

XVIII. Russia: The Path Dependence of Old Concepts and Targeted Support Measures in the COVID-19 Pandemic

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1. Introduction

The first coronavirus infection in Russia was detected in late January 2020, while the more comprehensive outbreak of the disease began in March 2020.¹ Russia was and still is seriously affected by the coronavirus pandemic. According to official data, on 8 December 2021 over 284,823 corona-related deaths had been reported.² During the whole time of the pandemic, no nationwide state of emergency (*режим чрезвычайной ситуации*) was declared at the federal level. However, in some regions of the Russian Federation (hereinafter – RF) the state of readiness (*режим повышенной готовности*) and the state of emergency in accordance with regional legislation were declared.³ The declaration of these regimes served as a basis for different restrictive measures or bans on sports, entertainment and cultural events as well as for the shutting down of shops, restaurants, etc. Depending on the coronavirus situation, the restrictions and bans were lifted and then later reintroduced. In addition, further restrictive measures followed based on the legislation on health and epidemiological well-being of the population. Coronavirus infection has been added to the list of diseases that pose a danger to others.⁴ Such diseases can serve as a justification for

1 [Coronavirus \(COVID-19\) in Russia - Statistics & Facts.](#)

2 [Real-Time Data.](#)

3 The legal basis for such measures is [Федеральный закон № 68-ФЗ от 21 декабря 1994 г. “О защите населения и территорий от чрезвычайных ситуаций природного и техногенного характера”](#) [Federal Law No. 68-FZ of 21 December 1994 “On the Protection of the Population and Territories from Natural and Man-Made Emergencies”], by which the notion of “the state of emergency” was supplemented on 1 April 2020 by the phenomenon “the spread of disease that poses a danger to others. In some regions (e.g. Moscow and Moscow region) the spread of coronavirus was considered an instance of force majeure.

4 [Постановление Правительства РФ № 66 от 31 января 2020 г.](#) [Resolution of the Government of the RF No. 66 of 31 January 2020].

refusing or cancelling a residence permit, a patent or a work permit for foreign citizens and stateless persons in the RF.⁵

Many social and economic support measures for citizens and the real economy in response to the coronavirus pandemic (e.g. new cash benefits or increase of social benefits, deferral of social contributions and taxes, tax reliefs, moratoriums on bankruptcy procedures, etc.) were initially launched by the President of the RF in his instructions and decrees and after that adopted by the parliament or by the Government.⁶ The majority of support measures were provided for in the federal legislation. Some additional support measures were provided for also in the regional legislation of the subjects of the RF. Collective agreements play a comparatively minor role.

To ensure the sanitary and epidemiological well-being of the population and to slow down the spread of the pandemic, externalising and internalising approaches were used. Hereby, in some cases the state switched from externalising measures (sickness benefits) to internalising measures like remote work (see below under 4 e). Furthermore, the internalising measures were extended. A new internalising instrument to ensure the sanitary and epidemiological well-being of the population and to slow down the spread of the pandemic, namely “non-working paid days” (*нерабочие оплачиваемые дни*), was introduced in March 2020.⁷ Since then, non-working days have been declared several times: from 30 March until 30 April 2020⁸; from 6 to 8 May 2020⁹ from 4 to 7 May 2021¹⁰, from 30 Octo-

5 Приказ Министерства здравоохранения РФ № 384н от 29 июня 2015 г. [Order of the Ministry of Health of the RF of 29 June 2015 N 384-n].

6 Instructions following President’s Address to the Nation on the Spread of Coronavirus Infection in the Country of 25 March 2020, Перечень поручений по вопросам противодействия распространению новой коронавирусной инфекции (COVID-2019) в регионах Российской Федерации [Instructions following President’s Address on the Spread of Coronavirus Infection in the Regions of 15 April 2020].

7 Указ Президента РФ №206 от 25 марта 2020 г. «Об объявлении в Российской Федерации нерабочих дней» [Executive Order of the President of the Russian Federation No. 206 of 25 March 2020 “On Declaring of Non-Working Days in the RF”].

8 Указ Президента РФ № 239 от 2 апреля 2020 г. [Executive Order of the President of the Russian Federation No. 239 of 2 April 2020].

9 Указ Президента РФ № 294 от 28 апреля 2020 г. [Executive Order of the President of the Russian Federation No. 294 of 28 April 2020].

