



22.08.2022

Russian courts of general jurisdiction

Текст на русском

INTRODUCTION

Since the beginning of the COVID-19 pandemic, Russian courts have been forced to adapt their work to new conditions and restrictions. At the same time, they themselves could participate in the formation of these conditions, organizing their own work in emergency circumstances, reviewing restrictions imposed by regional authorities, considering cases related to the provision of these measures, affecting the load of places of deprivation of freedom.

Six months after the outbreak of the epidemic in Russia, conclusions can be drawn about the role of courts of general jurisdiction in establishing new rules and how these rules manifested themselves in the work of courts in the context of human rights and freedoms.

CHRONOLOGY

January — February

January 31 — the first coronavirus patient in the Russian Federation was identified;

February 2 — the first case of the disease of a Russian citizen on the territory of Russia was revealed;

February 20 — entry into the territory of Russia is restricted for Chinese citizens and foreigners who arrived from China;

March

March 5 — a high-alert mode was introduced in Moscow;

March 11 — WHO declared a pandemic;

March 13 — the Chief Sanitary Doctor of Russia, A. Popova, issued a decree «On additional measures to reduce the risks of the spread of COVID-2019» (entered into force on March 17), which sets out the requirements for reducing face-to-face work meetings, on disinfection and the use of personal protective equipment in the workplace (the document was not forced upon Moscow);

March 18 — The Supreme Court decided to impose restrictions on the work of the courts from March 19 to April 10;

March 18 — foreign citizens are banned from entering Russia;

March 19 — a high-alert mode was introduced in all subjects of the Russian Federation;

March 23 — the Mayor of Moscow issued a decree according to which people over 65 years of age are prohibited from going outside without necessity from March 26;

March 25 — in his address, the president of the Russian Federation announced the introduction of mandatory self-isolation and a week of non-working days;

March 29 — more than 1,000 coronavirus cases were identified in Moscow;

March 30 — traffic through all border points of the Russian Federation is restricted;

April

April 1 — new articles in The Criminal Code and The Code on Administrative Offences were legislated, providing for liability for the dissemination of false information and violation of the regime of self-isolation and other requirements during the pandemic;

April 2 — residents of Moscow were banned from leaving their homes except in cases of extreme necessity.

April 8 — The Supreme Court extended restrictions on the work of the courts until April 30;

April 15 — in Moscow, mandatory digital passes for moving around the city were introduced;

April 21 — The Plenum of the Supreme Court published the first review of practice of applying the norms introduced to counter the spread of coronavirus;

April 29 — The Supreme Court extended restrictions on the work of the courts until May 11;

April 30 — The Plenum of the Supreme Court issued a second review of the practice of applying legislation during the pandemic;

May

May 12 — general restrictions on the work of Russian courts are lifted, now each court determines the restrictions itself, taking into account the epidemiological situation;

May 20 — the Russian court handed down the first verdict in a criminal case for spreading false information during the pandemic.

THE WORK OF COURTS IN PRACTICE

Introduction and removal of restrictions in the work of courts

The first **restrictions** were introduced on March 18 and began to take effect the next day. Later, the Supreme Court extended these measures twice: on **8** and **29** April. The restrictions, which we analyze in detail below, were in effect until May 11 (including this date).

Early in May, the Judicial Department of the Supreme Court sent **letters** to the lower courts, indicating the need to resume work in full from May 12. The courts were allowed to adjust the rules of operation in accordance with the epidemiological situation in the region. The Moscow City Court was one of the first to **announce** that restrictions in the capital's courts are being extended. Officially, restrictions in Moscow courts were **lifted** on June 9, after the mayor issued a decree «On the stages of lifting restrictions established in connection with the introduction of a high-alert regime.»

In their **report**, The Moscow Helsinki Group notes that the situation in courts has become even more uncertain since May 12, because in practice each court established rules independently, including rules for visiting and considering cases. In addition, the mode of operation of the vessels was not always **consistent** with the requirements of the high-alert regime in the regions.

Adjournment of proceedings of cases

Since March 19, the Supreme Court has imposed a moratorium on the proceedings of cases and ordered the consideration of «urgent cases» only, and to adjourn proceedings others until the end of quarantine measures.

The criteria of «urgency» are not mentioned in the legislation, and the Supreme Court designated them only partially, leaving the list open. The Supreme Court referred related to «urgent» cases on the application of a preventive measure, on medical intervention in the interests of minors and the incapacitated, as well as cases processed in a simplified or ordered manner. On April 8, the Supreme Court clarified

that administrative cases with possible penalties in the form of arrest, expulsion, suspension or prohibition of activities, as well as cases of violations of electoral legislation, are also subject to consideration. In addition, cases of gross disciplinary violations of military personnel, on securing claims and those in which the parties did not object to the trial in absentia fell into the category of «urgent». Separately, the Supreme Court noted that, taking into account the situation in the region, the courts could independently decide on the consideration of other cases.

