should organize the interaction among different levels of public authority in the Russian Federation upon the implementation of such measures.

The functions of some federal executive bodies that could be involved in the development of anti-COVID measures due to the specifics of their activities were not enough to organize the interaction of institutions and means in the conditions of a global emergency. In this regard, the Government of the Russian Federation fulfilled general management in this area rather than certain bodies. The public authorities of constituent entities of the Russian Federation relied on instructions and the activities of federal advisory structures but did not participate in the work of regional commissions on emergency prevention and elimination aimed at the development of measures to prevent the spread of the novel coronavirus infection.

The current situation substantiates the need to rethink the system of protecting the population from emergencies. In case of an emergency threat, the required level of readiness among multi-level government bodies cannot be maintained by temporary advisory structures or the Government of the Russian Federation due to the need for a third-party independent assessment of the nature and degree of such a threat to national security, as well as the need to ensure control over the effectiveness and timeliness of countering measures taken by public authorities at all levels. When determining prospects for improving the protection of the
population from emergencies, the potential of such a constitutional body as the State Council of the Russian Federation can be used. It should be endowed not only with advisory functions but also with the authority to independently assess the nature and degree of threats, which can lead to the escalation of emergencies on a federal scale, as well as the right to develop a list of counteracting measures that are binding at both federal and regional levels and monitor their implementation.

1.3. The interaction among different levels of public authority in the Russian Federation aimed at maintaining the health care system, economy, and social protection of citizens in the context of the COVID-19 pandemic

The interaction among different levels of public authority in Russia is based on the constitutionally regulated delineation of subjects of jurisdiction and powers of the federal government and regions. It also considers the possibility of involving local self-governments in the implementation of tasks usually fulfilled by public authorities if additional costs are reimbursed. At the same time, the organizational and legal foundations of important activities were strengthened as part of a large-scale constitutional reform realized in the country. Its key stage coincided with the development and implementation of measures to counter the spread of COVID-19 (MAKSUROV, 2020).

During the period of countering the spread of the novel coronavirus infection, the existing health care system has revealed the following problems: differences in the level and quality of medical care depending on a region; difficulties in re-profiling medical organizations for the needs of COVID-19 patients due to various sources of funding and the subordination of such organizations; the shortage of personnel due to the impossibility to retrain specialists from the related branches of medicine and bring them to work in infectious-disease units in a short time, etc. Based on this experience, certain amendments were made to Subclause "G" of Clause 1 of Article 72 of the Constitution of the Russian Federation. The new text reveals the content of such a joint authority as the coordination of health care issues, including the preservation and strengthening of public health and the formation of a responsible attitude of citizens to their health.

While implementing the exclusive powers in the field of establishing the foundations of federal policy and working on programs in the field of economic and social development, the Government of the Russian Federation proposed a set of measures aimed at ensuring the sustainable development of the economy and supporting business entities in the affected industries. Furthermore, the President of the Russian Federation provided instructions to support the most vulnerable groups of the population.

For the needs of supporting economic entities and regulating business relations, it was crucial to recognize the COVID-19 pandemic as a force majeure, i.e. such an extraordinary and insurmountable circumstance that frees the debtor failed to fulfill a civil obligation from liability. Regions having the right to issue legal acts on the recognition of such circumstances did not fully use this opportunity. To consolidate unified parameters of the state regulatory influence on the economy, the Supreme Court of the Russian Federation assumed a coordinating role. This state body explained that the pandemic, restrictive measures, or self-isolation could be recognized as circumstances of this kind and entail legal consequences. However, courts made exclusive decisions in each case based on the comprehensive assessment of all the factors affecting the debtor’s activities (working conditions, the location of their organization, the contract term, etc.) (TSIBIKOV, 2020). The acts of constituent entities of the Russian Federation do not have a preset value.

