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The legal service of human rights advocacy group **Apologiya Protesta** presents the report “Russia: forced into quarantine”. The report is devoted to a review of cases of the use of coercion by the Russian authorities to ensure compliance of the population with quarantine regulations, introduced during the coronavirus pandemic in April-May and part of June 2020.

Following the introduction of restrictive quarantine measures by regional authorities in the constituent territories of the Russian Federation, not a single day has passed without information emerging on the number of administrative offence reports drawn up by police, and sometimes - cases of police arbitrariness and initiation of criminal proceedings under ‘coronavirus’ articles of the Criminal Code (CrC) of the Russian Federation (RF).

According to the state automated system (GAS) “Justice” and the websites of district and city courts, during the period from 1 April to 8 June 2020, **394,359** cases concerning violations of part 1 of Article 20.6.1 of the Code of Administrative Offences (CAO) of the RF (failure to comply with rules of conduct during an emergency situation or threat of its occurrence) have been referred to the courts. Half of all cases are from eleven regions of Russia. The clear leaders of this police conveyor belt are **Tatarstan with 55,603** cases, and **Krasnodar Krai with 23,058** cases. At the other end of the extreme are Chechnya with **44** cases, and the Nenets Autonomous Okrug, where only **1** such case has been recorded. A comparison of the number of cases initiated and the number of people infected with COVID-19 shows that the use of such repressive measures to counter the epidemic is irrational - these indicators do not correlate with each other.

The total amount of fines imposed under quarantine articles is approaching **1 billion roubles (\$14,216,075)**.

During this period, at least **22** criminal cases have been filed under Article 236 of the CrC RF (violation of sanitary and epidemiological regulations).

A new trend has also emerged - quarantine articles have become a convenient replacement for, or addition to, Article 20.2 of the CAO RF (violation of the legislation on public assemblies), and a reason for the detention and prosecution of civil and political activists who pose no threat to anyone except the authorities.

“It is obvious that the police and judicial conveyor belt system for rubber-stamping fines in a dismal economic situation, as well as repressive practices during a difficult epidemiological situation, do not reduce the risk of the spread of COVID-19, but, on the contrary, only aggravate the situation, putting even more people at risk of infection, including detained protesters. A moratorium on human rights, including freedom of expression and intolerance of protests in any form, is a permanent feature of the political regime in Russia at any time”, noted the author of the report, Anna Bochilo, PhD in Law.

Now the only possible right course of action for the authorities is to nullify all fines for citizens.

First symptoms

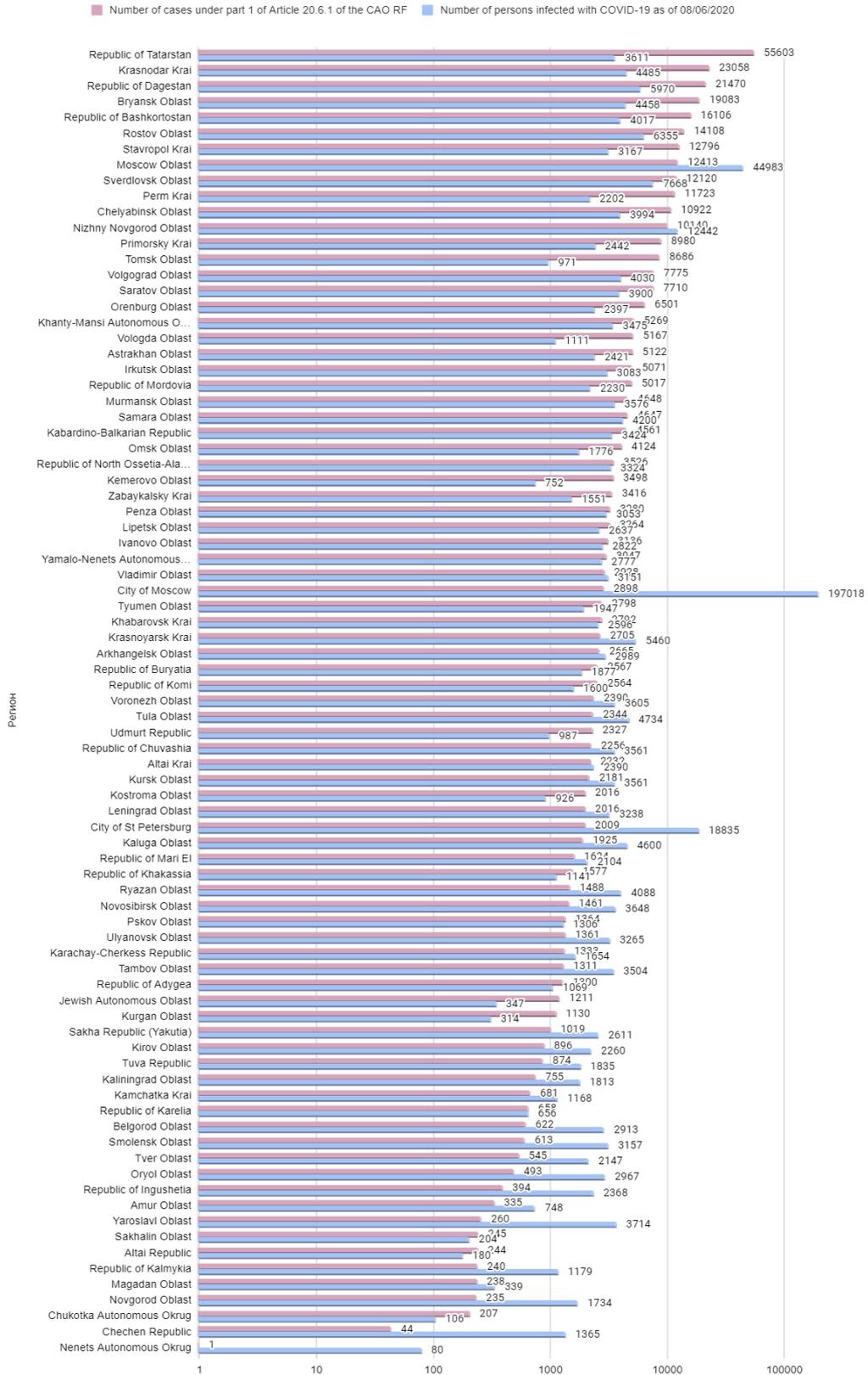
The authorities’ desire to reduce the risks of the disease that has engulfed the world was logical and understandable. But the decrease in incomes, lack of material assistance from the state, and sometimes a misunderstanding of the situation, as well as other factors, did not allow Russians to fully comply with the adopted measures. The state responded in a rather traditional manner: with coercion, including the mass implementation of repressive practices.

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1 The number of people infected has been taken from the website: <https://zona.media/coronagraph>

Report by Apologiya Protesta

Number of cases under part 1 of Article 20.6.1 of the CAO RF and number of persons infected with COVID-19 as of 08/06/2020



An analysis of **394,359** cases under part 1 of Article 20.6.1 of the CAO RF and **16,380** cases under part 2 of Article 6.3 of the CAO RF² (according to data from the state automated system “Justice” for 58 constituent territories of the Russian Federation, the Moscow City Court, and official communications of the authorities) from different regions of Russia shows the following trends. The most common penalty for natural persons under paragraph 1 of Article 20.6.1 of the CAO RF is a fine of 1,000 roubles (\$14,22). The penalty most frequently imposed under part 2 of Article 6.3 of the CAO RF (violation of the legislation on ensuring the sanitary and epidemiological wellbeing of the population) is a fine of 15,000 roubles (\$213,24).

The proportion of cases returned to the police, terminated by the courts, or cases resulting in a verbal warning varies. However, despite this, the overall average fines imposed under paragraph 1 of Article 20.6.1 of the CAO RF by region are as follows: Sverdlovsk Oblast – 1,350 roubles (\$19,19), Bashkortostan – 1,053 roubles (\$14,97), Novosibirsk Oblast – 3,050 roubles (\$43,36), Omsk Oblast – 1,160 roubles (\$16,49). The average fines imposed under part 2 of Article 6.3 of the CAO RF amount to 14,450 roubles (\$205,42) in Novosibirsk Oblast, and 13,390 roubles (\$190,35) in Rostov Oblast. Thus, cases under Article 20.6.1 of the CAO RF have cost Russian residents at least **400** million roubles (\$5,686,430), and those under Article 6.3 of the CAO RF - **246** million roubles (\$3,497,154).

Moreover, with the help of the “Social Monitoring” tracking app, by 20 May 2020 the Moscow authorities had issued 54 thousand fines totalling **more than 216 million roubles** (\$3,070,672).

In the northern capital, fines totalling **17 million roubles** (\$241,673) have been issued since May under Article 8.6.1 of the regional law “On Administrative Offences in St Petersburg” for violating “coronavirus” restrictions.

Thus, the total amount of fines imposed under quarantine articles is approaching **1 billion roubles** (\$14,216,075). That being said, fines collected under Articles 20.6.1 and 6.3 of the CAO RF go to the federal budget, however, the federal authorities have devolved responsibility to fight the virus to the regional level.

In June 2020 President Vladimir Putin, as part of a social support package introduced in connection with the pandemic, signed a law doubling the minimum amount of child support for the first child. This means an increase from 3,376 roubles (\$47,99) to 6,752 roubles (\$95,98). According to the Labour Minister, 310,000 families will receive the benefit. Accordingly, the additional expenses of the federal budget will amount to 1.046 billion roubles (\$14,870,015). In other words, the federal authorities, having taken 1 billion out of one pocket of ordinary Russians, have put it in another, presenting this as measures to combat the pandemic.

2 These may include cases not related to breaches of quarantine regulations. But, in view of the statistics for previous periods, we believe that the number of such cases is minimal.