In practice, it turned out to be impossible to understand which case would be adjourned and which would be considered «urgent». Thus, the processing by the Moscow City Court of the appeal of the activist Konstantin Kotov, sentenced to four years and serving a sentence for peaceful protest, was **adjourned** from March 26 for an indefinite period. The processing **began** only on April 14, all this time Kotov was in custody. The Tverskoy District Court of Moscow, on the contrary, **did not adjourn** the consideration of the case of the Memorial Human Rights Center on the absence of a «foreign agent» label

It remains unclear to what extent the courts, when making decisions on «urgency», thought precisely about epidemiological safety. Some court meetings clearly posed a threat of infection for the participants in the process. For example, at the end of March, in the Oktyabrsky District Court of St. Petersburg, lawyers **filed** a motion to adjourn the process of extending the preventive measure due to the judge showing symptoms of disease. The judge found such behavior disrespectful and issued private definitions against the defenders with an order to bring them to disciplinary responsibility. Subsequently, the Advocate Chamber of the Leningrad region did not find any violations in the actions of the lawyers.

The duration of the appeal period

Only on April 21, the Supreme Court clarified that the pandemic was not a reason for suspending the deadline for filing complaints, the issue had not been determined before.

The judges had to consider petitions for the restoration of time limits in each case, taking into account specific circumstances. The European Court of Human Rights, for example, acted in a different way, making an unprecedented **decision** to suspend all procedural deadlines for applicants from mid-March to mid-June.

Such an approach of the Supreme Court reduced the burden on judges, but citizens had to collect documents even for non-urgent cases during the epidemic. That is, in the conditions of an increasing number of cases, restrictions on movement and access to various organizations and institutions where documents could be located, restrictions on the methods of filing procedural papers, as well as the general uncertainty of the **non working days** announced by the President of the Russian Federation at the end of March and extended for the whole of April.

- The Supreme Court ordered all procedural documents to be submitted electronically or by mail. In **accordance** with the criminal procedural law, the complaint is considered filed at the time of transfer to the postal service. But in practice, the time required for postal delivery of the complaint was not always taken into account. We know of a case when a district court in Moscow refused to accept an appeal against a verdict in a criminal case personally from the hands of a lawyer. The office clarified that complaints during quarantine measures can only be sent by mail. While the complaint was in the mail, the defendant was already taken to the colony.
- The mode of operation of the courts during the «non-working days» announced by the President of Russia was not explained by the Supreme Court, as a result of which each court decided this issue itself. In **practice** this led to the fact that in some courts employees did not pick up correspondence from the post office, and therefore procedural documents did not get to the courts.
- In **some cases**, lawyers could not send documents to the court, since the procedural legislation «does not provide» for the submission of some documents in electronic form.

Restriction of access to courts

The Supreme Court has demanded since March 19 to restrict access to the courts for people who are not participants in the process. By March 20, a high-alert mode was introduced in all regions, including setting special rules for people to move around the city.

Taken together, this significantly limited the publicity of the proceedings and the opportunity to get **acquainted** with the case materials before the meeting, as well as the rights of citizens to personal participation in the process, to protection and access to legal assistance.

Publicity

Problems with attending court sessions arose even before the decisions of the Supreme Court. In the Sortavala City Court in Karelia on March 17, the bailiffs **did not let** a journalist who was already in the building into the court hall, referring to the «spread of coronavirus». On March 18 at Pskov District Court listeners were **not allowed** to attend the hearing on the criminal case of Jehovah's Witness. The press service of the court explained this by a decree of the governor prohibiting any gatherings of people. Although the restrictions **listed** on the court's website were less strict and were advisory in nature. In May, at a meeting on the case of the «Set'» [«Network"'] in In St. Petersburg, the court, referring to the quarantine, **did not let** either listeners or journalists into the building.

In some cases, the courts **allowed** the participants in the process to independently conduct a video broadcast of the meeting. However, the courts themselves broadcast the trials or published recordings of past sessions on the network less often than it would be worth doing to increase the transparency of proceedings during the pandemic.

Legislatively, the issue of broadcasting court sessions on the Internet was **settled** back in 2017: such a broadcast is allowed with the permission of a judge. However, in the spring of 2020, the Supreme Court, imposing restrictions on access to the courts, did not offer the courts to compensate for the decrease in publicity with the help of Internet broadcasts. The courts, in turn, in some cases refused to broadcast and even provide audio recordings to the media, referring to the high-alert mode.

