

Digest of key judgements in Russia, concerning sanitary and epidemiological requirements during the pandemic

Dear Ladies and Gentlemen!

Please find, herein, the latest up-to-date digest of the most significant court decisions which concern the liability of the employers and employees for violation of sanitary and epidemiological requirements, specifically, during the spread of the new coronavirus pandemic (COVID-19). This digest contains illustrative approaches of the judicial authorities during the years 2020 and 2021.

1. **The Supreme Court of the Russian Federation confirmed that an absence of the "input filter", and non-conducting the thermometry, may cause administrative liability**

An individual contractor was fined 50,000 Roubles, in accordance with paragraph 2 Art. 6.3 of the Russian Code of Administrative Offences. The Supreme Court of the Russian Federation partially agreed with the reasoning of the lower courts. The Court pointed out that the absence of the "entrance filter", non-conducting the thermometry, non-organizing the surveys on the health status of the employees, and their family members, violated sanitary and epidemiological requirements. Other facts, including the fact that employees were not wearing masks, that the company was not using the thermometer and disinfectants, were also considered as violations.

At the same time, the Supreme Court of the Russian Federation changed the decisions of the lower courts. The Court pointed out that if the offence may be subject to both paragraph 2 Art. 6.3 (emergency mode, or the threat of the spread of the disease) and paragraph 1 Art. 20.6.1 (high alert regime) of the Russian Code of Administrative Offences, the last one shall prevail. Therefore, the fine was reduced to 30,000 Roubles.

Source: *Resolution of the Supreme Court of the Russian Federation, dated 07.06.2021 in case No. 50-AD21-7-K8.*

2. **The Seventh Court of Cassation of General Jurisdiction indicated that an absence of reserved gloves, masks, and disinfectants is a legal ground for imposition of a fine**

In violation of epidemiological requirements, an employer did not keep a stock of 5-days' supply of disposable masks, gloves, and antiseptics. Due to the number of employees, a lack of these personal-protection equipment items emerged.

Moreover, this employer did not undertake any measures of air disinfection at the workplace. An on-site inspection resulted in administrative liability under paragraph 2 Art. 6.3 of the Russian Code of Administrative Offences. The Second Court of Cassation confirmed that the fine for 400,000 Roubles was justified.

Source: *Resolution of the Seventh Court of Cassation of General Jurisdiction, dated 12.02.2021 in case No. 16-128/2021*

3. **The Eighth Court of Cassation of General Jurisdiction confirmed that Roskomnadzor's methodic recommendations are obligatory**

As a result of an on-site inspection, several sanitary and epidemiological violations were found, in a company. Common areas and corridors were lacking air disinfection equipment. Moreover, in areas organized for eating, sinks for washing hands and antiseptic dispensers were missing. Due to the revealed violations, the company was fined 100,000 Roubles (paragraph 2 Art. 6.3 of the Russian Code of Administrative Offences).

The Eighth Court of Cassation confirmed that the Company violated the requirements put forward by the methodical recommendations. The Court rejected the Company's arguments that the requirement was not obligatory, and its violation cannot cause administrative liability. The Eighth Court of Cassation noted that the respective regulation, which was approved by the Russian Chief Sanitary Medical Officer, is included in legislation providing sanitary well-being for the population. For violations of such legislation, liability under the Russian Code on

Administrative Offences is provided.

Source: Resolution of the Eighth Court of Cassation of General Jurisdiction, dated 05.02.2021 in case No. 16-1396/2021

4. The Sixth Court of Cassation of General Jurisdiction pointed out that the absence of disinfection and usage of diluted sanitizers may cause liability in a form of administrative fines

For non-compliance, with the measures aimed at prevention of spreading of the COVID-19, a company faced administrative liability. Namely, the disinfection of the workplaces was not conducted in this company. The sanitizer was diluted, there was no information on the name, nor the concentration, on the label.

The Sixth Court of General jurisdiction confirmed that the company did not undertake all necessary anti-pandemic measures.

Source: Resolution of the Sixth Court of Cassation of General Jurisdiction, 09.04.2021 in case No. 16-2313/2021

5. The Moscow City Court indicated that an absence of a cleaning schedule is recognized as a violation of the sanitary requirements

An on-site check revealed that the company violated certain sanitary requirements. There was no cleaning schedule, cleaning plan-schedule, plan-schedule on cleaning using sanitizers, nor records that the cleanings were conducted. The company also did not hand in the journals of general cleanings. Instead of the special antiseptics for handwashing, the company used perfumes and cosmetics. Meanwhile, the disinfectants for a warehouse were in a container, without any labeling.

The Moscow City Court confirmed the lawfulness of a fine, pointing out that the company did not conduct preventive disinfection and hence did not fulfill a legal duty to undertake anti-pandemic measures.

Source: Decision of the Moscow City Court, dated 26.11.2020 in case № 7-12910/2020

6. The Moscow City Court reminded that violating social distancing, even for a short period, is a sufficient ground for imposition of a fine

The company faced administrative liability under paragraph 1 Art. 20.6.1 of the Russian Code of Administrative Offences for non-compliance with the requirements on social distancing. The Moscow City Court reviewed this case and found that a fine for 100,000 Roubles was justified. The court rejected this employer's arguments that the concentration of employees in one place did not last long and was required for the needs of production.