The present report, prepared by the legal service of Apologiya Protesta, is devoted to a review of cases of the use of coercion by the Russian authorities to ensure compliance of the population with quarantine regulations during the coronavirus pandemic in April-May and part of June 2020. The study is based on the results of our own monitoring of information disseminated by the mass media, social networks, instant messengers, publications of the Ministry of Internal Affairs and the Investigative Committee, data from the state automated system “Justice”, and the websites of district and city courts, as well as an examination of coronavirus-related applications from citizens received by the legal aid headquarters of Agora human rights group, including more than 250 calls to the Apologiya Protesta hotline.

The report consists of two parts: the first is devoted to the - often chaotic - introduction of restrictive measures in the country, and part two examines attempts by the federal and regional authorities to enforce these measures. The appendix presents the collective results of the monitoring in table format, including the date, source of the information, and region.

General restrictions

Chaotic lawmaking at the federal and regional levels

The coronavirus pandemic has plunged the world into a new reality: whole cities were put in lockdown, international borders closed, schools and universities shut, court hearings suspended, and human rights restricted. In Russia, as in many other countries, unprecedented steps have been taken to manage the spread of the disease. However, legal regulation in the new conditions has been fraught with confusion, both at the federal and regional levels.

On 5 May Moscow Mayor Sergei Sobyenin was the first in the country to issue a decree on the introduction of a “high alert regime” in the capital to stem the spread of the new coronavirus infection. The term “high alert regime” is found only in the Federal Law “On the Protection of the Population and Territories from Natural and Technogenic Emergencies”. At the time of issue of the decree, the level of spread of the disease was not sufficiently high to warrant the introduction of such a regime. Furthermore, according to the law, the “high alert regime” could apply only to representatives of the authorities, namely, the governing bodies and forces of the unified State System for the Prevention and Liquidation of Emergency Situations. The introduction of the regime could not give rise to any obligations for other entities, including citizens and legal entities. Nevertheless, the decree not only imposed additional obligations on citizens, but also significantly restricted their rights.

Restrictive measures and various steps aimed at preventing the spread of infectious diseases, including quarantine, are provided for by the Federal Law “On the Sanitary and Epidemiological Wellbeing of the Population”.

The decree of the Moscow Mayor contained no references to this law, nor any mention whatsoever of quarantine or recommendations of medical health officers on the basis of which the measures were being adopted.

In addition, the implementation of restrictive measures listed in the decree, taken either individually or in combination, is possible only during a state of emergency, which must be announced by the President of Russia.

On 1 April 2020 amendments were introduced to the Law “On the Protection of the Population and Territories from Natural and Technogenic Emergencies”, which supplemented the list of causes of emergency situations with cases related to the spread of dangerous diseases. In addition, the amendments permitted the heads of constituent territories of the Russian Federation, during states of emergency or high alert regime, to introduce mandatory rules of conduct for citizens and, alongside them - restrictions and prohibitions. According to the same law, such measures introduced by regional authorities of the Russian Federation cannot restrict the rights and freedoms of man and citizen (subparagraph “e” of paragraph 10 of Article 4.1).

This was followed by the Decree of the President of the Russian Federation of 2 April 2020, which endowed top officials of the constituent territories of the Russian Federation with the right to determine the scope of the complex of restrictive measures aimed at ensuring the sanitary and epidemiological wellbeing of the population, including the implementation of restrictive measures and other steps within the framework of the decree.

Thus, the federal authorities have in effect devolved decision-making on key issues connected with coronavirus to the regions. The pandemic set the trend for the federalisation of the country.

By 20 March high alert regimes were introduced in all constituent territories of Russia. For the most part, the restrictions introduced were copies of each other (and the first in the series was the decree of the Moscow Mayor), but there were also differences. The regional authorities suspended cultural and entertainment events, closed shopping centres, restaurants, beauty salons and other organisations that attract large numbers of people; banned or limited public events, imposed restrictions on movement, calling on residents to “comply with self-isolation instructions and leave their places of residence for essential purposes only”. Chelyabinsk Oblast and the Chechen Republic went further and completely prohibited entry into their territories.

(Un)lawfulness of restrictions

In general, the introduction of certain restrictions, including restrictions on human rights, is a justified response to a threat to the health of the population. But the key issues to consider are the adequacy, appropriateness, proportionality, and legality of these restrictions, as well as their temporary, rather than permanent, nature.

Regulation of any rights or obligations of a person should be carried out by law or on the basis of law. “Reservations to the law” authorise the legislator to restrict fundamental human rights. Such restriction is possible only by law, subject to compliance with certain criteria:

- the law should not infringe on the very essence of the right;
- the principle of proportionality of the restriction must be observed;
- the restriction should not paralyse the realisation of rights and freedoms;
- the realisation of rights and freedoms and their restriction cannot be made dependent on the decision of the law enforcer, allowing for the arbitrariness of the authorities and officials;
- judicial protection against arbitrary restriction should be provided;
- the restrictions must be limited in time.

The Constitution of the Russian Federation establishes that “the rights and freedoms of man and citizen may be limited by the federal law only to such an extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defence of the country and security of the State” (part 3 of Article 55). According to the official construal of this provision by the Constitutional Court of the Russian Federation, “the rights and freedoms of man and citizen may be limited only by federal law”. In this case, the concept of “law” refers exclusively to federal laws, and not the laws of constituent territories of the Russian Federation. The Constitutional Court has repeatedly recognised normative legal acts of constituent territories of the Russian Federation as unconstitutional with respect to restrictions of freedom of movement, freedom of choice of place residence, freedom of economic activity, etc.

Clearly, the restrictions on human rights introduced by the regional authorities of Russia are questionable from a legal standpoint. These doubts were confirmed by the fact that, in early June 2020, Russian Prime Minister Mikhail Mishustin ordered an inquiry into the lawfulness into the batch of pandemic regulations adopted in the regions. At the time of publication of the report, the results of this check have only been published by the Russian Ministry of Justice. According to the Ministry of Justice, the restrictions introduced “unconditionally meet the constitutional aims of protecting the life and health of citizens, and are commensurate with the threat of the spread of the epidemic”, are “exclusively temporary”, and are consistent with international practices and the Convention for the Protection of Human Rights and Fundamental Freedoms.

International restrictions in response to the pandemic

According to Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms, any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor.

The UN and the European Court of Human Rights consider that, even if states have warned about the introduction of a state of emergency and notified the international community, this cannot serve as a basis for an arbitrary and uncontrolled restriction of human rights.

In order to avoid liability for violations of the rights and freedoms protected by the Convention, the Russian Federation had to formally notify the European Court of derogations in connection with COVID-19, as was done by Albania, Armenia, Estonia, Georgia, Latvia, Northern Macedonia, the Republic of Moldova, Romania, San Marino and Serbia. Russia did not make such an announcement.

According to Kirill Koroteev, head of international practice at Agora human rights group, at the national level, the “global trend” in appealing restrictive measures during the fight against the epidemic seems clear: the courts do not review decisions of the executive authorities and parliaments. The Council of State, the Supreme Court of the French Administrative System, dismisses one case after another, often without a hearing. The administrative courts in Lower Saxony and Saarland have supported all government measures, and the Federal Constitutional Court of Germany refused to consider complaints of human rights violations guaranteed by the Basic Law for the Federal Republic of Germany. But a move in the opposite direction - towards a closer examination of anti-virus measures – is beginning to emerge. The Constitutional Council of France has significantly limited the functions of the app for tracking infected persons in order to protect personal data, the Constitutional Court of Bavaria has lifted the 800 square metre restriction on retail space, and the Prague City Court ruled that the Health Minister is not competent to introduce restrictive measures single-handedly.

Appeal attempts

In more than twenty Russian regions, claims have been filed to challenge the acts of heads of constituent territories of the Russian Federation on the introduction of “high alert regimes” and corresponding human rights restrictions. According to legal news portal GARANT.RU, in two months only five regional courts have issued decisions, and of these only the Bryansk Regional Court, the Moscow City Court, and the Astrakhan Regional Court have published the texts of their decisions. The courts rejected all five claims.

According to the Bryansk Regional Court, the restrictions are consistent with the constitutionally significant aims of restricting human rights, and are justified by the need to stem the spread of COVID-19 in the region. The court noted that failure of the regional Government to comply with requirements of federal acts on the protection of citizens from the threat of the spread of the coronavirus infection may lead to impairment and unacceptable restriction of the right to life guaranteed by the Constitution of the Russian Federation, which would constitute a direct violation of the requirements of paragraph 3 of Article 56 of the Constitution.

Kirill Koroteev writes: “Despite the differences between regions and the nature of restrictions, the court decisions are similar. Judges follow the Federal Law of 1 April, which enabled the heads of regions to introduce any restrictions on human rights as part of the “high alert emergency regime”

(Astrakhan), and the Government's decree, which set out this law in some detail (Bryansk). Since, unfortunately, no clear boundaries have been set for regional measures at the federal level, the courts also do not assume the role of overseer, claiming that they don't have to. An attempt to refer to the fact the restrictions that have been put in place may only be introduced during a state of emergency declared by the President of the Russian Federation, and confirmed by the Federation Council, met with a short and unrefined objection of the Astrakhan Regional Court that such an interpretation of the law is incorrect. Of course, the decision does not indicate which interpretation is correct".

Coercive mechanisms

Fresh administrative proceedings

"A self-isolation regime with no liability for violations is a sacrilege. What can the police do in such a situation? Only reprimand citizens, which isn't serious... You've gone for a walk – that's a fine of 15 thousand [roubles]. A run along the embankment - 15 thousand", said the head of the Republic of Karelia, Artur Parfenchikov.

In order to motivate citizens to "self-isolate", the authorities have increased administrative penalties for violating the legislation on the sanitary and epidemiological wellbeing of the population.

As of 1 April 2020, two new offences have been introduced into the corresponding Article 6.3 of the CAO RF. The sanction under this article is a fine from **15,000** (\$213,24) to **40,000 roubles** (\$568,64), and in the presence of aggravating consequences, the penalty increases to up to 300 thousand roubles (\$4264,82). Before the "coronavirus" changes were introduced, the sanction provided by this article was minimal - a warning or an administrative fine for citizens of up to 500 roubles (\$7,11). This article can only be applied in relation to infected persons or visitors, who have been personally instructed by the chief medical officer to observe a mandatory two-week quarantine.