At the same time, there was a technical possibility for Internet broadcasting of court sessions. Since September 2015, courts have been **required** to record audio in administrative proceedings, and since September 2019, mandatory audio recording has been introduced for criminal

and civil proceedings. In the Moscow City Court since 2013, all court sessions are **recorded** on video. Subsequently, video recordings began to be conducted in other Moscow courts, but they are not used for greater transparency and publicity of justice, but rather for the control of judges by the chairmen of the courts. «Once there was a complaint against the judge that he went into the process drunk, » Olga Egorova, the chairman of the Moscow City Court, **shared** in an interview in March 2020. — I turned on the video, there is a trial, a full appearance, and the judge is drunk. This is terrible! I arrive at the district court, and the judge has already closed himself in his office and is sleeping. He was eventually fired on defamatory grounds.»

As of September 25, on the **website** Records of seven sessions held from March 19 to mid-July are available to the Moscow City Court: five cases were considered in the Moscow City Court itself, the other two in district courts.

Access to one's own process

In addition to the restrictions imposed by the courts themselves, general quarantine measures taken by regional executive authorities also affect court visits.

- The decree of the Mayor of Moscow dated April 2 **obliged** citizens not to leave their homes except in cases of extreme necessity. There were no exceptions for visiting the courts, which made it **possible** to detain and initiate administrative proceedings for violating self-isolation in case of going to court.
- In Tatarstan, more lenient rules were **applied**: visiting the courts was recognized as a valid reason for issuing a pass, but it could be done once a month and for only one hour.

Right to protection and legal assistance

The restriction of movement and access to the courts also affected the exercise of the right to defense and the

opportunity to receive legal assistance. This problem has manifested itself in several aspects.

Firstly, in the spring and early summer, many lawyers could not move freely between regions: in a number of regions, there were two-week quarantine requirements for visitors, including from **Moscow** and **St. Petersburg**. In mid-May, lawyers **feared** that after leaving the restricted mode of operation, the courts would resume consideration of cases, but representatives of the parties would not be able to physically get to the meetings.

Secondly, legal experts without the status of a lawyer found themselves in a particularly vulnerable position. From April 15, a pass system was **introduced** in Moscow: to move around the city, it was necessary to receive a digital pass, their number was limited by two per week. This requirement did not apply to lawyers and their assistants in the presence of a certificate. On April 22 The Ministry of Communications **announced** plans to introduce digital passes in 21 regions.

Lawyers could issue a work pass, but only if the organization was not quarantined. The **decree** of the mayor of Moscow dated April 10 contains a list of categories of organizations that have not been quarantined, as they are «critically important» for the city. However, organizations providing legal services were not included in the list. Legal experts without a lawyer's status were faced with the fact that they could not issue a pass and, as a result, meet with their clients or participate in a court hearing, although the consideration of many cases continued. Moscow legal experts **believe** that in this way the right to choose a representative was limited.

The problem was **complained** to The European Court of Human Rights. The complaint stated that lawyers are deprived of the opportunity to freely provide legal assistance to citizens, and also that when filling out a pass, it is necessary to indicate the purpose and route of the trip,

and this may lead to the disclosure of personal information of the applicants.

Thirdly, defenders and prosecution were in unequal conditions in some courts. For example, in September, the Tomsk courts **forced** lawyers to wait for the start of the meeting on the street, while there is a special room for prosecutors in the courthouse. Sometimes this leads to lawyers having to wait for hours for the start of the process, which may shift in time, as well as be postponed without timely warning.

Online proceedings

From March 19, The Supreme Court ordered, in the presence of technical means, «to initiate the consideration of cases by using videoconferencing systems.»

Videoconferencing within the framework of the SAS «Justice» system provides for the possibility for the parties to connect to the meeting remotely from other state institutions — courts, pre-trial detention centers, prisons and colonies. To do this, a person must be in this institution, which allows, in particular, to confirm his identity and authority. On April 20, the Supreme Court **reported** on the 20th anniversary of its use of videoconferencing, noting that all courts of general jurisdiction and more than 90% of FSIN institutions are connected to the system, courts hold more than 1,500 such meetings daily (according to the Supreme Court, **announced** the next day, 8 thousand court sessions were held from March 18 to April 20, 2020 using videoconferencing systems).

On April 21, the Supreme Court **announced** the beginning of the use of a new «web conferencing system» for the courts and for the first time **held** a court session online, during which the judges were in the courtroom, and the parties to the case connected not through special equipment installed in other courts, but from personal devices.

