

MAIN DIRECTIONS FOR IMPROVING PUBLIC HEALTH LEGISLATION IN RUSSIA****Vladimir V. Golovko¹, Alexander I. Sakhno²**¹ *Dostoevsky Omsk State University, Omsk, Russia*² *University of Tyumen, Tyumen, Russia***Article info**

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The subject. A comprehensive study of Russian legislation in the field of biological safety indicates the need to update and systematize the legal framework for protecting the health of citizens and ensuring the sanitary and epidemiological well-being of the population as an important part of the mechanism of legal regulation of the national security of the Russian Federation.

The purpose of the article is to confirm or refute hypothesis that there is a possibility and necessity of systematization and codification of public health legislation.

The methodology. The authors analyze the practice of applying international law acts regulating the prevention of the spread of dangerous infectious diseases, the conclusions and recommendations of the WHO, the UN and other international organizations, as well as Russian public health legislation.

The main results, scope of application. The current problems of Russian public health legislation are investigated, problems, prospects and main directions for its improvement are considered. The issues of theory and practice of legal regulation of public administration in conditions of emergency situations of a biological nature, topical aspects of strategic planning in the field of ensuring the epidemiological safety of regions are studied. Based on the results of a study of the current state of public health legislation, the main directions for its improvement and prospects for further development are substantiated, the position of the authors on the systematization and possible codification of sectoral legislation is presented. Conclusions. Codification of public health legislation is necessary, taking into account the new goals and objectives of the strategy for ensuring biological safety, the experience of applying domestic and international health regulations in a pandemic. This type of systematization of legal norms seems to be the most appropriate for improving the efficiency of the system for ensuring the sanitary and epidemiological welfare of the population of the Russian Federation.

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1. Introduction

A comprehensive study of Russian legislation in the field of biological safety indicates the need to update and systematize the legal framework for protecting the health of citizens and ensuring the sanitary and epidemiological well-being of the population as an important part of the mechanism of legal regulation of the national security of the Russian Federation.

The implementation of the state policy for ensuring the sanitary and epidemiological well-being of the population should be carried out taking into account the provisions of the updated doctrine of ensuring biological safety and the basic provisions of the federal legislation on strategic planning, as well as new challenges and threats of a global nature and the basic directions of the international activity of the Russian Federation in the field of ensuring the epidemiological safety of the population.

The regulation of relations in the field of health protection and ensuring the sanitary and epidemiological welfare of the population, paragraph "g" of Article 72 of the Constitution of the Russian Federation, is referred to the subject of joint jurisdiction of the Russian Federation and the constituent entities of the Russian Federation.

The development of a system of strategic planning and regional legislation on the sanitary and epidemiological well-being of the population in the constituent entities of the Russian Federation is fully consistent with the recommendations of the UN and WHO on the development of management and legal systems of regions, taking into account new integration processes in the world and modern legal approaches of the European Union and the Eurasian Economic Union. [16; p.12].

Solving the problem of forming federal and regional long-term programs based on the new strategy will help improve the quality of legal regulation of public authorities at all levels of government, help eliminate gaps in law, improve the efficiency of the work of health authorities and officials exercising federal state sanitary and epidemiological supervision.

2. Relevance and global nature of the problem

The modern development of states is inextricably

linked with the active use of the achievements of scientific and technological progress, entailing the emergence of new types of industries, hazardous technologies, materials and their application in various fields of activity, which, together with certain natural phenomena, significantly increase the risks of the human environment. The global pandemic of the spread of the new coronavirus infection COVID-19 has become a serious test for the authorities, public health systems and sanitary and epidemiological surveillance of all countries of the world.

In 2021, COVID-19 manifested itself in 216 countries around the world, confirming its pandemic status assigned to it by WHO on March 11, 2020, only thanks to emergency measures, the spread of a dangerous infectious disease was somewhat reduced in 2022.

In the current global world, the priority of the traditional paradigm of the "green" agenda of governments and international organizations since 2020 has noticeably shifted towards supporting national economies and ensuring the biological safety of the population due to the emergence and spread of new dangerous infectious diseases, such as Ebola, fever West Nile, COVID-19, etc.