In the early days of quarantine and until 1 April 2020, Article 19.4 of the CAO RF (failure to comply with a lawful order of an official of a state supervisory body) was actively applied in respect of those who violated quarantine regulations, which was very controversial from a legal point of view. According to the Ministry of Internal Affairs, as of 1 April, **1,250** administrative offence reports have been drawn up across the country in respect of citizens who violated the law related to quarantine restrictions. Of these, 754 administrative offence reports were drawn up under Article 19.4 of the CAO RF (the rest came under Articles 19.5 and 18.8 of the CAO RF).

Furthermore, the CAO RF was supplemented by Article 20.6.1, which prescribes sanctions for failure to comply with rules of conduct during the introduction of a high alert regime in a territory where there is a threat of an emergency situation, or which is in an emergency zone. Such acts entail a warning or a fine **from 1,000 to 30,000 roubles** (\$14,22 - 426,48) for citizens.

Thus, the minimum fine under part 2 of Article 6.3 of the CAO RF is 15 times greater than that provided by part 1 of Article 20.6.1 of the CAO RF.

In addition, a number of constituent territories of the RF have amended their regional laws on administrative offences, introducing penalties for violating quarantine of 1,000 to 5,000 roubles (\$14,22 – 71,08). Our analysis shows that regional articles duplicate federal norms. At the same time, administrative liability under the Federal Code of Administrative Offences should exclude liability under regional codes. There can be no duplicate offences in codes of different levels, otherwise it is a violation of the principle of equality of all before the law and the court, and the principle of inadmissibility of being held liable twice for the same offence.

Due to the chaotic nature of amendments to the legislation, the duplication of federal norms by regional administrative codes, and daily changes in the situation with the pandemic, disputes have arisen as to whether Article 20.6.1 of the Administrative Offences Code RF is valid only for federal restrictions, or whether it can apply to regional bans and restrictions. In other words, whether it is lawful to prosecute persons for violating regional restrictions under Article 20.6.1 of the CAO RF, or if in such cases it is necessary to apply the articles of regional administrative codes and, if there is no such code in a particular region, is it possible not to prosecute at all?

In connection with this, mistakes were made in classifying offences, and an unlawful practice emerged of prosecuting persons who have formally violated regional bans and restrictions, and had not been issued with a personal order from the chief medical officer to quarantine at home, under Article 6.3 of the CAO RF.

‘Rubber-stamping’: the police and judicial conveyor belt

Starting from 2 April 2020 administrative authorities in many regions began to actively draw up administrative offence reports under part 2 of Article 6.3 of the CAO RF. Police in a number of regions have been oriented towards mass administrative prosecution of citizens for formal and minor violations of regional prohibitions.

The Telegram channel “Police Ombudsman” published messages in which an employee of the Novosibirsk police headquarters demanded that subordinates fulfil the quota for issuing administrative offence reports for quarantine violators. “We will continue work until there are about ten administrative offence reports for each district. If we don’t have a result by 17.00, then we’re going to carry on working”, says the audio recording.

The governor of Kaliningrad Oblast, Anton Alikhanov, instructed police officers to be particularly strict with any pensioners found violating the self-isolation regime, and impose fines. “[An] order has been given to the management of the Ministry of Internal Affairs to step-up measures as far as possible and issue fines, in particular, strange as it may seem, in relation to the elderly, and so it will be executed”, stated the head of the region.

In some regions, real police raids took place - for example, persons found violating the regime in Krasnodar Krai were detained by mobile groups consisting of police officers, the Russian Guard, Cossacks and members of voluntary public order squads.

The courts have supported the police officers' zeal and launched a conveyor belt system for examining cases related to quarantine violation. In one day, tens and even hundreds of cases could be considered. For example, on 8 April, 22 quarantine violation cases were scheduled for consideration by the Leninsky District Court of Krasnodar; 215 such hearings were scheduled at the Promyshlenny District Court of Stavropol for 14 May 2020. Formal court sessions, as a rule, lasted no more than 5 minutes. After a public protest against the quarantine regime on April 20 in Vladikavkaz, the courts quickly examined dozens of cases in the days that followed.

Typical reasons for drawing up administrative offence reports: initially, these included going to the shop, trips to visit parents, going to the bank to make loan payments, going fishing; later, others were introduced: failure to wear masks and gloves in shops, transport and public places.

A resident of Naberezhnye Chelny was fined 7,500 roubles (\$106,62) under part 2 of Article 6.3 of the CAO RF for a night-time trip to a 24-hour convenience store for groceries. The court found that this created conditions for infecting others.

The Leninsky District Court of Krasnodar issued a fine of 7,500 roubles (\$106,62) under part 2 of Article 6.3 of the CAO RF to a man who went to a shop to buy groceries, but who lives in a rented apartment located in another district of the city.

In Krasnodar, a local resident was fined 15,000 roubles (\$213,24) under part 2 of Article 6.3 of the Administrative Offences Code RF for trying to go to the bank to make a loan payment.

The Leninsky District Court of St Petersburg fined a man 15,000 roubles (\$213,24) under part 2 of Article 6.3 of the CAO RF for “disregard for safety measures adopted for the health and wellbeing of the population”. The man had gone to a sports ground near his home to train with his minor son.

The Trusovsky District Court of Astrakhan issued a fine of 15,000 roubles (\$213,24) under part 2 of Article 6.3 of the Administrative Offences Code RF to a local resident for going fishing. According to the court, he left his home without good reason, thereby violating the governor's quarantine instructions. The man pleaded not guilty. According to him, he had gone fishing alone and did not violate any restrictions. Similarly, in a village in Tatarstan, a father-of-three was fined for fishing at 6am while quarantine was in force.

A court in Kazan fined a local resident 15,000 roubles (\$213,24) under part 2 of Article 6.3 of the Administrative Offences Code RF for going for a walk along the banks of the Kazanka River. The

young man was detained on 2 April on the embankment. He did not have a permit to leave the house with him.

The Leningrad District Court of Kaliningrad imposed a fine of 15,000 roubles (\$213,24) on a local resident for reading a book on a bench by a lake. He was found guilty of violating part 2 of Article 6.3 of the Administrative Offences Code RF.

In Krasnodar, a man was fined 7,500 roubles (\$106,62) under part 2 of Article 6.3 of the Administrative Offences Code RF for visiting a garage located 25 meters from his house.

In addition to the foregoing, there are also **atypical cases** of administrative prosecution under part 2 of Article 6.3 of the Administrative Offences Code RF.

For example, in Ulan-Ude, several activists gathered to sing the national anthem of Buryatia in the town square. As soon as they began to sing, police officers ran up to them and detained them. Four of the activists were arrested under Article 19.3 of the CAO RF for 10 days for failure to comply with an order to stop violating quarantine regulations. Without waiting for the end of the period of administrative arrest, the Sovetsky District Court of Ulan-Ude fined them under part 2 of Article 6.3 of the CAO RF, finding that “singing an anthem is not a vital necessity”.

Backdraught: adjustment of practice by the prosecutor’s office and the courts

The normative-legal regulation of sanitary rules and hygiene standards is not part of the competence of executive authorities of the constituent territories of the Russian Federation. Consequently, violations of regional prohibitions and restrictions cannot constitute an administrative offence under part 2 of Article 6.3 of the CAO RF. In connection with the incorrect classification of offences, Apologiya Protesta applied to the prosecutor of Tatarstan with a request to challenge all court decisions taken in accordance with part 2 of Article 6.3 of the CAO RF. A similar application was submitted to the prosecutor’s office of St Petersburg by the organisation’s senior partner, Alexander Peredruk.

The supervisory bodies of both regions refused to challenge the unlawful court decisions. However, following the submission of these communications, the overwhelming majority of administrative offence reports that had been referred to the courts for examination were returned, and the courts ceased the prosecution of citizens for formal violations of regional norms under part 2 of Article 6.3 of the CAO RF.

On 9 April 2020 the Vakhitovsky District Court of Kazan examined the first case under the new Article 20.6.1 of the CAO RF. The court found that, at 22.44 on 7 April, the defendant left his place of residence, and was in a public place without the required permit. He thereby violated the ban established by the order of the Cabinet of Ministers of Tatarstan. The defendant’s presence at the place

where he was discovered was not connected with any permissible exceptions. He was found guilty and his penalty limited to a warning.

The Pushkinsky District Court of St Petersburg re-classified the administrative cases of two local residents under a different article. Police officers had drawn up administrative offence reports in respect of Pavel Kharchev and Daniil Morgunov under part 2 of Article 6.3 of the CAO RF in connection with the fact that they had visited a sports training ground. The court reclassified these cases as falling under part 1 of Article 20.6.1 of the CAO RF and fined each defendant 2,000 roubles (\$28,43).

The Oktyabrsky District Court of St Petersburg terminated the case against Diana Maksimikhina, a member of the Volunteer headquarters – an organisation set up to help people during the coronavirus pandemic, due to the insignificance of the act committed. The law enforcement authorities accused the young woman of violating part 2 of Article 6.3 of the CAO RF for “visiting a children’s playground” located in Aleksandrovskiy Sad (Alexander Garden).

Taking a cue from Tatarstan and St Petersburg, courts and prosecutors in other regions of Russia also started to correct police errors in the classification of offences. For example, the Leninsky District Court of Ufa cancelled the fine issued to local resident Ruslan Sharifullin, who went out at night to park a friend’s car. He had been sentenced by a magistrate to a fine of 15,000 roubles (\$213,24) under part 2 of Article 6.3 of the CAO RF. The prosecutor’s office ordered the cancellation of the fine. The higher standing court cancelled the fine, pointing to the error committed by police - they should have classified the offence under part 1 of Article 20.6.1 of the CAO RF.