Rossiyskaya Gazeta **noted** that the Supreme Court charged itself with this problem back in 2019, but the pandemic accelerated the process of transition to new technologies. «This technology allows one to participate in a court hearing with the help of modern technology, while at the same time in the office or even at home. This process will be accompanied by the introduction of biometric authentication technology for the participant of the court session by face and voice into the judicial activity, » **told** the press service of the Supreme Court said. It is unclear to what extent these technologies have already been implemented and are ready for use. So far, we are talking about «identification and authentication» through the portal of state services necessary to obtain a link to connect to a virtual meeting room. Before joining the conference, «identity and credentials are verified by the court.» In July, the Judicial Department of the Supreme Court **announced** plans to integrate the services of SAS «Justice» with the portal of public services.

On April 29, the Supreme Court, extending the restrictions, **recommended** that the courts not only use videoconferencing, but also adopt their experience of meetings on web conferences — «if technically possible, taking into account the opinions of participants in the proceedings.» It followed from the decision of the Supreme Court that before the web conference, the participants of the process attach electronic images of identity documents and confirming credentials to the application.

As practice has shown, district courts were not ready for remote consideration of cases. Since the end of March, some meetings have been held using messengers, such as **Whatsapp** or **Skype**, in which it is impossible to identify the participants in the process and guarantee the security of data transmission.

The epidemiological safety of such meetings also leaves much to be desired. When the court in Kazan at the end of March remotely considered the case of violation of the rules of the organization of the rally, the involved was called to the police department for this. The lawyer representing his interests **describes** this process as follows: «We enter the interior. Policemen are sitting there. There is a laptop on the windowsill. In it on Skype, it seems, the judge. We walk right up to the laptop and talk. At the same time, everyone is sitting and looking at us.» To get acquainted with the case materials, documents were delivered from the court to the police department and back.

The court in Kemerovo during the meeting on Whatsapp **rejected** the request for the participation of the defender, who is in Moscow. The plaintiff objected, referring to the fact that if a lawyer arrives from Moscow, he «will be placed in isolation», and during a web conference it will be impossible to «certify his credentials». The communication at the meeting was so bad that the defendant did not understand that the petition was denied and a lawyer by appointment participated in the trial. When considering the case of Konstantin Kotov in the Moscow City Court on April 16, the defenders **petitioned** for the interrogation of the witness by video link. According to the lawyer, the judge refused the petition, referring to the fact that the Decision of the Supreme Court is not the law.

«The adopted recommendations of the Presidium of the Supreme Court of the Russian Federation and of Presidium of the Council of Judges of the Russian Federation leads to a lack of uniformity, » Sergei Nasonov, adviser to the Federal Chamber of Lawyers, **noted** in a conversation with the Advocate Newspaper. — Somewhere they hold web conferences, and somewhere they put the life and health of the participants in the process at risk and hold meetings in person. It seems deeply erroneous to leave the issue of the meeting regime at the discretion of the judge, this makes the

whole range of measures taken meaningless. There is a need for a unified regime of consideration of such issues, mandatory for everyone.»

The compliance of remote meetings with the current legislation also raises questions. The law allows the use of videoconferencing through the court system, for example, if the participant is in another region (then he comes to another court and the broadcast is conducted from there), but the possibility of web conference sessions from personal devices is not provided for them.

At the end of March, Federation Council members Andrei Klishas and Alexey Russkich **proposed** allow participants in civil, arbitration and administrative proceedings to participate in court sessions remotely from their devices. Together with the De Jure Lawyers' Bureau, they prepared a package of bills, in April proposing to use a simplified videoconferencing procedure for criminal cases as well. In July, it was **reported** that the draft is being discussed by the Federation Council commission on improving legislation in the context of a pandemic. In October, the Ministry of Justice **spoke** about the preparation of a bill on remote participation in a court session and filing documents to the court electronically. It is assumed that the opportunity to participate in the processes remotely will appear from 2022.

THE ROLE OF COURTS IN RELIEVING PLACES OF DEPRIVATION OF FREEDOM

The pandemic has sharply raised the issue of relieving places of detention, where the risks of the epidemic are particularly high. However, the investigators were interested in the fact that the accused were in jail while work on criminal cases was suspended. . In early April, Pavel Chikov, the head of the

Agora human rights group, published an **information letter** from the Kaluga Region Prosecutor's Office in his telegram channel, in which law enforcement agencies were asked to complete the investigation as quickly as possible in cases in which suspects or accused are in custody. If this is not possible and there are no grounds for changing the preventive measure, apply for an extension of the arrest.