10 Указ Президента РФ № 242 от 23 апреля 2021 г. [Executive Order of the President of the Russian Federation No. 242 of 23 April 2021].

ber to 7 November 2021¹¹. This term had not been used in the labour legislation before, and it does not comply with the categories “days off” and “non-working holidays” (Art. 111 and 112 of the Labour Code (hereinafter – the LC) and for this reason, it raises a lot of questions concerning its correct application.¹² In 2020 during non-working days, only employees of certain (essential) enterprises and remote workers could work. Dismissal of employees during non-working days is only permissible at the initiative of the employees themselves, in accordance with the agreement between the parties or upon expiration of a fixed-term employment contract.¹³ Nevertheless, according to some estimations, the number of registered unemployed persons in 2020 rose by almost 30% during non-working days.¹⁴ Employers must pay wages in the full amount to all their employees, not depending on whether they are performing their work (e.g. remotely) or are exempted from the duty to work. In other words, the state has shifted the financial responsibility for the fulfilment of a task in the public interest to employers. Not working during the non-working days is not considered as downtime. Nevertheless, many employers paid wage in accordance with the rules for downtime.¹⁵ In 2021, in response to the low efficiency of this instrument, the regulation on non-working days was relaxed and employers were allowed to determine a number of employees to ensure the functioning of the organisation during non-working days. Many employers included the majority of their employees in this category.¹⁶

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- 11 [Указ Президента РФ №595 от 20 октября 2021 г.](#) [Executive Order of the President of the Russian Federation No. 595 of 20 October 2021].
 - 12 Ostrovskaia, Covid-19 and Labour Law: Russian Federation, in: da Rocha/Pepino/Martins (eds.), *Legal Responses to COVID-19 Around the World*, 2020, pp. 188-192; Lyutov/Davletgildeev, [One Year after the Official Recognition of Covid-19 as a Pandemic: Case of the Social Situation in Russia](#).
 - 13 [Письмо Федеральной службы по труду и занятости № 0147-03-5 от 9 апреля 2020 г.](#) [Letter of the Federal Service for Labour and Employment No. 0147-03-5 of 9 April 2020], Para. 7; Lyutov/Davletgildeev, (supra fn. 12).
 - 14 Sabelnikova, [Operational Monitoring of Social Processes](#), Center of Macroeconomic Analysis and Short-Term Prognosis.
 - 15 Golovina, The Coronavirus Pandemic (COVID-19) as a New Challenge to Labor Law [Пандемия коронавирусной инфекции (COVID-19) как новый вызов трудовому праву], *Labour Law in Russia and Abroad [Трудовое право в России и за рубежом]*, 3/2020, p. 3.
 - 16 Sychenko, [Workers’ Protection in \[sic\] Covid at the Employers’ Expense: Russian Experience](#), paper prepared for presentation at the “7th Conference of the Regulating for Decent Work Network” Virtual Conference, International Labour Office Geneva, 6-9 July 2021.

2. Job Retention

a) Changes in Unemployment Rates during the Pandemic

According to official statistics, the unemployment rate in Russia increased from 4.6% in 2019 to 5.9% in 2020¹⁷. The unemployment rate reached a peak of 6.4% in August 2020¹⁸, which was the highest rate in the last eight years, and then gradually began to fall. Many jobs have been lost in manufacturing, construction, retail and hospitality services while in some sectors an increase in employment has been seen.¹⁹ In September 2021, the unemployment rate dropped to 4.3%, which is the lowest level in the last two years and corresponds to pre-pandemic levels.²⁰ On the one hand, these statistical data could indicate the effectiveness of the measures taken. On the other hand, the answer may also lie in the decrease in the level of unemployment benefits in 2021 by comparison with a temporary increase in 2020, and in a substantial decline in the number of migrants working in Russia after the outbreak of the pandemic²¹ accompanied by a filling of the vacancies with local employees.

17 [Уровень безработицы в России в июле снизился до 4,5% впервые с осени 2019 года](#) [Russia's Unemployment Rate Fell to 4.5% in July for the First Time since Autumn 2019].

18 [Занятость и безработица в Российской Федерации в августе 2020 г.](#) [Employment and Unemployment in the RF in August 2020].