The intervention of the Supreme Court of the Russian Federation

The Supreme Court of Russia put an end to disputes on the classification of offences. On 21 April 2020 the court approved a review of certain issues of judicial practice pertaining to the application of legislation related to the COVID-19 pandemic, in which it indicated that it is unlawful to fine citizens for formal non-compliance with regional prohibitions under part 2 of Article 6.3 of the CAO RF. Regional prohibitions and restrictions are covered by part 1 of Article 20.6.1 of the CAO RF. Consequently, it is only possible to impose sanctions under the Federal Code of Administrative Offences. Regional codes of administrative offences cannot be used to prosecute citizens in cases related to violations of quarantine.

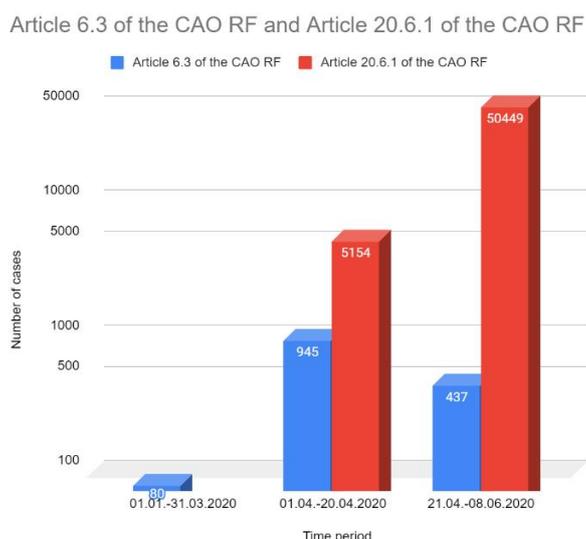
On the whole, the Supreme Court of Russia recognised that it is lawful to bring citizens to responsibility for formal breaches of regional prohibitions, and indicated that citizens are obliged to comply not only with federal rules of conduct during the introduction of a high alert regime, but also any additional mandatory rules of conduct for citizens and organisations introduced as part of a high alert regime in the territory of a constituent entity of the Russian Federation.

“The clarification by the Supreme Court gives grounds to doubt lawfulness of administrative offence reports drawn up on the basis of regional laws on administrative offences”, believes Andrei Lepekhin, lawyer at Agora human rights group.

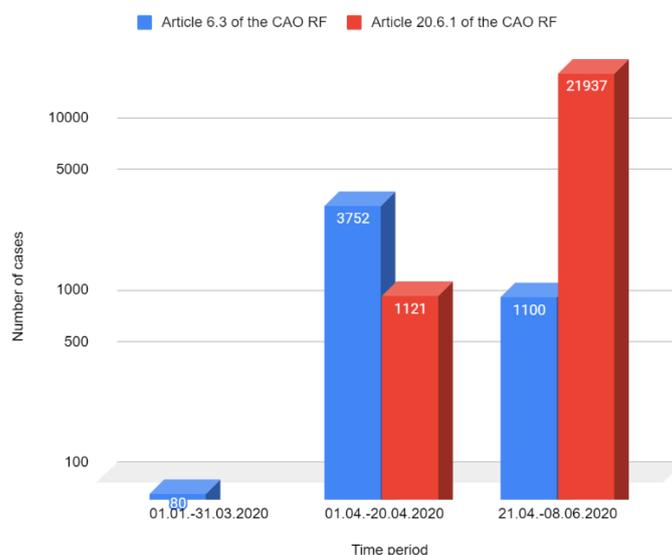
Moreover, the Supreme Court extended the effect of part 2 of Article 6.3 of the CAO RF to persons who have not received a personal order from a medical officer to self-isolate, but are obliged to remain in quarantine at home in accordance with the general instructions.

A separate issue is related to the penalties imposed by the courts. As noted by the Supreme Court, the administrative penalty under Article 20.6.1 of the CAO RF “in the form of a warning may be imposed on any subject of an administrative offence (citizen, official, person engaged in entrepreneurial activity without forming a legal entity, legal entity) provided for by the said norm - depending on the specific circumstances of the administrative case”. Meanwhile, the penalty under Part 2 of Article 6.3 of the CAO RF “must meet the requirements of proportionality and fairness, individualisation of administrative responsibility, and also meet the aims of prevention of commission of new offences by both the perpetrator and other persons”. A review of court practice shows that, as a rule, the fines imposed have tended to be around the lower limit of the prescribed sanction.

Following the review by the Supreme Court, law enforcement practices continued to shift in a more liberal direction. Including the leading regions of Tatarstan and Krasnodar Krai, the ratio of cases under Articles 6.3 and 20.6.1 of the CAO RF has finally shifted. According to the state automated system “Justice”, during the period from 1 to 20 April 2020 in Tatarstan **945** cases under Article 6.3 of the CAO RF were referred to the courts, and from 21 April to 8 June the number of such cases was **437**. In Krasnodar Krai the corresponding figures were **3,752** cases during the period from 1 to 20 April, and **1,100** cases from 21 April to 8 June. It is interesting that, during the period from 1 January to 1 April, there were only 80 cases under this article in each of these regions.



Article 6.3 of the CAO RF and Article 20.6.1 of the CAO RF



However, it can be seen from the above graphs that the conveyor belt for issuing administrative penalties has not stopped. In Stavropol Krai during the month of April, on average 175 offenders were caught per day, and in May the figure reached around 395 per day. The erroneous practice of prosecuting citizens under regional codes of administrative offences also continues.

Online trials and other issues

The conveyor belt justice system directly violates the standards of the right to a fair trial. Two features of such justice can be identified.

Firstly, cases are considered without the participation of the parties - with the sole presence of a judge.

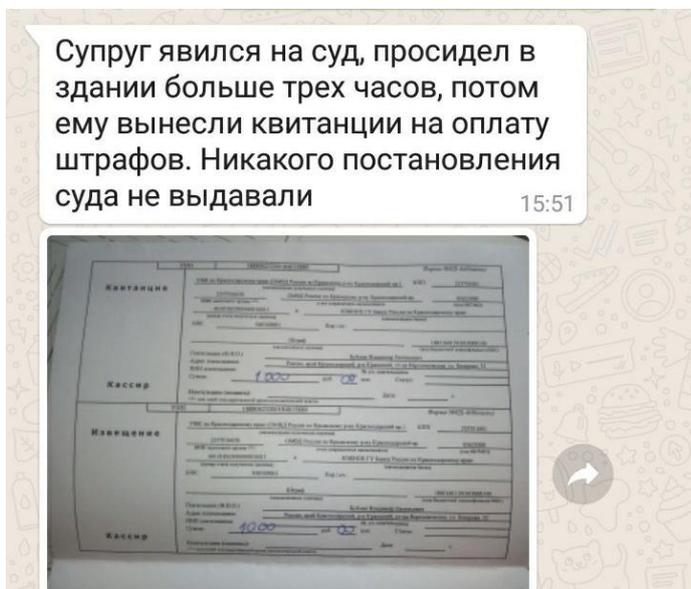
People are not always able to find out that a court hearing of their case has been scheduled, and sometimes they are not even notified at all.

Lawyer Sergei Perepadya from Stavropol Krai described his experience of participating in such cases: “Everything was set up to churn out decisions. Even before entering the courthouse, a bailiff asks you: “Why did you come to court?” You say that you have an administrative offence case under 20.6.1 and he replies: “You don’t have to go in, you have a warning.” That was the level of administration of justice”.

Courts sessions in other regions were similar. According to Tatarstan resident Yelabuga Dilyara, she had been waiting in the court corridor from 10am. There were about 15 people with her, only about 8 of whom went inside the courtroom - the rest were not invited. A police officer came out of the courtroom and read out the names of people who may enter. The young woman herself was not among

the lucky ones to appear before a fair tribunal, but found out from a police officer that she has been fined 1,000 roubles (\$14,22).

In the city of Krymsk, a man attended court and spent more than three hours waiting for a hearing. In the end he was only given a ticket to pay a fine of 1,000 roubles (\$14,22).



My husband came to court, sat in the building for over three hours, and eventually was handed a ticket to pay fines. He didn't receive any court decision.

Sometimes the courts literally issued carbon copies of decisions. In Murmansk, the same judge made two decisions in respect of a father and daughter for violations of part 1 of Article 20.6.1 of the CAO RF. As a result, in the text of the judicial act, the daughter became a man.

Secondly, cases are examined as part of formal, de facto closed hearings, without observance of the principles of justice.

In most cases, according to the courts, the offenders' guilt is confirmed by the administrative offence reports and the totality of materials in the case – reports of police officers and photographs. Judges refuse to allow the defence to familiarise themselves with the case file, deny petitions to postpone the hearing, and don't listen to the explanations of the defendants themselves.

For example, a judge of the Khostinsky District Court fined Yekaterina Alekseeva 50,000 roubles (\$710,80), finding her guilty of violating quarantine regulations in accordance with part 2 of Article 6.3 of the CAO RF. Yekaterina told a Caucasian Knot correspondent that she came court with her husband by 10am. "The court was locked. We started knocking. A bailiff opened the iron doors and asked what we needed. We gave him the summons through the iron door, and he went looking for the judge. Half an hour later he returned, opened the door and, not letting us into the court building, told us to wait on the porch... We waited for about an hour", said Yekaterina. Then she was taken to the

judge's office, her husband was not allowed in because of quarantine. "I asked the judge to postpone the hearing until quarantine was lifted, so that the prosecutor, lawyer, witnesses, police officers who had drawn up the report, and members of the public could attend. I also asked her to familiarise me with the case file, and handed the judge my position in writing. But the judge... did not attach my written explanations to the case materials, did not hear me out. She didn't even let me open my mouth. She read out a pre-prepared decision stating that I was guilty of violating quarantine regulations under part 2 of Article 6.3 of the CAO RF, and am sentenced to a fine of 50,000 roubles (\$710,80) as an entrepreneur".

