
SHORT NEWS

Review of the Supreme Court Regarding Certain Issues of Judicial Practice in Connection with COVID-19

On April 30, the Presidium of the Supreme Court of the Russian Federation approved the second review of certain issues of judicial practice related to the application of legislation and measures aimed at preventing the spread of the new coronavirus infection (COVID-19) in Russia. The new clarifications address, in particular, the issues of rent-free period, a moratorium on bankruptcy and accrual of penalties for utilities services as well as the application of the Code of Administrative Offenses (hereinafter, the **RF CAO**), criminal and criminal procedure legislation.

Rent-free period and rent reduction

Lessees renting real estate engaged in the affected sectors and entitled by law to a deferral of payments until October 1 should take into account that, regardless of the time of entering into an additional agreement to the contract, the deferral shall be granted from the date of introduction of the high alert regime or emergency situation in the region (hereinafter referred to as “**high alert regime**”) or from an earlier date agreed upon by the parties. It shall be noted that the lessor will not be obligated to provide a deferral if it proves that the lessee’s misconduct was not in fact due to the situation with the coronavirus.

If, due to the high alert regime, the lessee cannot use the respective real estate for its intended purpose, the lessor shall be obligated to reduce the rent payments starting from the time when such use became impossible.

Moratorium on accrual of penalties for utility services

The Supreme Court confirmed that from April 6, 2020 until January 1, 2021 there is a moratorium introduced by the Government of the Russian Federation on the application of penalties for late or incomplete payment of housing, utilities and major repairs fees. This moratorium, in particular, shall be applicable to management companies that have failed to fulfill their obligations to public utility suppliers. Any penalties that arose before April 6 or after the end of the moratorium shall be recovered in accordance with the general rules.

Moratorium on bankruptcy

From April 6, 2020, a six-month moratorium on bankruptcy was introduced, due to which creditors shall not be entitled to file bankruptcy petitions with respect to certain debtors,

including companies and individual entrepreneurs engaged in the affected sectors. In this regard, the Supreme Court has made the following clarifications:

- once the moratorium is over, the creditor will have to send another notice of its intention to file a bankruptcy petition with respect to the debtor;
- during the period of the moratorium, no interest for non-fulfillment of monetary obligations shall be accrued;
- it is impossible to ensure execution by sending a writ of execution to a credit institution even if the claim arose before the moratorium was introduced;
- the moratorium on filing bankruptcy petitions by creditors shall not apply to a debtor which is being liquidated.

Application of regulations of the RF CAO

The Supreme Court noted that an administrative investigation into administrative offenses provided for by Articles 6.3 and 20.6.1 of the RF CAO (violation of sanitary and epidemiological legislation or failure to comply with the rules of conduct under the high alert regime) is not mandatory. Whether to conduct such an investigation shall be decided by officials authorized to draw up an administrative offense report or by a prosecutor when instituting proceedings on an administrative offense.

Criminal and criminal procedure issues

On April 1, 2020 two new articles have been enacted in Russia stipulating criminal liability for public dissemination of knowingly false information (fake news), in particular regarding the coronavirus infection and/or measures taken to ensure public safety – Article 207.1 and Article 207.2 of the Criminal Code of the Russian Federation. The Supreme Court has clarified the procedure for the courts to apply the said articles, in particular, what information can be considered knowingly false and regarding the conditions for being held liable for disseminating false information and its reposts on the internet.

The Supreme Court also made clarifications regarding the application of Article 236 of the Criminal Code of the Russian Federation concerning violations of sanitary and epidemiological rules and the distinction between criminal and administrative offenses in this area.

And finally, the right of the courts was confirmed, taking into account the quarantine measures in pretrial detention centers and the self-isolation regime established for all citizens, to decide on holding trials entirely using video-conferencing systems.

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