19 World Bank Group. [Russia's Economy Loses Momentum Amidst COVID-19 Resurgence, Awaits Relief from Vaccine](#). Russia Economic Report. December 2020. Vol. 44, p. 27.

20 [Безработица в России в сентябре снизилась до исторического минимума](#) [Unemployment in Russia Fell to a Historic Low in September], 29 October 2021; Глава Минтруда заявил о возвращении безработицы к допандемийному уровню [Head of the Labour Ministry Said that Unemployment Rate is Back to Pre-Pandemic Levels, 14 October 2021].

21 Sedlov/Kubishin/Soboleva, [Рынок труда иностранной рабочей силы в России: влияние пандемии Россия и мир в XXI веке](#) [Migrant Labour Market in Russia: Influence of the Pandemic, in: Russia and the World in the 21st Century], 3/2021, pp. 59-72.

b) Limitation of Dismissals

One of the peculiarities of Russian labour law is that it “protects employees from the very fact of dismissal”.²² The employment protection index (hereinafter – EPI) in Russia (2.86 in 2012) is significantly higher than the average EPI among OECD countries (2.09 in 2014)²³. In particular, it is very difficult to dismiss some categories of employees, e.g. pregnant women and persons of pre-retirement age. The Prime Minister of Russia issued a warning to employers who attempted to dismiss employees on the grounds of redundancy because of the coronavirus pandemic and he recommended employers to use flexible forms of work like remote work or flexible time schemes.²⁴ The Ministry of Labour clarified that the company may declare downtime (time in which the employer cannot provide work for operational reasons) due to an unfavourable economic situation.²⁵ During the downtime, the employer in accordance with Art. 157 of the LC should pay an employee 2/3 of their wage. This payment may de facto be lower than the minimum wage since only the whole wage must be not less than the statutory monthly minimum wage of 12,792 roubles (153 EUR) in 2021.

According to general labour law rules, an employer may reduce working hours (without agreement with the employee) only due to reasons relating to a change in organisational or technical working conditions, e.g. changes in production techniques and technologies, structural reorganisation of production and other reasons (Art. 74 (5) LC). However, a pandem-

22 Kovács/Lyutov/Mitrus, Labour Law in Transition from Centrally Planned to Free Market Economy in Central and Eastern Europe, in: Finkin/Mundlak (eds.), *Comparative Labor Law*, 2015, p. 425.

23 OECD, *Strictness of Employment Protection – Individual Dismissals (Regular Contracts)* – 2008-2019.

24 Мишустин пригрозил проверками за увольнения на фоне пандемии [Mishustin has Threatened Inspections for Dismissals during the Pandemic], RBK, 21 March 2020; Lyutov, in: *Application of Key Labour Law Provisions during the COVID-19 Pandemic in Belarus, Georgia, Kazakhstan, Kyrgyzstan, and the Russian Federation*, ILO 2021, p. 26.

25 Письмо Министерства труда и социальной защиты РФ № 14-2/10/П-3710 от 23 апреля 2020 г. [Letter No. 14-2/10/P-3710 of the Ministry of Labour and Social Protection of the RF of 23 April 2020], Point 6 of Recommendations, Письмо Министерства труда и социальной защиты РФ № 0147-03-5 от 9 апреля 2020 г., п. 7 Приложения [Point 7 of the Annex to Letter No. 0147-03-5 of the Ministry of Labour and Social Protection of the RF of 9 April 2020].

ic is not a reason to reduce working hours according to this regulation.²⁶ Furthermore, even if the conditions of Art. 74 (5) are fulfilled, the employer would have had to give prior notice at least two months in advance, which is not suitable for flexible reactions in a pandemic. The Government has allocated over 4 billion roubles to regions for the creation of temporary jobs, including for those with reduced working time.²⁷ The employer may not use unpaid leave²⁸ and dismiss employees on pandemic grounds.²⁹ Nevertheless, in many cases employers in violation of the law forced employees to use unpaid leave or dismissed employees as if at the own will of the employee (*увольнение по желанию работника*) but not for the economic reasons listed in the LC, as well as cut wages or even did not pay any at all.³⁰ Companies dismissed more than 3.5 million employees during the COVID-19 pandemic from 1 April to 20 June 2020. The most significant number of personnel who lost their jobs was recorded in Moscow at 585,800.³¹

c) Subsidies and Wage Loans

The most popular support measures were/are subsidies and wage loans, the aim of which is twofold: on the one hand, to support the viability of business activities and to cover any documented business expenses; on the other hand, to prevent staff reductions. Affected small- and medium-sized

26 Письмо Министерства труда и социальной защиты РФ № 14-2/10/П-3710 от 23 апреля 2020 г. [Letter No. 14-2/10/P-3710 of the Ministry of Labour and Social Protection of the RF of 23 April 2020].

