

# Newsletter

## *Increased liability for breach of measures to prevent the spread of coronavirus (COVID-19)*

April 6, 2020

Dear Ladies and Gentlemen,

Due to the active spread of coronavirus infection COVID-2019, the Russian authorities, at both the federal and regional levels, are taking significant measures to ensure the self-isolation of citizens.

These measures include increasing the liability for violation of measures for preventing the spread of coronavirus infection, which caused adoption of a number of legislative acts.

### **1 A law has been adopted to toughen the criminal liability for violations of sanitary and epidemiological rules.**

On April 1st, 2020, [the Federal Law No. 100-FZ](#) was adopted, which provides for the following changes:

Firstly, the criminal liability for violation of sanitary and epidemiological rules under Part 1 of Article 236 of the Criminal Code of the Russian Federation will be entailed not only for violation, causing a massive disease or poisoning of people through negligence, but also for [creating a threat of such consequences](#).

It means that for criminal prosecution under this article, an immediate outbreak of a mass disease, or poisoning, is no longer required: the threat of their onset is sufficient. Thus, in our opinion, the legislator intends to facilitate the criminal prosecution under the said article (which has not been used very often before, due to the difficulty in evidencing the outbreak of a mass disease as a result of violation of sanitary rules by a specific individual).

Secondly, the amount of a fine, which can be imposed as a sanction for the said violation, has been increased (previously the maximum fine was

80,000.00 roubles and, according to the new version, the size of the fine is now from 500,000.00 to 700,000.00 roubles), as well as such a sanction of [imprisonment for up to two years](#) had also been introduced.

In addition, a fine of up to 2 million roubles for this violation can be imposed, if it caused the death of an individual (Part 2 of Article 236 of the Criminal Code of the Russian Federation). Also, a new qualifying element of this violation was introduced, that is the death of two or more persons – with the possibility of imprisonment for a period from 5 to 7 years (Part 3 of Article 236 of the Criminal Code of the Russian Federation).

Furthermore, the law criminalizes the public dissemination of deliberately-false information about circumstances posing a threat to life and safety of citizens, and/or about measures taken to ensure the safety of the population under the guise of trustworthy news / public dissemination of knowingly-false public information (Articles 207<sup>1</sup>, 207<sup>2</sup> of the Criminal Code of the Russian Federation). This will enable the prosecution for the dissemination of false information about the new coronavirus infection.

### **2 A law has been adopted to introduce administrative liability for violation of sanitary and epidemiological norms, under conditions of the spread of the dangerous disease.**

On April 1st, 2020, the [Federal Law No. 99-FZ](#) on a number of amendments to the Code of Administrative Offences of the Russian Federation, was also adopted.

So, previously, Article 6.3 of the Code provided for administrative liability for violations of legislation in

the field of sanitary and epidemiological welfare of the population.

These amendments introduce new qualifying elements of this violation, namely, committing it **during the state of emergency, in the event of a threat of spread of the disease**, which poses a danger to others, or **during the period of restrictive measures** (quarantine), or non-compliance with the regulations of the body that carries out sanitation and epidemic control (Part 2 of Article 6.3 of the Code of Administrative Offences of the Russian Federation).

Such a violation entails the imposition of a fine (for legal entities – up to 500,000.00 roubles), or suspension of activities for up to 90 days. However, if such a violation caused harm to human health, or death (without signs of a crime), the size of the fine will be increased (for a legal entity – up to 1 million roubles).

In our view, employers and their officials who have failed to comply with the measures taken in connection with coronavirus infection, may incur liability under this article. A non-compliance with restrictive measures (quarantine) introduced in accordance with the Federal Law of March 30th, 1999 No. 52-FZ "On sanitary and epidemiological welfare of the population" could be deemed such a violation.

Given that the Chief State Sanitary Officer of the Russian Federation has adopted a **resolution** providing for the introduction of a self-isolation regime for persons arriving from countries with an unfavorable situation, the article may also cover the violation of regulations of public authorities in respect of non-compliance with the regime of self-isolation / failure to provide employees with the ability to comply with such a regime.

Also, in accordance with the said Law, Article 20.6<sup>1</sup> of the Code of Administrative Offences of the Russian Federation was put into effect. It provides for responsibility for non-compliance with the rules of conduct, when the regime of high-alert is introduced, or in the emergency zone. Such an offence will be punished by a fine (for legal entities – up to 300,000.00 roubles), and in the event of harm to human health, or property, or repeated non-compliance with the rules of conduct – by a fine (for legal entities – up to 1 million roubles), or suspension of activities for up to 90 days.

In the present circumstances, this rule (in the absence of any signs of violation specified in Article

6.3 of the Code of Administrative Offences of the Russian Federation) can also be actively used to prosecute individuals and legal entities, including employers and their officials. However, the difference between this rule and Article 6.3 of the Code of Administrative Offences is that responsibility is established for violation of rules of a high-alert regime, rather than sanitary and epidemiological norms. In particular, the grounds for prosecution under Article 20.6<sup>1</sup> of the Code of Administrative Offences may be a violation of the Moscow Mayor's **Decrees** (dated March 5th, 2020 No. 12-UM, March 29th, 2020 No. 34-UM, etc.) and other similar acts of the regions of the Russian Federation, which introduced the high-alert regime.

This law also introduced parts 10<sup>1</sup>, 10<sup>2</sup> of Article 13.15 of the Code of Administrative Offences of the Russian Federation, providing for administrative responsibility for dissemination of knowingly-inaccurate information about circumstances that pose a threat to the life and safety of citizens, and/or the measures taken to ensure the safety of the population under the guise of reliable information / dissemination of false, public information (resulting in a death of an individual, violation of public order, etc.), which will also enable to hold liable for dissemination of false information about the new coronavirus infection.

### **3 The Moscow City Duma adopted a law to introduce administrative responsibility for violation of the high-alert regime.**

Also, on April 1st, 2020, the Moscow City Duma **passed a law** (which was signed by the Moscow Mayor on April 2nd, 2020), intending to introduce Article 3.18.1 to the Moscow City Code on Administrative Violations. In accordance with this article, the violation of requirements of the Moscow City regulations, **aimed at introducing and ensuring a regime of high-alert**, will be subject to administrative liability.

This law, in effect, provides for special administrative responsibility, which can be applied if actions (inaction) of the offender could not be qualified as a crime, or do not entail administrative responsibility under the Code of Administrative Offences of the Russian Federation. At the same time, this law provides the possibility to detain a vehicle, if the self-isolation regime is violated with the use of a vehicle.

Given that currently the situation, with the spread of the new coronavirus infection, is developing rapidly and unpredictably, and the State aims at containing the outbreak of infection, we believe that control over compliance with the measures can be

significantly toughened, -based on the example of other countries, which includes, among others, instituting administrative, or even criminal charges against the violators.

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