Under these conditions, not only the traditional natural sources of known pathogenic infections are of particular concern, but also the vigorous activity of individual states in the study of dangerous biological material (having a dual purpose) in closed laboratories and institutes operating outside the zone of international control. So far, the UN and WHO, the OSCE have not given an international legal assessment of the activities of special biological laboratories in the United States that use dangerous pathogenic materials in closed studies conducted on the territories of a number of states near the borders of the Russian Federation.

Sanitary protection of border areas is of high relevance for the Russian Federation, which has the longest land borders, only the Russian-Kazakh border has about 7.5 thousand kilometers - this is the longest land border in the world. The Russian-Kazakh borderland is distinguished by a large

number of stable socio-economic ties and cross-border contacts [13, p. 25-39].

Studies conducted in 2021 revealed new threats to the biological safety of the population: for the first time in the world, an outbreak of West Nile fever was registered in Moscow and the Moscow Region, complex genetic studies showed that there were at least three introductions of the fever virus of different genetic variants in the region. The main carrier of these viruses are mosquitoes that live in southern regions with a tropical climate. Similar situations with the sudden appearance and spread of atypical viruses, including populations previously unknown to science, have been identified by Rospotrebnadzor authorities in the Krasnodar Territory, the Republic of Crimea, and the Volgograd Region (many viruses do not have homologues in international genetic databases).

The emergence of new sources of biological hazard requires additional organizational, legal and health measures to improve the current epidemiological situation in the Russian Federation.

At the same time, all countries will have to solve the tasks of ensuring biological safety in the coming years in an environment of widespread and globalization of environmental problems, primarily related to the consequences of climate change, as well as the use of harmful substances and technologies in production.

The WHO estimates that environmental risks are responsible for a quarter of all deaths and illnesses, causing at least 13 million deaths worldwide each year. The human health impact of polluted air alone causes 7 million deaths each year, with more than 90% of people breathing polluted air. According to the UN, more than half of the world's population uses substandard water supplies, causing over 800,000 preventable deaths each year.

3. Problems of legal regulation of public administration in the event of a biological emergency

In domestic and foreign scientific literature, as a rule, three main groups of causes (sources) of their occurrence are taken as the basis for the classification of emergencies: natural emergencies; man-made emergencies; emergency situations of a social nature; all other classifications can be considered as derivatives characterizing their

specific features [15]. Such a classification seems to be the most appropriate due to its universality, reliability and validity of the criteria for the occurrence of emergencies.

3.1. Lack of the necessary evidence-based legal tools and weak regulatory equipment. In scientific research and regulatory legal acts, medical and sanitary documents, cases of dangerous infectious diseases, epidemics and pandemics are considered as natural and biological (natural-social, bio-social, etc.) phenomena that still do not have a unified classification, criteria and precise regulatory definition in federal legislation, as well as in departmental regulatory legal acts regulating the activities of public authorities and health authorities in the prevention and elimination of emergencies.

Researchers who study topical problems of management in emergency situations pay attention to this circumstance [10], the mechanism for ensuring constitutional rights of citizens in the context of a pandemic [1; p. 101-111], the hybrid nature of the threat to the human rights system during the COVID-19 pandemic [11] and in establishing criminal and administrative liability under the restrictions associated with the pandemic [8; p. 215-231], etc.

When developing the structure and basic provisions of the Federal Law of December 21, 1994 (as amended on December 30, 2021) "On the protection of the population and territories from natural and man-made emergencies", the legislator did not take into account the features of the prevention and elimination of emergencies of a biological nature at all. Its goal is to create the legal and organizational foundations for a unified state system for the prevention and liquidation of emergency situations, primarily, the implementation of organizational and preparatory, emergency rescue, restoration, fire fighting and other measures. Therefore, the sources of biological emergencies - infectious diseases that pose a danger to others (as a variety of natural hazards) appeared in it only in 2020 - during the COVID-19 pandemic.