Under these conditions, in the first weeks of the epidemic in In Russia, the courts have not only not reduced the number of those arrested, but, on the contrary, have begun to send suspects to pre-trial detention centers more often.

At the beginning of January 2020, 97,781 people were held in pre-trial **detention** centers.

In March, after the transfer of the courts to the restricted operation mode, the journalists of the RBK **recorded** newer seen before number of arrests in Moscow: in the period of March 19-21, the capital's courts granted at least 154 petitions for the election of arrest as a preventive measure. By April 1, 2020, 99.8 thousand people **were** under arrest, two thousand more than at the beginning of the year.

In the second half of April, **publications** appeared in the media saying that the director of FSIN sent a letter to the chairman of the Supreme Court with a request to reduce the number of arrests for non-serious and economic crimes. «In the context of ongoing measures to counter the spread of the new coronavirus infection COVID-19, the high density of persons held in pre—trial detention centers and correctional institutions is concerning, » the letter says. The director of FSIN notes that at the beginning of April, 22 pre-trial detention facilities (about one in ten) were overcrowded.

On April 30, the Supreme Court **noted** that the arrest is an exceptional measure of restraint and the courts, when appointing it, should «take into account the fact that quarantine measures are being carried out in temporary

detention and pre-trial detention facilities.» One month later, by June 1, 2020, the number of prisoners decreased by a thousand and **amounted** to 98,804 people.

During the 3 summer months, when quarantine restrictions were gradually lifted throughout the country, the number of people in pre-trial detention increased by more than 5.5 thousand: according to FSIN, by September 1, the number of persons held in pre-trial detention **reached** 104,438 people. This may be due to both an increase in the number of arrests and a slowdown in investigative actions and trials, which is why more and more people are forced to wait for court orders in pre-trial detention centers.

Another measure to relieve places of deprivation of liberty, which was directly influenced by the courts, was the conditional early release of convicts. In March, the Supreme Court did not consider it «urgent» to consider petitions for parole, changing the type of correctional institution or replacing the unserved part of the sentence with a milder type of punishment. «Medusa» **noted** with reference to the **explanations** of the Lipetsk prosecutor's office that as a result, in the first weeks of the epidemic, detainees were more or less being stopped released early from the colonies. Despite the fact that the list of urgent cases was not closed, many courts interpreted these provisions restrictively, **adjourning** consideration of applications for parole. The Supreme Court named urgent the consideration of applications for the conditional early release of prisoners only on April 30. According to **the** Judicial Department of the Supreme Court, in the first six months of 2020, the courts considered 5,759 (or 13%) fewer applications for parole than in the same period of 2019; at the same time, 3,645 (or 8%) fewer petitions were received by the courts. The courts have not started resorting to parole more often: the share of granted petitions has decreased from 50 to 49%.

THE ROLE OF COURTS IN RESTRICTIVE MEASURES

Consideration of cases of violations in connection with the epidemic

By March 19, all regions **had introduced** high alert mode. With the announcement of restrictive measures, a huge number of cases of violation of mandatory self-isolation and other quarantine measures began to arrive in the courts. The relevant articles were created or substantially supplemented in March 2020.

- Article 236 of the Criminal Code on violation of sanitary and epidemiological rules from April 2020 provides for a significantly more severe punishment — a fine of 500 thousand rubles and up to two years in prison (according to the first part of the article).
- Article 6.3 of the Federal Administrative Code on «violation of legislation in the field of sanitary and epidemiological welfare of the population» in April was supplemented with a new composition on violation of sanitary and epidemiological legislation in the event of a threat of the spread of the disease, with a much more severe punishment — the fine for citizens in the new part was from 15 to 40 thousand rubles.
- Since April 1, Article 20.6.1 of the Administrative Code on non-compliance with the rules of conduct in case of an emergency or the threat or an emergency of its occurrence has begun to take effect, providing for a fine of 1 to 30 thousand rubles for citizens.
- Similar norms on violation of local rules in connection with the high-alert regime were included in regional codes: from April 2, such an article is valid in Moscow, from April 8 — in St. Petersburg (Articles 3.18.1 of the Administrative Code of Moscow, 8_6-1 of the Administrative Code of St. Petersburg). In both cases, a fine of four thousand rubles is prescribed.

The second block of articles, significantly changed due to the epidemic, is aimed at combating the spread of «false information».

- From April 1, two new criminal articles begin to operate — on the dissemination of «knowingly false information about circumstances that threaten the life and safety of citizens» (Article 207.1 of the Criminal Code) and «knowingly false socially significant information that entailed grave consequences» (207.2 of the Criminal Code), with a penalty of up to three years in prison, and in cases of «severe consequences» — up to five.
- Administrative Article 13.15 of the Administrative Code, introduced a year earlier, and supplemented with new parts from April 2020, is actively applied. In the absence of an administrative investigation, such cases are sent to the magistrates' courts.