According to the new edition of Article 133 of the Constitution of the Russian Federation, local self-government bodies that fought against the spread of COVID-19 and encouraged the population to disinfect public facilities, observe a mandatory mask regime, and comply with the other restrictive measures introduced by the head of a particular region acquired the status of an element within a unified system of public authority. The new constitutional guarantee allowed to solve some problems associated with the lack of funding for the implementation of anti-COVID measures and the complexity of information support for managerial decisions made at the local level.
In general, constitutional guarantees are not enough to solve all the problems related to the interaction among different levels of public authority. Although several organizational issues in the health care system were resolved by issuing situational regulatory acts by the Ministry of Health of the Russian Federation during the pandemic, the all-Russian quality of medical care is still guaranteed at both federal and regional levels. In contrast to the basic program of compulsory medical insurance implemented at the federal level, the financial support of such regional programs differs in various regions. There is a need for special legal norms to redistribute resources and staff among different subjects of the compulsory medical insurance system with due regard to the current sanitary and epidemiological situation in the country or its constituent entities. It is also necessary to build centralized federal leadership for providing medical care to the population in the conditions of a pandemic, maintaining databases, and attracting specialists from the related medical professions to work in infectious-disease units, etc.

The pandemic has proved that local self-government bodies need legal support to be properly integrated into a unified system of public authority. It is necessary to develop requirements for the formation and staffing of operational bodies overcoming crises at the regional level and the introduction of the institution of joint managerial decision-making, including decisions on the operational subsidizing of municipalities performing their public functions and protecting the population from regional and federal emergencies.

DISCUSSION

Many scientific sources reduce the study of the legal foundations of interaction among different levels of public authority in the context of the new COVID-19 pandemic to reasoning about the legality of restrictive measures provided for by high alert and emergency regimes (disputes over the content of such terms as "self-isolation" and "high alert regime" (ARIMANY-MANSO, MARTIN-FUMADÔ, 2020). They make attempts to systematize the general array of the so-called "COVID" legislation (KIRILLOVA et al. 2020). The first area of scientific research is characterized by two viewpoints. According to them, restrictive measures are either recognized as inconsistent with the chosen legal regime (BARBERÍA; PUJOL-ROBINAT; ARIMANY-MANSO, 2020) or regarded as lawful, established in conformity with the constitutional algorithm for limiting the rights and freedoms of an individual (DARBYSHIRE, 2020). The second area of scientific research (WRIGHT, 2020) often states that a significant amount of laws developed and adopted to urgently solve the problems caused by the spread of COVID-19, which proves the flexibility of the Russian legal system and dynamism of law (BHATIA, 2020). The increase in the number of subordinate legal acts substantiates the efficiency of the executive power carrying out organizational and administrative activities (EWING, 2012).

CONCLUSION

The comprehensive analysis has revealed such problems as the inability of constituent entities of the Russian Federation to isolate the content of special legal regimes to be applied from the entire array of laws; the refusal of the federal government to specify the scope of regional powers in the sphere of protecting the rights and freedoms of an individual; the insufficient efficiency of special bodies protecting the population from emergencies and their dependence on the political will of certain officials; the insufficient legal guarantees of local self-government bodies when fulfilling their public functions. The solution to these problems requires a radical change in the approach to the legal support of interaction among different levels of public authority in Russia in the context of protecting the population from emergencies. For these purposes, it is expedient to use the potential of the State Council of the Russian Federation and apply it proportional powers. The federal government needs to determine a specific list of human rights and civil freedoms, as well as forms of their limitation that can be introduced alongside high alert and emergency regimes in constituent entities of the Russian Federation. To ensure the constitutional guarantees of local self-government bodies, it is necessary to justify the legal institute of joint decision-making and determine requirements for the formation and staffing of operational headquarters (committees, councils) on overcoming crises at the regional level.
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Abstract
The study aims at assessing legal norms governing the interaction among public authorities in the Russian Federation in the context of the coronavirus (COVID-19) pandemic and the practice of organizing such interaction. Their implementation was studied with the help of analytical and statistical materials, as well as reviews of litigation practice. The authors of the article used the following methods: general philosophical and general and special scientific methods. As a result, they determined several problems that hinder the effective legal regulation of the interaction among public authorities during the COVID-19 pandemic. They are as follows: mixing legal regimes that establish the rules of conduct and standard operating activities of citizens and organizations in the conditions of a pandemic disease; the refusal of the federal government to specify the scope of regional powers in the sphere of protecting the rights and freedoms of an individual; the insufficient efficiency of special bodies protecting the population from emergencies; the insufficient legal guarantees of local self-government bodies when fulfilling their public functions.

Keywords: Public authority. System. Coronavirus pandemic (COVID-19). Legal regulation. Practice.