Экономика здравоохранения

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Shapsugova M.D. A fundamental scientific challenge in the fight against a pandemic

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Abstract. *The study's relevance is predetermined by the very phenomenon of the pandemic and the lack of general approaches to legal regulation in a pandemic due to its phenomenological nature. The article highlights the main stages of the socio-economic crisis and the legal regulation crisis in a pandemic. These stages' characteristics are given; the most important role of science in the fight against the negative economic effects of the pandemic is noted .*

Keywords: *pandemic, COVID 19 koronacrisis , legal regulation*

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In connection with the pandemic, the priorities of scientific and technological development, enshrined in the Strategy for Scientific and Technological Development of the Russian Federation, approved by the Decree of the President of the Russian Federation of 01.12.2016 No. 642 (hereinafter - the Strategy), come to the fore.

Conventionally, it is possible to identify three main stages in the passage of the socio-economic crisis and the crisis of legal regulation in a pandemic, through which all countries that have successfully coped with the pandemic will pass: emergency response - an adaptation of legislation - exit from the crisis. The measures taken at each stage must contribute to the most painless way out of the crisis. Its peculiarities of legal regulation characterize each stage.

At the first stage, measures are taken spontaneously and represent a situational response. There is a reassessment of the available means of response and expansion (an increase in the number of benefits, payment by installments for the fulfillment of tax and credit obligations, exemption from their fulfillment). At this stage, in the absence of time to comprehend the processes, the most acute issue is the compliance of specific measures, especially restrictive ones, with the emerging danger, the sufficiency of support measures for the subsequent smooth exit from the crisis.

In the second stage, the adopted measures are adapted, the imbalances are eliminated due to greater awareness and the response experience accumulated at the first stage.

In the third stage, there is a gradual lifting of restrictive and support measures.

The scientific novelty of the research lies in the fact that for the first time from a scientific point of view, the emergency response measures taken in the context of a pandemic will be comprehended, trends in legal regulation that have arisen during a pandemic, which will be consolidated in legislation for the long term, will be proposed, and legal measures to restore the economy will be proposed.

It is difficult to overestimate the role of science in the fight against the pandemic's negative economic effects (increased unemployment, closure of enterprises and industries, decrease in household income).

On the one hand, the pandemic emerged coronavirus no doubt, it is a big challenge for the Russian economy, stimulating its accelerated transition to an innovative economy. On the other hand, it is an opportunity to consolidate the country's entire accumulated potential and implement a breakthrough in all priority areas of the Strategy, which will inevitably lead to leadership in these areas.

The relevance of the stated problems is due to the novelty of the coronavirus pandemic phenomenon, the scale of its impact on the economy.

The legal risks to which all spheres of public life have been subjected have increased manifold. At the same time, all legal systems faced identical problems.

From the perspective of human rights, the issues of using personal data to control movements in conditions of quarantine and self-isolation, restrictions on freedom of movement for social distance, freedom of information in order to counteract panic and fake news, the right to health protection, freedom of labor and other economic activities, freedom of entrepreneurship, ensuring access to justice, ensuring the functioning of the law enforcement system, employment, and social security.

In general, at the global level, the balance of private and public interest is being redistributed, priorities in human rights and fundamental freedoms are being revised. The principle of solidarity comes to the fore as a priority of legal regulation.

The pandemic revealed the relative unpreparedness of existing legal institutions, state bodies, and enterprises for the main challenge to the economy during a pandemic - remote teleworking and the provision of services, from the standpoint of technological, but also legal security. Much attention is now being paid to finding alternative ways to exercise rights and obligations in a digital environment using spaces of trust and means of identification.

The need to work out the legal regulation of digitalization has become more acute than ever before.

Also, the risks of non-fulfillment of entrepreneurial obligations increase, making it relevant to research institutions of the impossibility of fulfilling obligations and force majeure.

Due to the novelty of the coronavirus pandemic, the scale of its threat to all mankind, the restrictions undertaken by states are not yet uniform in nature; there are no common approaches to the legal regulation of the economy in the context of a pandemic, which has become a global challenge to all legal systems. The growing legal uncertainty in all areas of society's life connected with the pandemic also requires scientific understanding.

Already today, it is necessary to assess the measures taken in terms of the impact of their consequences after the end of the pandemic, to develop a strategy for lifting restrictive measures.

The coronavirus pandemic has become a global challenge to all legal systems, exposed the inadequacy of existing technical support and legal regulation in the face of the need to take urgent restrictive measures to ensure social distancing.

The situation in the fight against the pandemic raised the issue of redistributing the balance of public and private interests, the priority of health and safety over other rights, which were limited, creating conflicts of fundamental rights, such as the right to life, health, and the right to freedom of movement.

The legal crisis related to the pandemic has affected all affected states, which faced the same problems.

The fundamental scientific task is to develop a strategy for legal regulation in a pandemic to respond to a big challenge. The fundamental scientific problem's solution predetermined the highly significant scientific contribution to the fight against the pandemic.

Each State takes measures guided by its value orientations; in this connection, individual measures taken by some states can be regarded as a violation of human rights. Considering the above, the importance of unification of measures and approaches, the development of international documents that would allow a pandemic to maintain a high standard of human rights, and develop common approaches to limiting them as a guaranteed increase.