27 Постановление Правительства РФ № 980 от 4 июля 2020 г. [Resolution of the Government of the RF No. 980 of 4 July 2020].

28 Письмо Министерства труда и социальной защиты РФ № 0147-03-5 от 9 апреля 2020, п. 20 Приложения [Point 20 of the Annex to Letter No. 0147-03-5 of the Ministry of Labour and Social Protection of the RF of 9 April 2020].

29 Информация Министерства труда и социальной защиты РФ от 27 апреля 2020 г. [Information of the Ministry of Labour and Social Protection of the RF of 27 April 2020].

30 Совет по правам человека направил в Правительство Рекомендации по защите социальных и трудовых прав работников [Presidential Council for Civil Society and Human Rights. The Human Rights Council has submitted Recommendations for Protecting Workers' Social and Labour Rights to the Government], 23 April 2020; Shuvalova, Законодательство о трудоустройстве [The Legislation on Employment], Юрист [The Lawyer], 9/2020.

31 Number of Dismissals in Russia from April 1 to June 20, 2020, by Federal Subject.

enterprises (SMEs) were provided for at the beginning of the pandemic with subsidies for a six-month period³² and interest-free loans for 12 months³³ in the amount of one minimum wage per employee per month as long as they can maintain at least 90% of the employees. From June 2020 until April 2021, a credit scheme for affected economic sectors was launched with loans in the amount of one minimum wage per employee per month at a preferential interest rate of 2%. If the employer maintains 90% of his employees, the loan will be forgiven; if the employment rate falls below 90% but not below 80%, the employer has to pay back only half of the loan and the interest rates.³⁴ From 9 March until 1 July 2021 and again from 1 November 2021 to 30 December 2021 subsidised loans were granted for the affected sectors at a preferential interest rate of 3% in the amount of one minimum wage per employee per month for either 12 or 18 months; if the company cannot retain 90% of its employees, it has to pay back the loan in full at the usual, not a preferable interest rate.³⁵

In 2021, subsidies were provided for in the amount of three minimum wages for the employment of unemployed persons that were registered at the public employment office as of 1 August 2021, or of graduates of 2020, persons with disabilities, single parents or parents with many children, and some other categories of persons registered as unemployed³⁶.

32 [Постановление Правительства РФ № 576 от 24 апреля 2020 г.](#) [Resolution of the Government of the RF No. 576 of 24 April 2020].

33 [Постановление Правительства РФ № 422 от 2 апреля 2020 г.](#) [Resolution of the Government of the RF No. 422 of 2 April 2020].

34 [Постановление Правительства РФ № 685 от 15 мая 2020 г.](#) [Resolution of the Government of the RF No. 685 of 15 May 2020], [Постановление Правительства РФ № 685 от 15 мая 2020 г.](#) [Resolution of the Government of the RF No. 696 of 16 May 2020].

35 [Постановление Правительства РФ № 279 от 27 февраля 2021 г.](#) [Resolution of the Government of the RF No. 279 of 27 February 2021], [Постановление Правительства РФ № 1850 от 28 октября 2021 г.](#) [Resolution of the Government of the RF No. 1850 of 28 October 2021], ФОТ 3.0.

36 [Постановление Правительства РФ № 362 от 13 марта 2021 г.](#) [Resolution of the Government of the RF No. 362 of 13 March 2021], [Постановление Правительства РФ № 915 от 16 июня 2021](#) [Resolution of the Government of the RF No. 915 of 16 June 2021], [Постановление Правительства РФ № 1607 от 24 сентября 2021 г.](#) [Resolution of the Government of the RF No. 1607 of 24 September 2021].