Another example: Filipp, a resident of Kazan, told of how his case under Article 20.6.1 of the CAO RF was heard remotely over video conferencing at the police station. "I sat for 50 minutes at the front security desk of the police station waiting for the trial, which was scheduled for 9am. A young man sat with me who was being charged under the same article. They called him first, he went in the door and came out a minute later. Then they called me - I went in, they locked the door behind me and an officer told me where to stand". According to Filipp, there was a small laptop opposite him with an image of a judge on the screen (via webcam). "It felt as though she [the judge] was sitting at home. She asked my full name and address of registration to confirm my identity, I gave her these details. Straight away, without any delay, she asked: "Do you acknowledge your guilt?" I conceded, with a but... I said that I had gone out to try to get a job, and that I have an invitation to interview. She said that it doesn't mean anything. "Since you have no prior convictions, you are sentenced to a fine of 1,000 roubles (\$14,22). Next".

Online trials - another form of "coronavirus justice" know-how.

COVID-19 did not put a stop to proceedings against protesters, despite the quarantine shutdown of the courts and the requirement that only urgent cases be examined. In one example, a judge of the Vakhitovsky District Court of Kazan refused to hear the case in the courthouse. Instead of postponing the hearing, the court decided to examine the case of Farit Zakiev over Skype. Police demanded that he be charged under part 1 of Article 20.2 of the CAO RF in connection with an authorised rally held on 6 November last year. Lawyer Danil Nurgaleev described the process as follows: "We enter the premises. Police officers are sitting there. There is a laptop on the windowsill. On the screen, over Skype, there appears to be a judge. We walk right up to the laptop and speak. Meanwhile, everyone is still sitting there and looking at us. The materials of the case are with the judge. During the "proceedings", the court granted the petition of the defence for familiarisation with the case file; for this purpose, the case materials were brought to the police station and, after familiarisation, were returned to the court, together with the written petitions of the defence".

Despite the advantages of "online justice", there are also obvious disadvantages. First of all, the issue of how to ensure the openness of legal proceedings arises. As a general rule, court hearings in Russia are public. Access to justice is also a concern: parties may not have a computer or internet connection. Technical problems may also occur. And all this can lead to deprivation of the right to defence and access to a court.

Lawyers note that holding court sessions over Skype, WhatsApp or any other messenger service is unlawful, there is no such norm in any of the codes. The law provides that the defendant can participate in a court session via videoconferencing, but this rule applies only in certain conditions - for example, when a participant in court proceedings is in another region. The Code of Criminal Procedure also contains a norm that allows to conduct the entire court session over videoconferencing. However, this norm is applicable only to articles related to terrorism, sabotage, state treason, espionage. In such cases, the court must justify its decision to hold a trial remotely based on the fact that the defendant may pose a danger to participants in the proceedings or the order of the court session.

Municipal conveyor belts: cases are heard by commission

Municipal administrative commissions are authorised to examine administrative cases related to breaches of quarantine regulations under articles of the regional codes of administrative offences. This is supposed to reduce pressure on the courts.

For example, cases under Article 3.18.1 of the Code of Administrative Offences of Moscow are considered by the Joint Administrative and Technical Inspection of Moscow. It is presumed that members of such commissions must carefully examine the circumstances of the offence and consider cases in accordance with the rules and principles of administrative procedure. However, in practice, everything is not so perfect.

In Moscow, one defendant who attended such a review of his case by commission recorded the process on video. A queue had formed in front of the entrance, the guards played a leading role in receiving visitors. It turned out that not all of the administrative offence reports had been submitted for consideration. And those reports that had been referred to the commission automatically resulted in the imposition of a fine without the case actually being considered – defendants were simply handed a pre-prepared decision.

This practice of refusing a face-to-face consideration of each case, without the personal participation of the defendant, is a direct violation of the right to defence and personal participation in the hearing of the case.

Furthermore, fines under Article 3.18.1 of the Code of Administrative Offences of Moscow are issued automatically, with the help of tracking systems - for example, the “Social Monitoring” mobile app. The installation of this app is mandatory for persons infected with COVID-19 or SARS who are being treated at home, as well as those who have had contact with infected persons, and the app monitors their geographical location. The app has over 60 thousand registered users. We have already indicated that, with the help of the “Social Monitoring” app, by 20 May 2020 the Moscow authorities had issued 54 thousand fines totalling more than **216 million roubles** (\$3,070,672). Users have complained en masse about technical issues with the app and have described it as “a mockery of the sick”. In addition,

people also face fines for not installing the app. It remains unclear how failing to install the mobile app can lead to infection of others or affect the rate of spread of the infection.

Naturally, general legal questions arise, such as how lawful it is to impose fines using surveillance systems, as well as questions about appealing such fines. Officials state that, if a citizen disagrees with the fine, then he or she can use the mechanism of appeal. For this, one needs to wait for the official registered letter with the decision, detailing the circumstances of the offence, and then file a complaint within ten days. However, going to the post office to receive the registered letter will be grounds for another fine.

The head of Apologiya Protesta, Aleksei Glukhov, notes: “You can’t fine people on the basis of questionable, from the point of view of legality, data from a half-baked app, which issues a huge amount of clearly unreasonable fines”.

Trying to determine the lawfulness of fines imposed under Article 3.18.1 of the Code of Administrative Offences of Moscow “will subsequently be extremely difficult”. “There are too many complaints about the fines, and the Moscow authorities should carefully analyse the functioning of this app, and treat Muscovites humanely. Right up to the cancellation of all fines. All of them, and not just those for which there are complaints”, said Valery Fadeev, head of the Human Rights Council.

Mandatory home quarantine with the “Social Monitoring” app can be compared to being placed under house arrest with an ankle bracelet of the Federal Penitentiary Service of Russia - the only difference is the sanction for breaching the rules.

Police arbitrariness

High alert regimes were introduced in the regions to prevent the spread of the coronavirus infection, which primarily implies an orientation towards prevention and assistance to conscientious citizens, rather than coercion and a punitive function.

It is unclear in what way the spread of infection can be prevented by, for example, police detention, delivery to the police station, and holding a large number of people in a small premises. However, reports of such questionable actions by police have emerged from different regions of Russia.

For example, in Chelyabinsk on the night of 17 April 2020, police detained several dozen young people who were out walking in the city and brought them all to the police station, where officers drew up administrative offence reports under part 1 of Article 20.6.1 of the CAO RF.

In Novgorod Oblast, members of the doctors’ union Doctors’ Alliance were stopped at the entrance to the city of Okulovka, where they were headed to bring medical protective equipment to local doctors. Police detained the activists and took them to the station for administrative offence reports to be drawn up. The doctors’ union members were held at the station until late in the evening. When

the activists were finally released, the doctors went to a shop, where the head of the union, Anastasia Vasilieva, was again detained and taken back to the police station.

In Omsk police forced 75-year-old human rights defender Valentin Kuznetsov to violate quarantine regulations in order to fine him in connection with a picket. Two police officers stopped Mr Kuznetsov when he went take out the rubbish early in the morning. The human rights defender was told that a report had been received according to which he had held a picket two days earlier, and was invited to the police station. Mr Kuznetsov spent three hours at the police station, located a few dozen kilometres from his home, after which he was handed an administrative offence report for violating quarantine. Mr Kuznetsov noted that of all the police officers who had contact with him were without masks and, after being handed the administrative offence report, he had to make his own way home by public transport.

In the city of Dzerzhinsk, Nizhny Novgorod Oblast, police officers drew up an administrative offence report for a man under Article 19.3 of the CAO RF (non-compliance with a lawful order of a police officer) for refusing to maintain a distance of 1.5 meters and wear a mask. The court agreed with this classification of the offence and sentenced him to 10 days of administrative arrest.

Another interesting case in terms of questionable official zeal and the corresponding reaction of law enforcement authorities occurred in Krasnoyarsk. There, police officers drew up administrative offence reports for breach of quarantine regulations for two young women who reported a sexual assault. The women were charged under Article 9.1 of the law of Krasnoyarsk Territory “On Administrative Offences”. A similar offence report was drawn up for the attacker. The administrative commission decided not to fine the young women, as they had approached the police in connection with a threat to life and health.

Sometimes, law enforcement officers’ pursuit of “beautiful” statistics and budget replenishment could cost people their life and health.

A Samara doctor was urgently called to see a patient who had life-threatening bleeding following an operation. On the way to the clinic, the doctor was stopped by traffic police. He showed them the necessary documents and asked to be let through faster, since the life of a person depended on it. But, in the end, the report took 35 minutes to draw up.

In Krymsk, a police officer considered a trip to an antenatal clinic a violation of part 2 of Article 6.3 of the CAO RF, despite a referral from a doctor. The court terminated the administrative case.

In Kuban again, police officers left a disabled child and his young brother unsupervised while they detained their father, accusing him of breaching quarantine. The man asked the officers to call the children’s mother or take measures so as not to leave the minors alone. The police officers ignored his requests, leaving the children crying alone, until passers-by took notice and managed to call their mother.

The reaction of law enforcement agencies to quarantine violations ranges not only from inconsequential reasons for initiating administrative proceedings and questionable grounds for detention, but has sometimes also involved the use of violence against alleged offenders.

In Russia, the practice of use violence by law enforcement officers against civilians has for many years not been considered something unacceptable. The impunity of officers for beating peaceful protesters legitimises the use of inappropriate force in other cases also. Police officers have even declared their readiness to shoot at quarantine violators. For example, such a statement was made by a police officer from Chuvashia, who confirmed that he would shoot at violators if such a law were passed.

A video recording published on the Telegram channel “Police Ombudsman” shows two men in police uniforms and medical masks pointing their service firearms at two people standing nearby. “Dear lieutenant, put away the gun!” - one of the two men who violated quarantine is heard to ask. The police officers ask the men to move away from them, and one of the officers takes the safety off the gun. It is claimed that the video was filmed in Krasnodar.