In connection with the accelerated digitalization, questions about the need to consolidate a new generation of human rights - digital rights - are becoming more acute.

The measures taken in connection with the pandemic require ensuring the work of the State's law enforcement system, the continuous work of the courts, notaries. At the same time, it is necessary to find a balance between maintaining access to justice, notaries, the legal profession, the law enforcement system, and the risk of infection of visitors and employees of these structures.

The spread of the coronavirus pandemic, the adoption of measures for social distancing in the future will inevitably lead to the accelerated development of all types of telecommuting

and the provision of services, including public services. The technologies of artificial intelligence and remote work will also be rapidly introduced into business processes.

The pandemic can become the trigger that first lead society to a digital transformation, the development of designated areas of the economy.

There is also a need to investigate the risks of default as economic transactions are jeopardized by infrastructure shutdown. Research of institutions of the impossibility of fulfilling obligations, force majeure, extreme necessity, legal regimes of high alert, quarantine, and an emergency is of particular relevance.

Already today, it is necessary to plan a strategy for overcoming the pandemic and removing restrictions, it is necessary to revise the legal norms adopted in the context of a pandemic for their effectiveness and relevance. Considering that pandemics' threat will persist in the future, it is necessary to codify norms, create a legal regime that would allow for effective forecasting and response to pandemics, including at the international level.

In connection with the above, research in this area is of a complex interdisciplinary economic and legal nature, which provides the study of measures taken by the state through the prism of their economic and legal consequences.

Russian legal scholars have not comprehended the legal regulation of the coronavirus pandemic.

Among foreign publications, publications of a medical nature prevail.

The works published as a preprint and in the process of editing and printing by Marco Torsello , Matteo M. Winkler are devoted to individual legal issues of legal regulation in the coronavirus pandemic. Coronavirus-infected international business transactions: a preliminary diagnosis (DOI 10.1017 / err.2020.30), Lukasz Gruszczynski . The Covid-19 Pandemic and International Trade: Temporary Turbulences or Paradigm Shift? (DOI 10.1017 / err.2020.29), Alessandra Spadaro. COVID-19: TESTING THE LIMITS OF HUMAN RIGHTS (DOI 10.1017 / err.2020.27)

Certain aspects of the topic at different times were touched upon in research by legal scholars.

Seitz A.G.in, his seminal, analyzed all cases of changed circumstances and their influence on the commitments (Effect of changed circumstances on the strength of contracts. Irkutsk, 1928.). A.E. Worms studied various aspects of the legal regulation of civil circulation in war conditions. (War and force majeure. Bulletin of law, 1914, No. 38)

The works of Kantorovich Ya.A. are devoted to the problems of the impossibility of fulfillment (for example, "War and the fulfillment of obligations" (1917).

M.Ya interpreted questions of the action of force majeure in war conditions. (War and force majeure. Bulletin of law, 1914, No. 36)

The problems of terminating contracts due to their unprofitability were investigated by P.N. Gussakovsky . (Excessive unprofitableness of the sale, as a basis for termination of this agreement. // Weekly legal newspaper "Pravo", 1916, No. 38)

Oygenzikht V.A. Investigated the problems of risk in the context of liability for obligations in work "Problems of Risk in Civil Law" (1972)

Works devoted to legal regulation issues in emergencies can be considered rare (Dagirov Sh.Sh. Legal regulation of local self-government bodies' activities in the field of protecting the population and territories from emergencies: dis ... candidate of legal sciences, 2006)

Finally, we can confidently state that the investigated problematic, due to its phenomenological nature, has not yet been studied and comprehended by legal scholars.

References

1. Marco Torsello , Matteo M. Winkler are devoted to individual legal issues of legal regulation in the coronavirus pandemic. Coronavirus-infected international business transactions: a preliminary diagnosis (DOI 10.1017 / err.2020.30) [Electronic resource] ssrn.org (accessed 10.04.2020)
2. Lukasz Gruszczynski . The Covid-19 Pandemic and International Trade: Temporary Turbulences or Paradigm Shift? (DOI 10.1017 / err.2020.29) [Electronic resource] ssrn.org (accessed 10.04.2020),
3. Alessandra Spadaro. COVID-19: TESTING THE LIMITS OF HUMAN RIGHTS (DOI 10.1017 / err.2020.27) [Electronic resource] ssrn.org (accessed 10.04.2020),
4. Seitz A.G. Effect of changed circumstances on the strength of contracts. - Irkutsk, 1928.
5. A.E. Worms. War and force majeure // Bulletin of law, 1914, N 38.
6. Kantorovich Ya.A. War and the fulfillment of obligations" - 1917.
7. Gussakovsky P.N. Excessive unprofitableness of the sale, as a basis for termination of this agreement. // Weekly legal newspaper "Pravo", 1916, N 38.
8. Oygenzikht V.A. Problems of Risk in Civil Law - 1972.
9. Dagirov Sh.Sh. Legal regulation of local self-government bodies' activities in the field of protecting the population and territories from emergencies: dis ... candidate of legal sciences – 2006.