3. *Supporting the Economy*

The coronavirus pandemic has strongly affected the economy. Since March 2020, the state has taken a wide range of measures to help businesses to mitigate the effects of the pandemic. Some measures are directed at broad categories of individual entrepreneurs and enterprises, whereas a range of measures are targeted at companies and SMEs operating in the economic sectors most affected by coronavirus. The Government of the RF has approved a list of sectors in the Russian economy that were worst hit by the spread of coronavirus (hereinafter – list of sectors or affected sectors).³⁷ The list includes the following sectors: transportation, culture and leisure activities, sports, tourism, hospitality, catering, activities of supplementary education organisations, non-state educational institutions, conference and exhibition activities, consumer services, dental practices and retail business, media and print production.

From 15 March 2020 to 31 December 2020, the validity of licenses and permits for different kinds of economic activities was prolonged.³⁸ For organisations and individual entrepreneurs in the affected sectors in 2020, a moratorium on bankruptcy procedure for six months was declared.³⁹ Another element in support of SMEs in the affected sectors was the reduction of credit burden⁴⁰ and concessional loans⁴¹. For companies in the affected sectors of the economy in 2020, deferrals of taxes were provided, and hereby the respective extension periods depended on the level of revenue

37 [Постановление Правительства РФ № 434 от 3 апреля 2020 г. «Об утверждении перечня отраслей российской экономики, в наибольшей степени пострадавших в условиях ухудшения ситуации в результате распространения новой коронавирусной инфекции»](#) [Resolution of the Government of the RF No. 434 of 3 April 2020].

38 [Постановление Правительства РФ № 109 от 4 февраля 2021](#) [Resolution of the Government of the RF No. 109 of 4 February 2021].

39 [Федеральный закон № 98-ФЗ от 1 апреля 2020 г. «О внесении изменений в отдельные законодательные акты Российской Федерации по вопросам предупреждения и ликвидации чрезвычайных ситуаций»](#) [Federal Law No. 98-FZ of 1 April 2020 “On Amendments to Certain Legislative Acts of the RF regarding the Prevention and Elimination of Emergency Situations”].

40 [Постановление Правительства РФ №346 от 3 апреля 2020 г.](#) [Resolution of the Government of the RF No. 436 of 3 April 2020].

41 [Постановление Правительства РФ № 372 от 31 марта 2020 г.](#) [Resolution of the Government of the RF No. 372 of 31 March 2020]; [Постановление Правительства РФ № 378 от 31 марта 2020 г.](#) [Resolution of the Government of the RF No. 372 of 31 March 2020].

declines.⁴² From 1 April to 1 July 2020, affected SMEs from the list of sectors were exempted from rent payments on state property, and from 1 July to 1 October a deferral of rent payments was granted.⁴³

The amount of tax already paid on professional income for the year 2019 was refunded to taxpayers.⁴⁴ However, in 2019 the privileged tax regime “tax on professional income” had been introduced only experimentally in some regions (Moscow and Kaluga regions, as well as in the Republic of Tatarstan).⁴⁵ For this reason, only few freelancers benefitted from this measure. Notwithstanding, since 2019 up to now, all payers of the tax on professional income are granted deductions on this tax.

For employers and entrepreneurs mentioned in the list of sectors, the amount of pension contributions was reduced. For some months (from April until June 2020) employers – SMEs mentioned in the list of sectors – were exempted from the payment of pension contributions for their employees.⁴⁶ All SMEs, initially from 1 April 2020 until 31 December 2020 and after this time period without time limitation, are exempted from contributions on social insurance for sickness and maternity, and the rate of pension and health insurance contributions on the share of wages that is above the minimum wage was/has been reduced from 30 to 15%.

42 Tax Holidays; [Постановление Правительства № 409 от 2 апреля 2020 г.](#) [Resolution of the Government of the RF No. 409 of 2 April 2020]; [Постановление Правительства РФ № 570 от 24 апреля 2020 г.](#) [Resolution of the Government of the RF No. 570 of 24 April 2020]; [Федеральный закон № 102-ФЗ от 1 апреля 2020 г.](#) “О внесении изменений в части первую и вторую Налогового кодекса Российской Федерации и отдельные законодательные акты Российской Федерации” [Federal Law No. 102-FZ of 1 April 2020 “On Amendments to Parts One and Two of the Tax Code of the RF and Certain Legislative Acts of the RF”].

43 [Deferral of Rent Payments.](#)

44 [Постановление Правительства РФ № 783 от 29 мая 2020 г.](#) [Resolution of the Government of the RF No. 783 of 29 May 2020].