Already on April 21 and 30, the Supreme Court issued the first reviews of practice on these articles. In the three weeks of their existence, real judicial practice could hardly have been developed — in fact, the explanations of the Supreme Court on how to differentiate new articles anticipated its appearance. Thus, the Supreme Court tried to correct the shortcomings made by the legislator during the emergency adoption of new norms.

- The Supreme Court tried to draw the line between criminal and administrative offenses, although it still remained blurred.
- The Supreme Court mentioned that jurisdiction under administrative articles on violation of the high alert regime depends on the police department where the detainee was taken. Prior to that, this practice was **valid** only for cases of violations at rallies, with «simultaneous mass stay» and disobedience to the lawful order of a police officer (under articles 20.2, 20.2.2 and 19.3 of the Administrative Code): since 2014, the Federal Administrative Code has been supplemented with a **provision** that cases under these articles are «considered at the place of detection» of such offenses and in 2018, the Supreme Court **clarified** that such a place could be the police station where the detainees were taken. Such a measure made it possible to relieving the courts, in whose jurisdiction the central parts of the city fall. The introduction of it for new articles may indicate that the courts were preparing for a wave of cases and applied a scheme for distributing the flows of administrative cases, worked out on mass detentions. At the same time, this requirement in relation to articles on violation of quarantine measures is based only on a review of the practice of the Supreme Court and is not **enshrined** in law.
- The Supreme Court also spoke about the differences in federal and regional norms, **noting** that one should be held accountable for violating the rules of the high alert regime in accordance with the norms of the federal Administrative Code, and not regional laws. Nevertheless, attempts to appeal to the Moscow City Court against the existence at the regional level the norms duplicating the responsibility established by federal law **have not been successful**.

Decisions on violations of quarantine measures under the norms of the Administrative Code of Moscow were made not by courts, but by the regional Joint Administrative and Technical Inspection or in automatic mode. In St. Petersburg, since the end of April, they have been **hosted** by law and order committee or district administrations. The role of the courts was to deal with complaints about fines. According to the head of the Main Control Department of Moscow Evgeny Danchikov, by July 22, the Moscow courts had received 24.5 thousand complaints about fines for violating the regime of electronic passes and 425 complaints about fines imposed by the system for the control of the sick «Social Monitoring». Statistics on such cases are not available in the regions, but in Moscow, at the initial stage, the courts **were ready** to confirm automatic fines with reference to extraordinary circumstances.

The medias **«Important Stories»** and **«Holod»**, having studied the data from the websites of the courts, came to the conclusion that by mid-June 256 thousand cases under articles 6.3 and 20 had been considered. 6.1 Administrative Code (95% — according to the milder 20.6.1 Administrative Code). In 88% of cases, citizens were found guilty. As a punishment, the courts in 65% of cases chose a fine, in 35% they were limited to a warning. Minimum fines were most often imposed: under Article 20.6.1 of the Administrative Code — 1 thousand rubles in 79% of cases, under Article 6.3 of the Administrative Code 15 thousand rubles — in 57%.

The «Apology of Protest» **notes** that such cases were often considered without the participation of the parties, without notification of those brought to responsibility and with the sole presence of a judge. The study of «Important Stories» also shows that such cases were held in high-speed mode: the judge of the Adler District Court of Sochi on April 9 have made 55 decisions under Article 6.3 of the Administrative Code, spending an average of 6 minutes per case. And the

deputy chairman of the Naberezhnye Chelny City Court of Tatarstan, Lenar Khasimov, considered 800 cases under Article 20.6.1 of the Administrative Code in a week, and on some days it took about 16 seconds for one case. The head of the Council of Judges of Tatarstan, Roman Gafarov, commenting on the investigation, <https://realnoevremya.ru/articles/177937-glava-soveta-sudey-rt-obyasnil-koronavirusnye-rekordy-femidy> called the situation «extreme» and **said** that due to the large number of cases, judges are forced to work from 5-6 in the morning until midnight «at the limit of their capabilities.»

The press service of the Naberezhnye Chelny City Court **explained** the increased workload not only by the huge number of cases, but also by the illness of one of the judges. It is not known how many judges and court staff fell ill throughout Russia during the pandemic; such information has not been officially announced, although it can be concluded from media reports that such cases are not uncommon. It was reported about diseases in **Moscow, Kaliningrad region, Murmansk region, Novgorod region, Arkhangelsk region, Krasnodar Territory, Khakassia, Bashkiria.**

Statistics on the appeal of punishments for violation of self-isolation throughout Russia have not been published. It is known that in St. Petersburg for three months from mid-April, about 1% of such punishments under the federal Administrative Code were appealed, as **reported** by the united press service of the city courts.