This was dictated, first of all, by the need to ensure the legality of the use of the high alert regime and state coercion measures in a difficult

epidemiological situation. An analysis of the content of this law indicates the absence of other legal norms intended for the prevention and elimination of emergency situations of a biological nature.

The practice and legality of the application of the provisions of the readiness regime, provided for in paragraph "b" of Part 6 of Art. 4.1. The Federal Law "On the protection of the population and territories from natural and man-made emergencies" still raises many questions among lawyers and citizens. For example, why is a readiness regime introduced in the event of an official declaration of an epidemic or pandemic, and not an emergency regime introduced when an emergency situation (pandemic) itself occurs and is eliminated, which is provided for in paragraph "c" of Part 6 of Art. 4.1.

Imperfection of legal constructions and inconsistency of Art. 6.3, 20.6.1, 10.1-2, 13.15 of the Code of Administrative Offenses of the Russian Federation, adopted without sufficient elaboration, create the ground for competition with the norms of criminal law, for example, with the norms of Art. 207.1, 207.2, 236 of the Criminal Code of the Russian Federation and require revision and approval, which is rightly pointed out by many researchers [8; p.221-222].

3.3. Tasks of strategic planning to ensure sanitary and epidemiological well-being in the constituent entities of the Russian Federation.

The new doctrine of ensuring biological safety, enshrined in the provisions of the Federal Law "On Biological Safety in the Russian Federation", involves the search for new ways to improve the efficiency of public administration in the field of protecting the population and ensuring sanitary and epidemiological well-being. Under these conditions, a unified system of strategic planning based on constant and long-term interaction between federal and regional government bodies was in demand.

The study showed that strategic planning documents for the socio-economic development of regions are used in almost all constituent entities of the Russian Federation, however, in matters of ensuring security, regional authorities have still not been able to determine their interests, priorities and a mechanism for exercising their powers, including in sphere of relations related to the subject of joint jurisdiction.

An example is the practice of implementing paragraph "g" of Article 72 of the Constitution of the Russian Federation, which refers the regulation of relations in the field of health protection and ensuring the sanitary and epidemiological welfare of the population to the subject of joint jurisdiction of the Russian Federation and the constituent entities of the Russian Federation.

The legal basis for strategic planning at the regional level is made up of articles 1-5, 9-11, 32-39 of the Federal Law "On Strategic Planning in the Russian Federation", which regulate in sufficient detail the goals, tasks and powers, the list of strategic planning documents and the procedure for their adoption in the subjects Russian Federation. Among the strategic planning documents at the regional level, the legislator includes state programs of the constituent entities of the Russian Federation (Article 11, paragraph 4 of the said law). Such programs can be developed and adopted in accordance with the norms of Art. 3, 5.1 and 6 of the Federal Law of March 30, 1999 "On the sanitary and epidemiological well-being of the population", which include the right to develop, approve and implement regional programs for ensuring sanitary - the epidemiological well-being of the population, agreed with the territorial body of the federal executive body exercising the functions of control and supervision in the field of ensuring the sanitary and epidemiological well-being of the population.

The powers of the constituent entities of the Russian Federation to protect the population and territories in emergency situations are also regulated by Art. 3 and 11 of the Federal Law of December 21, 1994 "On the protection of the population and territories from natural and man-made emergencies", other norms of federal legislation that form a sufficient mechanism for legal regulation of the strategic planning of regions.

Solving the problem of forming federal and regional long-term state programs based on updated legislation on biological safety will help improve the quality of legal regulation of public authorities at all levels of government, help eliminate gaps in the law, improve the efficiency of the health authorities and services that implement federal state sanitary epidemiological supervision.

4. Problems of codification of legislation on sanitary and epidemiological welfare of the population

The existing regulatory framework contains many gaps, duplicating and inconsistent definitions and norms, which makes their application difficult. All this, in our opinion, requires a comprehensive analysis of the current legislation in order to improve the mechanism of legal regulation of relations in the field of ensuring the sanitary and epidemiological welfare of the population, additions, unification, systematization and possible codification of legal acts. The same position on issues of codification is shared by specialists who study the problems of the legal framework for the activities of health authorities, other bodies and institutions that ensure the sanitary and epidemiological well-being of the population [9; 85-96].

