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Russian Desk

Legal positions of the Supreme
Court of the Russian Federation on
topical issues in connection with the
spread of the coronavirus infection
COVID-19

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This newsletter is important for the management of companies, compliance officers and the employees of legal departments.

On 21 April 2020 the Supreme Court of the Russian Federation published a long-awaited review of legal positions on topical issues on court practice in connection with the spread of the coronavirus infection COVID-19 in Russia and the fight against the virus.¹ You will find the main information below. At the same time, however, we strongly recommend that you study the text of the original review.

ADMINISTRATIVE LIABILITY

The Supreme Court of the Russian Federation has demarcated the components of administrative offences stipulated by Article 20.6.1 “Non-compliance with rules of conduct in an emergency or the threat of the onset thereof in the Russian Federation” and Article 6.3 “Violation of legislation on securing public health and safety” of the Code on Administrative Offences (RF Code on Administrative Offences). Pursuant to the position of the RF Supreme Court, Article 20.6.1 of the RF Code on Administrative Offences is general and stipulates liability for non-compliance with the rules of conduct established by the Government of the Russian Federation and the governments of constituent entities of the Russian Federation during the imposition of the high-alert regime in areas where there is a threat of the onset of an emergency.

Article 6.3 of the RF Code on Administrative Offences is specific in the case of violations of restrictions in respect of Article 20.6.1 of the RF Code on Administrative Offences and stipulates liability for the violation of the health and safety requirements established in particular by Sub-Clause 2.3, Clause 2 of Resolution No. 7 of the Chief Medical Officer of the Russian Federation dated 18 March 2020 “On Ensuring the Self-Isolation Regime for the Purposes of Preventing the Spread of COVID-19” on compliance with the requirement on self-isolation at home, in other words, for violations of the requirements of the federal executive authority responsible for the development and adoption of health and safety requirements.

The RF Supreme Court also provided clarifications on the timeframe for the assignment of administrative liability, the procedure for considering cases and issuing an administrative penalty.

FORCE MAJEURE, IMPOSSIBILITY OF PERFORMANCE AND MATERIAL AMENDMENTS

The RF Supreme Court admits that the epidemiological situation and attendant restrictions may be assessed as force-majeure circumstances on which basis a contract was concluded, and also as grounds for the impossibility of the performance of obligations. However, the court does not allow for such an assessment ipso facto, but instead such assessment should

¹ https://vsrf.ru/press_center/news/28855/.

be performed on a case-by-case basis, proceeding from specific individual analysis of the situation and the evidence submitted by the interested party.

PROCEDURAL TIMEFRAMES AND NON-WORKING DAYS

The RF Supreme Court clarified that all procedural timeframes, which are usually calculated in days, continue to run in accordance with the standard procedure and include the work days from 30 March to 30 April declared as non-working days by the Decrees of the President of the Russian Federation. If the last date of such a timeframe falls on this day, then the timeframe expires on this date, and not on the first working day after this date. In the event of the omission of the procedural timeframe, the court is entitled to restore the timeframe if such omission occurred for good reason, inter alia, in connection with the imposition of restrictions in the fight against coronavirus.

TIMEFRAME FOR PERFORMING OBLIGATIONS AND STATUTE OF LIMITATIONS

Similarly the introduction of non-working days by the President of the Russian Federation in the period from 30 March to 30 April does not make it possible to defer the timeframe for performing an obligation ending on one of these days to the first working day after these days. All obligations must be performed in accordance with the standard procedure.

The periods of statutes of limitations are calculated in a similar way. They may be suspended if it is declared that coronavirus or the restrictions imposed to fight it constitute force-majeure circumstances, which prevented the applicant from applying for judicial protection, in compliance with the term of the statute of limitations. In this case, however, the applicant is required to prove the existence of the force majeure and also the direct causal link between this circumstance and the omission of the period of the statute of limitations.

MORATORIUM ON BANKRUPTCIES

If a company or individual is included based on the list of the Government of the Russian Federation in one of the groups of persons subject to the moratorium on bankruptcies, petitions on declaring them bankrupt are returned by courts without consideration of their merits.

In addition to the aforementioned clarifications, the RF Supreme Court has set out legal positions on criminal law and on a number of other issues.

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