One of the first cases of police arbitrariness, which caused a public outcry, was the case of Moscow resident Jesus Vorobyov. He was detained on 4 April 2020 in the centre of Moscow when he was walking his dog. An eyewitness said that police officers put the man in a police minibus, leaving the dog on the street. Mr Vorobyov himself claimed that he was walking his dog within a hundred meters of his home, as per regulations, when he was stopped by police. They did not allow him to contact his wife and, as they detained him, they “twisted” his arms behind his back. At the police station, the officers threatened to “arrest him for 15 days”. In the end, the Presnensky District Court of Moscow fined him 1,000 roubles (\$14,22) under Article 19.3 of the CAO RF for disobeying a lawful order of a police officer.

There have been numerous reports in the media of cases of violent detentions for breaching quarantine. Novaya Gazeta wrote about a departmental inquiry in connection with a video that appeared on social media showing a man being beaten by a police officer in East Biryulyovo during the day on 15 April 2020. The video showed how two police officers threw the Muscovite down onto the pavement, one of them handcuffed him behind his back, hit him in the stomach several times, and then led him up to a metal fence and struck him in the jaw. As a result of the blow, the man fell on the road railing next to him, hitting his head against the fence.

The publication Podyem reported the case of a Moscow resident who was handcuffed by police and taken to the station, where an administrative offence report was drawn up for hooliganism. The man had gone outside for some fresh air with his family, as they had no balcony in their apartment. Police officers immediately approached them, warned them that they are only allowed to be 100 metres away from their house, and demanded to see the man’s passport. The passport showed a Kolomna registration. The wife tried to explain that they are staying in her father’s apartment, and she can show

the relevant documents to confirm this. In response, the officers started trying to take the passport by force, the man resisted. “His hands were swollen because of the handcuffs, and he had a graze on his shoulder”, the young woman commented.

Mediazona has published several reports of police arbitrariness during the quarantine period:

- Five police and three National Guard officers detained pensioner Natalya Shubina in Moscow, who had gone to a grocery store within 100 metres of her house. She was delivered to the police station and then taken to a psychiatric hospital. Police insisted on her forced hospitalisation, but the court rejected the petition. Lawyer Oksana Oparenko emphasised that the woman had never been registered with a psychiatric clinic, and police officers’ desire to send Ms Shubina to a psychiatric hospital was due to her nervous reaction to detention. Two days after the arrest, the pensioner still had numerous bruises on her upper arm and forearm.

- Police officers pushed down onto the pavement and handcuffed a resident of Kuban who was sitting on a bench in the yard. The officers demanded to see the man’s papers, he replied that he doesn’t have his passport with him. Then an officer ordered him to get into the police vehicle. The man refused. “If you refuse to comply with my lawful request, I will use physical force against you”, said the officer. As a result, the Kuban resident was taken to the police station where an administrative offence report was drawn up. He was fined 16,000 roubles (\$227,46).

- On 24 April 2020 in Zmeinogorsk, Altai Krai, local police officers beat up a local resident outside a shop. The incident occurred on the first day of quarantine³, introduced in Zmeinogorsk district due to an outbreak of coronavirus at the Korbalkhinsky mine. The authorities had closed the borders of the district, and also forbade residents to leave their homes unnecessarily. The Investigative Committee opened a criminal case on abuse of official powers under paragraph “b” of part 3 of Article 286 of the CrC RF in connection with the incident.

The publication Idel.Realii reported how, on 11 May 2020, police officers detained a resident of Mari El who was travelling to work on the Volzhsk-Zelenodolsk intercity bus. A video of the incident was posted on social media. The recording shows that officers stopped the bus at the entrance to Zelenodolsk and discovered a man on board who was not wearing a mask. Other passengers asked police officers not to detain him (by this point, he had covered his face with a wet wipe), because “he was only travelling to work”. However, the officers forcibly detained the man and dragged him out of the bus, laid him on the ground, and took him to a temporary checkpoint. During all this, the police officers threatened passengers who had stood up for the “violator” with detention for “resisting police”.

Any use of force by the police should always be an exception. Obviously, none of the above examples constituted such an exception. These repressive practices are nefarious and give rise to other forms of police arbitrariness – the initiation of criminal cases.

3 Quarantine was introduced on the Order of the Government of Altai Krai of 24/02/2020.

Criminal quarantine cases

Article 236 of the CrC RF prescribes sanctions for violations of sanitary rules. Previously, violations of these rules which, through negligence, resulted in poisoning of people or mass disease (part 1) were punishable with a fine of up to 80,000 roubles (\$1137,29) or restriction of liberty for up to a year. In the event of the death of a person (part 2), the sanction increases to imprisonment of up to five years.

According to the judicial department at the Supreme Court of Russia, from 2014 to mid-2019, 43 people were convicted under this article.

Judicial practice shows that previously, people prosecuted under Article 236 of the CrC RF were those who were required to abide by sanitary rules in connection with their duties: canteen managers, production managers of a culinary department, restaurant dishwashers, school cooks, directors of companies supplying drinking water.

The intensifying fight against the spread of coronavirus served as justification for the tightening of sanctions under this article.

From 1 April 2020 the sanctions under part 1 of Article 236 of the CrC RF - causing harm to the health of citizens through negligence, resulting in mass disease – are as follows:

- a fine from 500 to 700 thousand roubles (\$7,11 - 9,95),
- up to 2 years of compulsory labour,
- restriction of liberty for up to 2 years, or up to 2 years of imprisonment.

The sanctions provided by part 2 of Article 236 of the CrC RF - causing harm to health which has, through negligence, resulted in the death of one person - are:

- 3 to 5 years of imprisonment,
- a fine ranging from 1 to 2 million roubles (\$14,216 – 28,432).

The new part 3 of Article 236 of the CrC RF, which introduces penalties for the death of two or more persons, provides for the following sanctions:

- 4 to 5 years of compulsory labour,
- imprisonment for a period of 5 to 7 years.

Lawyer Kirill Koroteev of Agora international human rights group notes that it is unclear how exactly the application of administrative and criminal articles can differ, given that they essentially duplicate each other in the event of the death of a person. “I think the writers of some [of the articles] didn’t read the writers of the others. It is no longer possible [to distinguish the norms from each other] – even 10 years ago it was possible. And now there are a lot of offences in the Code of Administrative Offences, where the fines are higher than for crimes under the Criminal Code”, he says.

Our monitoring of the mass media showed that at least **22** criminal cases were initiated under this article in two months of the coronavirus epidemic.

These criminal cases can be divided into two groups according to circumstances:

1) criminal cases in circumstances entailing a potential threat of infection of others:

Ø in relation to infected persons;

Ø in relation to persons who do not have a confirmed coronavirus diagnosis;

Ø in relation to officials who have committed a violation of sanitary rules.

2) criminal cases in circumstances entailing actual infection.

We will examine these in more detail.

Criminal cases in circumstances entailing a potential threat of infection of others, in relation to infected persons.

We identified **six** such cases. Five of them were initiated following escape from a hospital or clinic.

On 28 March 2020 in St Petersburg a criminal case was initiated against a local resident in connection with an attempt to violate quarantine. The man escaped from a clinic in which he was under observation, where was placed because he had previously failed to observe quarantine after arriving from abroad.

Lawyer Vladimir Voronin insists that such reports on initiation of criminal proceedings can be regarded as psychological pressure on everyone who is in quarantine. “The very initiation of a case in connection with this fact is knowingly unlawful since, in order to bring the individual to criminal responsibility, it is necessary to prove the existence of a causal link between the man’s actions and the spread of the disease to others – specifically, mass infection of others. There is no information indicating that this person has infected anyone else”, said Mr Voronin.

On 23 April 2020 a criminal case was opened in Lipetsk against a 62-year-old man diagnosed with COVID-19, who had escaped from hospital.

On 26 April 2020 a criminal case was initiated in Tolyatti against a 28-year-old local resident infected with coronavirus, who had left the hospital’s infectious diseases department three times without permission. The patient “had contact with an indefinite circle of people without wearing a mask and other forms of personal protective equipment, thereby creating a threat of mass infection of citizens”, explained the police.

On 28 April 2020 criminal proceedings were filed against a resident of Blagoveshchensk for escaping from the Amur Infectious Diseases Hospital through a window.

On 22 May 2020 a criminal case was filed in Pskov against a man who left hospital and went to a public place - the Pskov-Passazhirsky railway station. He had been transferred to the hospital from an observation clinic for treatment after being diagnosed with COVID-19.

A case unrelated to escape from hospital was filed on 3 April 2020 in Chuvashia against a 46-year-old resident of Cheboksary. At the end of March the woman was tested for coronavirus in Moscow, but, without waiting for the results, she travelled home to Cheboksary on an intercity bus. On 2 April the test result came back positive. The woman herself called the emergency services and was hospitalised. According to the police, her actions could have led to mass infection. However, it is unclear whether the woman had been issued with a personal quarantine order.

Criminal cases in circumstances entailing a potential threat of infection of others, in relation to persons who do not have a confirmed coronavirus diagnosis.

Three such cases have been identified.

On 31 March 2020 two cases were opened in St Petersburg in connection with attempted violation of sanitary and epidemiological rules against a 33-year-old woman and a 36-year-old man who had contact with persons infected with COVID-19 and then failed to self-quarantine. In these cases it is also unclear whether these individuals had been issued with personal orders to self-quarantine.

On 12 April 2020 a criminal case was filed in Yakutia against a 49-year-old resident of the city of Aldan who, upon returning to the republic, received an order from Rospotrebnadzor (Federal Service for Surveillance on Consumer Rights and Human Wellbeing) to self-quarantine and did not comply with it. “The man visited public places in Aldan and had contact with a fairly wide circle of citizens. It has now been possible to identify them and place them in an observation clinic”, noted the Ministry of Internal Affairs. The suspect himself was hospitalised in the infectious diseases ward of the central district hospital. However, it is unclear whether the man has been diagnosed with the virus.

Criminal cases in circumstances entailing a potential threat of infection of others, in relation to officials who have committed a violation of sanitary rules.

One such case has been recorded.