Criminal cases of violation of sanitary and epidemiological rules were isolated, although their number could increase compared to previous years. According to the Judicial Department of the Supreme Court, in 2019 the courts issued decisions on 14 cases, in 2018 year 16 case decisions were issued under the first part of Article 236 of the Criminal Code, and none under the second part. For each year, the courts convicted six people, most often imposing fines.

According to **the** «Apology of Protest», during the first two months of the pandemic, at least 22 cases were opened under Article 236 of the Criminal Code. In the context of COVID-19, single cases under this article were considered in the courts, which hardly allows us to talk about the current practice: In Yakutia, a nurse who came to work with symptoms of illness was **fined** 5 thousand rubles, in the Amur region, a patient who twice left the hospital was **sentenced** to 8 months probation, and the case of violation of the prescription staying at home was **halted** with a court fine of 10 thousand rubles.

The role of courts as a censoring body is becoming more active. The first case under Article 207.1 of the Criminal Code was **processed** already in May, in record time: for a video about the absence of masks on the plane, the court issued a fine of 300 thousand rubles to a resident of Sakhalin. Administrative cases on the dissemination of false information for statements about new cases of the disease, criticism of the health system or the actions of the authorities in connection with the epidemic, or for obviously sarcastic posts, are being massively considered. During the monitoring conducted by the Agora International Human Rights Group, 157 cases opened under article 13.15 of the Administrative Code during the first three months of the pandemic were **identified**. By mid-June, the courts had stopped proceedings in 12 of them due to the absence of an event of unlawful activity, indictments of more than 1 million rubles in total were issued in 46 cases. Of these, 9 fines were imposed below the established minimum level of 30 thousand rubles.

Consideration of claims on appeal of restrictive measures

As **noted** in the report of the legal service «Apology of Protest», by June quarantine measures were challenged in more than 20 regions. Despite the poor quality of regional

acts (in particular, until April 1, the governors had no authority to restrict the rights and freedoms of citizens at all), there is not a single case where restrictions were completely or partially lifted through the court.

Sometimes the courts refused to consider claims challenging the restrictions — the cases were left without proceedings. This happened when proceedings such claims in [Krasnoyarsk region](#), [Ulyanovsk](#), [Lipetsk](#) regions. In other cases, the courts refused to recognize violations in laws. For example, in [The Bryansk Region](#) court considered that the introduced measures are aimed at ensuring the protection of human life and health as the highest and most significant constitutional values. The consideration of claims in [Krasnodar Territory](#), [Sverdlovsk region](#), [Moscow](#), [St. Petersburg](#) came to the same result. The Moscow City Court [rejected](#) a lawsuit challenging the norms of the regional Administrative Code on fines for violating the self-isolation regime and the automatic imposition of such fines.

On September 28, the Constitutional Court [accepted](#) for consideration a request sent by a judge of the Protvinsky City Court of the Moscow region. Considering a specific case under Article 20.6.1 of the Administrative Code, the judge took the opportunity to apply to Constitutional Court for clarification of the constitutionality of the restrictions imposed by the governor. The request notes that the legislation allows regional public authorities «to implement measures to implement, ensure and protect the rights and freedoms of citizens, but does not provide for the possibility to restrict these rights and freedoms, including the right of citizens to freedom of movement.»

As of September 29, 2020, 46 rulings on cases under Article 20.6.1 of the Administrative Code, processed from the beginning of April to the end of June, were [published](#) on the website of the Protvinsky District Court. For 41 of them, a decree on the imposition of administrative punishment was

issued. In five cases, the proceedings were terminated, and all these decisions were made by one judge, Igor Karpov. It was the same judge who **headed** Protva City Court from 1997 to 2011, who wrote a request to the Constitutional Court.

Courts do not often turn to such a procedure. According to the **review** published by the Constitutional Court, in the 14.5 years from the beginning of 1995 to May 2009, the Constitutional Court considered 53 requests from federal courts of general jurisdiction, that is, on average less than four requests per year.

The press service of the governor of the Moscow region **noted** that they had already tried to appeal the decision earlier, but the Moscow Regional Court recognized it as compliant with the law.