Federal Law of December 30, 2020 "On Biological Safety in the Russian Federation" and Decree of the President of the Russian Federation of June 6, 2019 № 254, which approved the Strategy for the Development of Healthcare in the Russian Federation for the period up to 2025, determined the current goals and tasks of protecting the population and territories of the country from biological threats.

Under these conditions, the issues of improving the legislation on sanitary and epidemiological well-being, the search for new ways of its development in modern conditions are becoming highly relevant. Noteworthy is the domestic and foreign experience of citizens' participation in the provision of medical, sanitary and other services to the population [14; pp.99–100], theoretical and practical examples of the use of legal technologies for the transfer of certain types of public functions and services to private law entities, as the basis of public-private partnership [2; pp.166–170], the conclusions of researchers about the need to improve the theoretical and legal foundations for the implementation of the social aspects of law in the new economic conditions [3; pp.117–120].

Russian and foreign lawyers note that the objective need to improve the mechanism of legal regulation stems from qualitative changes, both in the object of legal influence and in the functioning political and legal systems of many, especially

developed, states [7; p.163]. Among the important factors that determine the need to improve legislation, researchers include changes in the structure and content of modern functions of law [6; p.57]. In addition, it seems appropriate to rely on the results of scientific research, international experience, take into account the growing importance of the social function of the state in the context of globalization [5; p.31].

The problems of codifying legislation on the sanitary and epidemiological well-being of the population in the Russian Federation have already become the subject of an independent comprehensive study, during which two versions of the codified law were developed and proposed for discussion [12; pp. 216-227]. In addition, it is necessary to note the relevance of developing a new strategic planning document - the Concept for ensuring the sanitary and epidemiological well-being of the Russian Federation. There is currently no such document.

5. Conclusion

The legislation of the Russian Federation on the sanitary and epidemiological well-being of the population is a complex multi-level system of normative legal acts regulating issues of an organizational, legal, medical, sanitary nature that needs to be finalized and further improved.

The development of legislation on sanitary and epidemiological well-being is inextricably linked with the goal and objectives of the new state strategy in the field of biological safety, taking into account the emergence of modern threats and challenges, in including the difficult epidemiological situation due to the spread of the pandemic and other dangerous infectious diseases. A comprehensive analysis of topical problems in the theory and practice of the application of Russian legislation, the study of foreign experience, make it possible to determine the main directions for improving Russian legislation on the sanitary and epidemiological well-being of the population.

1. Improving legislation on the protection of the population and territories from natural and man-made emergencies in peacetime, on the sanitary and epidemiological well-being of the population, on biological safety, as well as on the use of public enforcement measures, taking into account the

experience of the COVID-19 pandemic. Coordination and systematization of the departmental regulatory framework for all aspects of interaction during the prevention, localization and elimination of the consequences of epidemiological threats.

2. Development and formation of the legal foundations of the public administration system in biological emergencies, taking into account the requirements of strategic planning and the experience of temporary flexible management structures for coordinating and preventing threats of the emergence and spread of dangerous infectious diseases.

3. Creation of a mechanism for legal regulation of the strategic planning of the activities of the constituent entities of the Russian Federation to ensure the biological safety of the territories under their jurisdiction and the sanitary and epidemiological well-being of the population.

4. Development of legislation on the sanitary and epidemiological welfare of the population in the

field of international cooperation, including:

- active participation in the improvement of the WHO regulatory and methodological framework, the implementation of acceptable international health regulations and standards in Russian legislation;

- formation of a regional regulatory framework for ensuring biological safety together with the countries of the EAEU, CIS, SCO and BRICS.

5. Codification of legislation on the sanitary and epidemiological well-being of the population, taking into account the new goals and objectives of the strategy for ensuring biological safety, the experience of applying domestic and international health regulations in a pandemic. This type of systematization of legal norms seems to be the most appropriate for improving the efficiency of the system for ensuring the sanitary and epidemiological welfare of the population of the Russian Federation.

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