A criminal case was filed in Veliky Novgorod in connection with a queue for food packages for pensioners. According to the investigation, on 8 May officials of the Novgorod Centre for Social Services for Senior Citizens and Disabled People posted a message on the VKontakte social network announcing that pensioners who have found themselves in difficult circumstances are eligible to receive food packages. This post led to the formation of queues outside Social Support Centres of people wishing to receive the food packages. Mass gatherings of people can contribute to the spread of the coronavirus infection, according to the prosecutor’s office. An inquiry was conducted into the incident. The inquiry confirmed that there had been a violation of sanitary and epidemiological rules.

Criminal cases in circumstances entailing actual infection.

Nine such cases were identified.

On 30 March 2020 criminal proceedings were initiated in Bryansk against a mother and son who are Evangelical Christians. They had returned from Spain and did not notify Rospotrebnadzor that they live in the same house with two of their relatives. Tests soon showed that both mother and son were infected with coronavirus; it was then discovered that they had violated quarantine and infected four other people. They had twice attended religious services, at which 9 to 40 believers were present.

On 9 April 2020 a criminal case was filed against a resident of Apatity in Murmansk Oblast: the man returned from abroad and felt unwell, but did not seek medical help and continued to go to work. He was later hospitalised and diagnosed with coronavirus. “The suspect’s actions resulted in mass infection of citizens with COVID-19”, explained the Ministry of Internal Affairs, without specifying the number of persons infected.

In Leningrad Oblast proceedings were initiated in connection with the mass infection of migrants at an illegal shared residence in the village of Novosergievka. After an inquiry by Rospotrebnadzor, the subtenant was ordered to take measures to prevent the spread of the virus. The order was not complied with, which led to new cases of infection. The owner of the building was charged under part 2 of Article 236 of the CrC RF, as one of the residents died in hospital.

A criminal case was filed in Tyumen in connection with mass infection of citizens with COVID-19 at a hotel in the city. According to the prosecutor’s office, the hotel was a COVID-19 outbreak “hot zone”, and employees and guests of the establishment were among those infected.

A criminal case was initiated in Arkhangelsk Oblast following mass infection with COVID-19 of employees of a large diamond mining company, AGD Diamonds.

In Kimry, Tver Oblast, criminal proceedings were instituted against two employees of a boarding school who had concealed the fact that their daughter was ill, and infected 14 students with coronavirus.

A criminal case was opened in Oryol Oblast in connection with an outbreak of coronavirus at a veterans’ home in the village of Krupyshino: 4 employees and 22 guests of the institution fell ill with the virus.

In Adygea criminal proceedings were filed as a result of mass infection with coronavirus of attendees at a funeral and their friends and relatives. The proceedings were initiated not under Article 236 of the CrC RF, but under Article 293 (negligence). The case was filed against the head of the municipality of Sadovsky rural settlement. According to the investigating authorities, the head of the

settlement did not take the necessary measures to restrict the free movement of citizens and transport, as well as measures to prevent citizens from gathering in cemeteries during funerals.

Among the administrative and criminal coronavirus cases, it is worth highlighting those cases that have been initiated in connection with protests: against quarantine regimes, constitutional amendments, re-profiling of hospitals, police arbitrariness, rallies in support of others, etc. Acts of protest are also considered a violation of the regime.

Pandemic of protest

The regional authorities cannot prohibit public events, including assemblies, rallies, and pickets under the conditions of high alert regimes introduced by them.

The right to freedom of assembly and freedom of expression are fundamental human rights. The right to spontaneous peaceful protest is guaranteed by the European Convention.

However, as early as 10 March, authorities in some regions began to ban public events. According to monitoring project OVD-Info, by the end of March all public events, including single-person pickets, were banned in 45 regions of Russia.

Restrictive measures, a sharp fall in the rouble exchange rate, the negative consequences of the economic crisis, and the inability of the state to provide citizens with the necessary guarantees make these rights more relevant and force people to take to the streets.

In Moscow about 500 people gathered near the Food-City market after a group of traders asked the market administration to lower their rent, because trade had effectively ceased during the quarantine period. In response, the administration announced an increase in rent prices.

Similarly, in Kaliningrad seamstresses took to the streets demanding to be allowed to work, as the company employing them was unable to pay the rent because of coronavirus. About 70 people took part in the event.

In most cases, law enforcement officials used “quarantine” articles of the CAO RF against protesters.

In Surgut, a an administrative offence report was drawn up under Article 20.6.1 of the CAO RF for a single-person picket featuring an anti-quarantine banner.

In Zhukovsky, a city in Moscow region, three picketers protesting against the re-profiling of a city hospital to treat patients infected with COVID-19 were detained. administrative offence reports under part 1 of Article 20.6.1 of the CAO RF were drawn up for them. During the detention, the police officers did not introduce themselves, did not ask to stop the protest, and handcuffed one of the detainees.

On 8 April in Petropavlovsk-Kamchatsky three people held pickets against the quarantine regime, taking turns. The last activist was detained by police, who accused him of breaching quarantine regulations.

On 24 April 2020 an anti-quarantine rally was held in Krasnoyarsk. Several participants were detained by police. Three of the protesters - Darya Gorelova, Diana Dyakonova and Zhanna Ternovskaya – received three administrative offence reports each for this one incident:

1. Under Article 20.6.1 of the CAO RF;
2. Under Article 9.1 of the regional Code of Administrative Offences (failure to fulfil duties aimed at the prevention and liquidation of natural disasters, epidemics and their consequences);
3. Under Article 19.3 of the CAO RF (non-compliance with a lawful order of a police officer).

The logic of drawing up two reports for the same offence – under both the federal and regional codes of administrative offences - is unclear. It is well known that “no one can be held liable twice for the same administrative offence”.

The administrative commission of the Central District of Krasnoyarsk fined the three participants of the event 1,500 roubles (\$21,32) each under Article 9.1 of the regional Code of Administrative Offences. The Krasnoyarsk District Court terminated the cases under Article 19.3 of the CAO RF in relation to two of the young women.

In the city of Zarechny, Sverdlovsk Oblast, police drew up administrative offence reports for entrepreneurs in connection with the “business funeral” public action. Shopkeepers “buried” their businesses, which have suffered during the coronavirus epidemic. Administrative proceedings against six participants were filed under two articles: violation of the quarantine regime (Article 38 of the regional Code of Administrative Offences), and violation of the rules for holding a public assembly (Article 20.2 of the CAO RF).

Activists of the unregistered political party The Other Russia were detained twice in Moscow during the period of the epidemic. The first time was in connection with a public action against government policy during the coronavirus epidemic; the activists were accused of violating the established procedure for holding an assembly, meeting or demonstration, and breaching quarantine. The second time was only for breaching quarantine.

Calling for protest against quarantine may entail the initiation of criminal proceedings for calls for mass riots. Such a case was filed in the Trans-Baikal Territory against Chita blogger Lekha Kochegar (Alexei Zakruzhniy). In a stream on his channel, Mr Zakruzhniy “expressed outrage at the fact that access to cemeteries had been blocked off in Chita just before Parents’ Day on 28th April in connection with the pandemic”. The investigation claims that, in his video, Mr Zakruzhny made calls for mass riots “associated with the threat of violence against representatives of the authorities”. A search was conducted at the blogger’s home and computer equipment was seized.

A case in connection with calls for mass riots was also filed against political analyst Nikolai Platoshkin. The grounds for the initiation of the criminal case included appeals to his supporters to hang red flags on Lenin's birthday during quarantine, take part in pickets against the amendments to the Constitution, register as observers during the elections, and also to attend a rally demanding the president's resignation.

Not only those who protest against quarantine and its consequences are being detained and fined under quarantine articles; protesters who take to the streets for other reasons, not related to coronavirus, face similar sanctions.

For example, activist Nikita Zaretsky was detained in St Petersburg. He was standing in a solitary picket against amendments to the Russian Constitution, holding a banner with the slogan "Reset to zero". Mr Zaretsky was accused of violating the order of the Government of St Petersburg "On measures to counter the spread of the new coronavirus infection (COVID-19) in St. Petersburg". However, the order refers to the prohibition of "mass events", while Mr Zaretsky had stood alone. The activist was taken to the police station.

In Kazan the Vakhitovsky District Court fined local resident Andrei Boyarshinov for holding a single-person picket against the demolition of a pre-revolutionary building. Mr Boyarshinov was issued with an administrative offence report under part 1 of Article 20.6.1 of the CAO RF.

In Vologda the city court sentenced Yevgeny Domozhirov, an activist and former deputy of the Regional Legislative Assembly, to three days' arrest for taking part in protests against the construction of a kindergarten on the site of a local park. According to the activist, he attended the protests as a journalist and had a press pass on him. Mr Domozhirov was charged twice with failure to comply with the rules of conduct in the conditions of the threat of an emergency situation (part 1 of Article 20.6.1 of the CAO RF) and non-compliance with a lawful order of a police officer (Article 19.3 of the CAO RF). He was fined 2,000 roubles (\$28,43) for violating quarantine, and arrested under the article on disobeying the police.

On 26 April 2020 in St Petersburg 75-year-old artist Elena Osipova was detained during a single-person picket. The picket was held to mark the anniversary of the Chernobyl nuclear accident. She was released from the police station, having been issued an administrative offence report for violation of quarantine.

In St Petersburg on 24 May 2020 activist Pavel Ivankin held a picket with the banner "The "Network Case", 25 May, 14.00" in support of the defendants in this case. The next day, as he was heading to the hearing of the "Network case", he was detained on the way to court in connection with the picket held the previous day and charged with violating quarantine. Human rights defender Ilya Tkachenko was also detained while making his way to the same court hearing. "A group of police officers was standing at the crossroads, there were about four of them, they approached us under the pretext of

checking our documents to make sure that we don't have a quarantine order. I showed them the documents, after which they detained me and put me in a patrol car. They didn't tell me that I was being charged with anything, they just said that they need to check something on the database. They threatened me with [charges under] Article 19.3 of the CAO RF if I refuse to come with them", Mr Tkachenko said. According to Vitaliy Cherkasov, lawyer of Agora international, "such detentions are yet another excuse to prevent members of the public and the press from attending the hearing of this case".