CONCLUSION

The COVID-19 pandemic has greatly affected public life and the work of state institutions, including the judiciary power. Judges and court staff had to work with health risks, under constantly changing circumstances and additional workload due to the flow of cases related to violations of the new rules. Courts at various levels were forced to respond to an emergency situation: organize work in new conditions, interpret and apply regulations adopted due to the spread of the virus, as well as monitor the legality and proportionality of quarantine measures. In this report, we paid special attention to how the courts of general jurisdiction showed themselves in establishing new rules during the six months of the pandemic in Russia, in solving which tasks they showed great activity, and which problems remained unresolved and thereby affected the realization of human rights and freedoms.

In emergency conditions, the shortcomings of the laws were revealed: controversies and gaps in regulation. The Supreme Court actively tried to correct the shortcomings affecting the work of the courts.

It was the Supreme Court, replacing an inactive legislator, that in mid-March restricted the work of lower courts in order to avoid the spread of the virus. According to the Constitution, such measures should have been introduced by federal law, since they limited the fundamental right to a fair trial. The restrictions imposed and lifted by the Supreme Court were not always correlated with the actions of the executive authorities — the chief state sanitary doctor, heads of regions. Sometimes the combination of the actions of the Supreme Court and the executive authorities only aggravated the infringement of rights.

The pandemic has shown how valuable the opportunity to conduct online trials is. The current legislation allowed remote meetings only via videoconference, which can be connected from courthouses and from places of detention. In March, the Federation Council launched a discussion on legitimizing online meetings, but the initiative was not implemented in six months. Meanwhile, the Supreme Court in April allowed the courts to use not only video conferencing, but also web conferences involving connection from personal devices for meetings.

At the end of March, changes are being made to the Criminal Code and Administrative Code, there are new penalties for violating restrictive rules and spreading false information. Three weeks later, the Supreme Court issued a review of the practice under the new articles, trying to correct the shortcomings made during the hasty adoption of new norms, and making recommendations on the differentiation of similar criminal and administrative structures. At the same time, the Supreme Court tried to distribute cases under new articles between the courts, apparently fearing mass detentions and

excessive burden on judges. Despite these measures, the courts still had difficulty coping with the flow of such cases and considered them in a high-speed mode, which certainly reduced the quality of the proceedings.

The practice in cases of violations of the rules related to the epidemic deserves a separate study, but the punishments themselves, primarily fines, have become a burden for people against the background of a deteriorating economy.

The Supreme Court tried to relieve the places of imprisonment — a measure necessary in the conditions of a pandemic and all the more relevant, given that the parliament refused amnesty in honor of the 75th anniversary of victory in the Great Patriotic War. A week after the State Duma announced this, the Supreme Court reminded the lower courts that applications for parole should be processed immediately, and when choosing a measure of detention, quarantine in pre-trial detention facilities should be taken into account.

At the same time, the Supreme Court did not speak out on many issues or partially left them to the discretion of lower courts. The courts had to decide whether to consider the case urgent if it did not fall into the categories listed by the Supreme Court, whether to process cases remotely and how to implement it technically. It depended on them whether the meetings would be broadcast and their recordings published. They themselves determined the mode of operation during the «non-working days» and from mid-May, when the measures imposed by the Supreme Court ceased to operate.

Individual courts were not ready for such autonomy. The restrictive interpretation of the open list of «urgent» cases led to the fact that in March–April, until a special request of the Supreme Court, some courts refused to process prisoners' applications for parole.

In none of its spring rulings did the Supreme Court criticize the high-alert regimes which led to massive administrative prosecutions. The courts of the subjects of the Russian Federation also refused to review the measures introduced by the regional authorities: they either rejected the claims or left the cases without proceedings. Unexpectedly, one of the courts in the Moscow region took on an active role, asking for an explanation of the necessity and proportionality of the measures introduced in the region in The Constitutional Court.

Like many other institutions of state power, the courts imposed restrictive measures in order to resist the spread of coronavirus infection and to support their work in the new conditions. The courts turned out to be in the **general trend** in the sense that they practically did not offer alternative ways of exercising rights restricted due to the pandemic. In some cases, the judicial system put the interests of record keeping above human rights and freedoms, and sometimes above epidemiological safety.

More to read



The slow-motion collapse of Russian higher education

Russia was once a frontier of higher education, attracting top teachers and students worldwide. Today, Russian universities are being rapidly militarized while their overall quality has tanked. The fall began with the Kremlin's confused policy of trying to improve university quality, worsened at the 2010s authoritarian turn, and was finally exacerbated by the full-scale invasion of Ukraine.



Repressions against the Russian anti-war movement. Ten months of the full-scale war

It has been ten months since the beginning of the full-scale war. Throughout this time, the Kremlin has been escalating the intensity of domestic