The Moscow City Court pointed out that any violation of social distancing by employees indicates that the company did not undertake all necessary measures. Formal recording of information sessions with employees does not exclude the employer's liability.

Source: Decision of the Moscow City Court, dated 26.08.2020 in case No. 7-9250/2020

7. If employees do not wear masks and gloves, the employer will be liable, as the Moscow City Court pointed out

Employees attended the workplace without personal-protective equipment: masks and gloves. The company was fined 200,000 Roubles (paragraph 1 Art. 20.6.1. of the Russian Code of Administrative Offences).

While deciding the case, the Moscow City Court rejected the Company's arguments that all necessary measures were undertaken. The Court pointed out that, during the inspection, employees did not use personal-protective equipment. This indicated that this employer did not manage all compulsory and adequate measures and showed non-fulfillment of appropriate control over the employees using personal-protective measures. The Moscow State Court concluded that, due to the danger to life and health of citizenry, the amount of a fine was reasonable.

Source: Decision of the Moscow City Court, dated 16.12.2020 in case No. 7-15218/2020

8. The Moscow City Court pointed out that an absence of non-contact thermometer violates epidemiological requirements

As a result of an inspection, carried out in the company, violations of sanitary and epidemiological requirements were revealed. In particular, during an entrance control, the company did not use the non-contact thermometer, but a mercury-containing thermometer. Meanwhile, its disinfection was not conducted. The company was fined for 250,000 Roubles, in accordance with paragraph 2 Art. 6.3 of the Russian Code of Administrative Offences.

The Moscow City Code reaffirmed the lawfulness of the fine and pointed out that the absence of disinfection does not block the spread of infection from one person to another. Thus, the employer had failed to provide safe thermometry of employees.

Source: *Decision of the Moscow City Court, dated 30.11.2020 in case № 7-14072/2020*

9. The Moscow City Court noticed that an employer violated the regulations in Moscow, when it did not provide testing of employees for COVID-19

The employer, in violation of the requirements laid down in Moscow, did not conduct testing of employees for the coronavirus infection. For infringement of rules in a situation of active high-alert regime, the company was fined 100,000 Roubles (paragraph 1 art. 20.6.1 of the Russian Code of Administrative Offences). The employer disagreed and applied to court.

The Moscow City Court rejected the Company's arguments about the impossibility of testing, due to the employees' refusals. While reviewing the presented evidence, the Court criticized written refusals. These documents were identical and did not include the reasons of refusals.

The Court also indicated that the employer did not fulfill its duty of organizing the testing. The formal issuing of decree on conducting the testing does not decrease the liability of the company. The employer failed to prove the possibility of organizing testing in the employer's territory. There was no contract with any medical organization for provision of the respective services. The Moscow City Court concluded that the imposed fine was reasonable and lawful.

Source: *Decision of the Moscow City Court, dated 02.12.2020 in case No. 7-14293/2020*

10. The Moscow City Court pointed out that an absence of centralized collecting of the personal-protective equipment may cause administrative liability

While examining the premises in a shop, various violations of sanitary requirements were found. Apart from the fact that, in the company, the required 5-day supply of masks was missing, the company did not organize the centralized collecting of used disposable masks.

The Moscow City Court confirmed the justification of the fine and pointed out that the company had possibilities to fulfill the requirements of sanitary legislation. However, it did not undertake all necessary measures.

Source: *Decision of the Moscow City Court, dated 02.12.2020 in case No. 7-14337/2020*

11. The Saint-Petersburgh City Court reaffirmed, that non-organizing of the thermometry and the rules of employees' movement during lunch breaks breaches sanitary and epidemiological requirements

As a result of an inspection, several violations were revealed: non-organizing of thermometry, absence of both general cleanings schedules and the rules of employees' movement during breaks. Also, inspection bodies confirmed that the employer is obliged to supervise the usage of masks and gloves by the employees. The wrongful wearing of a mask (with a nose uncovered) was also recognized as a violation of sanitary requirements. This requirement was not fulfilled, and the company faced administrative liability under paragraph 2 Art. 6.3 of the Russian Code of Administrative Offences.

The Saint-Petersburg City Court concluded that the fine of 100,000 Roubles was justified.

Source: *Decision of the Saint-Petersburg City Court No. 12-1154/2020, dated 27.10.2020 in case N 5-818/2020*

We hope that you will find the information in this document helpful. If any of your colleagues are also interested in receiving our newsletters, please send them the link to fill out a [Subscription Form](#). If you would like to learn more about our [Labour and Employment Practice](#), please let us know in reply to this email. We will be glad to provide you with our materials.

Note: Please be aware that all information provided in this letter was taken from open sources. Neither ALRUD Law Firm, nor the author of this letter, bear any liability for consequences of any decisions made in reliance upon this information.

If you have any questions, please, do not hesitate to contact ALRUD Labour experts:



**Irina
Anyukhina**

Partner

Labour and Employment

E:ianyukhina@alrud.com



**Elena
Chershintseva**

Associate, Ph.D in Law

Labour and Employment

E:echershintseva@alrud.com

Sincerely,
ALRUD Law Firm