Numerous cases of detentions and administrative proceedings for violation of quarantine have been recorded in relation to environmental activists protesting against the construction of a waste landfill at Shiyes station. Activist Yuri Chesnokov was detained on 13 May 2020 while travelling from Novodvinsk to Arkhangelsk. His car was stopped on the basis of operational briefing information (according to traffic police) and he was then taken to the Investigative Committee for questioning, where he was issued with an administrative offence report for violation of quarantine under Article 20.6.1 of the CAO RF. For unknown reasons, the activist was held in a pre-trial detention cell overnight.

According to OVD-Info, during the period from 26 May to 2 June 2020, 134 people were detained for holding solitary pickets in Moscow, St Petersburg and Nizhny Novgorod, including journalists, municipal deputies, activists, and even lawyers. Almost all detainees were issued with two administrative offence reports - for violating quarantine and the legislation on public assemblies. Some of the detainees received 15 days of administrative arrest for holding a solitary picket. Such cases include, in particular, those of journalist and municipal deputy Ilya Azar, and activist Viktor Nemytov. During the appeal in Mr Nemytov's case, the Moscow City Court re-classified the activist's actions as falling under Article 20.6.1 of the CAO RF and fined him 20,000 roubles (\$284,32), but exempted him from payment. This decision showed that the practice of drawing up administrative offence reports under Article 20.2 of the CAO RF for holding a solitary picket is against the law.

Members of the Presidential Council for Civil Society and Human Rights condemned such actions by the police in a statement and demanded the immediate release of detainees. "A single-person picket cannot be a violation of the law on public assemblies, and quarantine cannot restrict the constitutional rights of citizens if their implementation does not constitute an epidemiological threat (a single-person picket certainly does not pose such a threat)", the statement said.

Coronavirus has, in effect, become a basis for banning solitary pickets, which don't require any authorisation from the authorities, and do not constitute a violation of the law on public assemblies. A solitary picket does not pose a threat to constitutionally-protected values. Regardless of the subsequent procedural documentation and charges, deprivation of liberty by means of detention and transfer to the police station for holding a solitary picket, even during periods of high alert regime, constitutes unreasonable interference in the realisation of the rights guaranteed by Article 5 (right to liberty and security of person) and Article 10 (right to freedom of expression) of the European Convention.

The protest in Vladikavkaz and ensuing criminal cases deserves special attention.

On 20 April 2020 the first coronavirus rally took place in Vladikavkaz. Initially, protesters opposed the lack of support from the authorities, but as the rally progressed they began to make political demands. 1,500 residents of Vladikavkaz took part in the public assembly. Security and law enforcement authorities suppressed the protest using tough measures; over a hundred people were detained, 65 of them were subjected to administrative arrest for a period of two to 15 days. The courts considered that the assembly participants violated public order and sanitary and epidemiological requirements. The Investigative Committee opened a criminal case on hooliganism and use of violence against the police, as part of which two dozen activists were arrested. A team of 13 investigators was assigned to carry out the investigation.

Of these Ossetian protest cases, the ones that attracted the most public attention were the cases against activist and opera singer Vadim Cheldiev and two of his supporters.

Three criminal cases were filed against Vadim Cheldiev. The singer had published posts on the upcoming rally on his Telegram channel. However, according to investigators, in his video appeals, the singer had for several months been calling for the overthrow of the constitutional order and the commission of other crimes. On 15 April he was accused of disseminating “fake news” (Article 207.1 of the CrC RF) about coronavirus. The singer had referred to coronavirus as “a grandiose scam of the 21st century”. On 19 April the Investigative Committee initiated proceedings on use of violence against a police officer (part 1 of Article 318 of the CrC RF). Mr Cheldiev was detained and escorted from St Petersburg to North Ossetia. There, according to investigators, the singer twice hit an employee of Centre “E” (Department for Countering Extremism) in the face. On 20 April the singer was arrested and sent to a pre-trial detention centre in Pyatigorsk. The next day, the Promyshlenny District Court of Vladikavkaz fined him 75,000 roubles (\$1066,21) for disseminating fake news about coronavirus (abuse of freedom of the media, Article 13.15 of the CAO RF). On 1 May the Federal Security Service (FSB) Directorate for North Ossetia opened a third case against Vadim Cheldiev – in connection with public calls for extremist activity (Article 280 of the CrC RF).

Ramis Chirkinov (a supporter of Mr Cheldiev) was detained on the day of the Vladikavkaz rally while he was still making his way to the square where the event was scheduled to take place. An administrative offence report for disobeying a police officer was drawn up (Article 19.3 of the CAO RF), and the Sovetskiy District Court sentenced him to 15 days of arrest. On 5 May 2020 he was charged with organisation of hooliganism (part 3 of Article 33, part 2 of Article 213 of the CrC RF). According to the investigation, Mr Chirkinov was a member of a Telegram group chat of Vadim Cheldiev’s supporters, where he “requested, controlled and analysed information about the number of people who had agreed to take part in the rally”, and also incited protesters to demand the resignation of the government and the head of the Republic.

Another of Vadim Cheldiev's supporters, Arsen Besolov, was also charged with organisation of hooliganism at the Vladikavkaz rally (part 3 of Article 33, part 2 of Article 213 of the CrC RF). He was the administrator of the Telegram group chat of Mr Cheldiev's supporters. According to the investigation, Mr Besolov, along with Mr Cheldiev and Mr Chirkinov, called for participation in the public assembly over Telegram.

Epicrisis

There is no doubt that the responsibility to protect public health - especially in the conditions of a global epidemic - rests with states. The introduction in Russia of essentially quarantine-related restrictions is, in general, consistent with the global trend in the fight against the spread of coronavirus. At the same time, the two months during which the Russian population has been in quarantine suggest that a balance has not been observed between protecting people's health and restricting human rights. Moreover, instead of striking a balance between the two protected values, the state has chosen to follow its traditional path – that of coercion.

Firstly, the federal centre's reluctance to introduce full quarantine measures (a state of emergency), and its decision to limit itself to regional high alert regimes, has led to the emergence and implementation of restrictions that are questionable in terms of their compliance with the federal Constitution, Russian law, and international standards, including restrictions on human rights. A final legal assessment of these restrictions has not yet been given.

Secondly, the chaotically-changing legislation, and the orientation of the state towards a punitive function, have resulted in mass unjustified administrative prosecution of Russian residents.

Thirdly, the police conveyor belt has automatically launched the judicial conveyor belt. Courts have begun to fulfil the function of legalising administrative offence reports drawn up by police, holding court hearings that are mere formalities, in violation of the right to defence and a fair trial.

Fourth, the repressive bias and the quota system has inevitably led to cases of police arbitrariness and use of violence against alleged quarantine violators.

Finally, the **fifth** point concerns protests. It would appear that quarantine articles are not directly related to protests. Nevertheless, we have seen a new trend emerge - quarantine articles have become a convenient replacement or addition to Article 20.2 of the CAO RF, and a reason for the detention and prosecution of civil and political activists who pose no threat to anyone except the authorities.

Obviously, the police and judicial conveyor belts for rubber-stamping fines in a dismal economic situation, as well as repressive practices during a difficult epidemiological situation, do not reduce the risk of the spread of COVID-19, but, on the contrary, only aggravate the situation, putting even more people at risk of infection, including detained protesters. A moratorium on human rights,

including freedom of expression, and intolerance towards protest in any form, is a permanent characteristic of the political regime in Russia at all times.

It is symbolic that it was protests that de facto ended quarantine in the country. In total, more than 100 activists took turns to hold solitary pickets outside the main police buildings in Moscow, St Petersburg, and other Russian cities. Their protests, detentions and trials have put on the back burner the topic of coronavirus, of which both journalists and the public had grown tired. They opened a new protest season in Moscow and throughout the country, thereby showing that the time has come to remove restrictions on civil liberties.

Recommendations

1) Recommend to the executive authorities of the cities of federal importance of Moscow and St Petersburg:

1. Write off the debts for fines imposed in administrative offence cases under Article 3.18.1 of the Code of Administrative Offences of Moscow and Article 8.6.1 of the Code of Administrative Offences of St Petersburg, which have not been settled as of 9 June 2020.

2) Recommend to the federal authorities:

1. Declare an administrative amnesty terminating the execution of administrative penalties in administrative offence cases under Article 20.6.1 of the CAO RF, part 2 of Article 6.3 of the CAO RF, which have not been executed on the day the administrative amnesty is announced.

3) Recommend to the Prosecutor General's Office of the Russian Federation:

1. Organise an inquiry into the lawfulness of administrative prosecution of Russian citizens under part 2 of Article 6.3 of the CAO RF during the period from 1 April 2020 to 21 April 2020. In the event that facts of unreasonable prosecution are established, take prosecutorial response measures in accordance with Article 36 of the Federal Law "On the Prosecutor's Office of the Russian Federation" and challenge all court decisions involving incorrect classification of offences under part 2 of Article 6.3 of the CAO RF.

2. Organise an inquiry into the lawfulness of the practice of considering administrative offence cases without the personal participation of the person in respect of whom the administrative proceedings are being conducted, and using video conference links in police stations, to check compliance with the principles of a fair trial.

3. Organise an inquiry into the lawfulness and validity of the imposition of administrative sanctions on citizens in the form of fines automatically assigned using surveillance systems, in particular the "Social Monitoring" app, as well as the lawfulness of using such forms of tracking.

4) Recommend to the Investigative Committee of the Russian Federation:

1. Organise an inquiry in accordance with Articles 144-145 of the Code of Criminal Procedure RF into cases of use of violence by law enforcement authorities against alleged violators of quarantine, as reported in the mass media and online.

5) Recommend to the Supreme Court of the Russian Federation:

1. Summarise the practice of the application of provisions of Article 20.6.1 of the CAO RF, and provisions of regional laws on administrative offences, that regulate liability for non-compliance with regional rules of conduct during the pandemic, in order to differentiate the grounds for their implementation.



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