45 From 1 July 2020 this tax regime is applied in the whole territory of Russia, [Федеральный закон №422-ФЗ от 27 ноября 2018 г.](#) «О проведении эксперимента по установлению специального налогового режима “Налог на профессиональный доход” [Federal Law No. 422-FZ of 27 November 2018 “On the Experimental Introduction of the Special Tax Regime “Tax on Professional Income”].

46 [Федеральный закон № 172-ФЗ от 8 июня 2020 г.](#) «О внесении изменений в часть вторую Налогового кодекса Российской Федерации» [Federal Law No. 172-FZ of 8 June 2020 “On the Amendments to Part Two of the Tax Code of the RF”].

Furthermore, at the beginning of the pandemic, a deferral of insurance contribution payments for six months was allowed for.⁴⁷

It is estimated that the total cost of the 2020 fiscal package amounted to about 3.5% of GDP, while in 2021, the anti-crisis fiscal package is expected to be only at around 1.5% of GDP.⁴⁸ However, researchers stress that despite the impressive amount of funds allocated for measures to mitigate the economic impact, these measures did not compensate for a significant part of the losses of businesses and in many cases were insufficient for the survival of businesses.⁴⁹ Companies in affected sectors that have shut down their operations still bear rental costs and have to pay tax and insurance payments, which have been deferred but not abolished.⁵⁰ In the first half of 2021, 724,000 legal entities and individual entrepreneurs left the market, which is the highest number since 2013. The expiration of the state support measures has been identified as one of the important reasons for this development.⁵¹

4. Social Protection

In general, it can be said that neither fundamental changes in social legislation were made nor new forms of social security were introduced in response to the pandemic. However, the duration of payment of some social benefits was extended, some new cash lump sum benefits were introduced, the application procedures for benefits were simplified and the level of several social benefits has been increased. The cost of social spending is estimated at 0.3 % of GDP over two years.⁵² In the case of some benefits (e.g. the minimum level of unemployment benefits and of sickness benefits) the increase was temporary, while for some other benefits (monthly childcare benefits up to the age of 18 months; the maximum level of unemployment benefit) it was permanent. For example, the minimum level of sickness

47 Федеральный закон № 102-ФЗ от 1 апреля 2020 г. «О внесении изменений в часть вторую Налогового кодекса Российской Федерации» [Federal Law No. 102-FZ of 1 April 2020 “On Amendments to Parts One and Two of the Tax Code of the RF and Certain Legislative Acts of the RF”].

48 International Monetary Fund. Policy Responses to COVID-19. Russia.

49 Lyutov/Davletgildeev (supra fn. 12), p. 3.

50 Lyutov/Davletgildeev, (supra fn. 12), p. 2.

51 Vinogradova, *Безвременно закрыто: за полгода в РФ ликвидировано 725 тыс. компаний* [Closed Down Prematurely: 725,000 companies liquidated in Russia in Six Months], Известия, 16 July 2021.

52 Supra fn. 48.

benefit increased temporarily (from April to 31 December 2020) so that it would not be less than one minimum wage per month.⁵³ This regulation helped increase the level of social protection during the pandemic since in some regions the factual wage level is below the minimum wage (e.g. in the Kurgan Region 12.4% of the population receive a wage below the minimum wage level)⁵⁴. In general, the size of sickness benefits depends on the length of the insurance period and lies between 60% and 100% of the average wage of an employee. The abovementioned monthly childcare benefit up to the age of 18 months has been increased more than twofold since 1 June 2021: non-insured persons (e.g. unemployed persons, students) receive a benefit in the minimum amount of 6,752 roubles (75 EUR) per child (previously 1,500 roubles (17 EUR) for the first child and 3,000 roubles (35 EUR) for the second child and each additional child). Insured persons are now entitled to 40% of the average salary but not more than 13,504 roubles (149 EUR) (previously 6,000 roubles/71 EUR).⁵⁵

a) Extension and Increase of Unemployment Benefits

An unemployment insurance system existed in Russia only from 1991 to 2001. Since then, unemployment benefits have been paid from the state budget as a form of state support. In Russia, foreign citizens can be registered as unemployed persons with a goal of finding a suitable job, but they are not entitled to unemployment benefits. In the context of the pandemic, representatives of civil society sent a proposal to the Government

53 [Федеральный закон № 104-ФЗ от 1 апреля 2020 г.](#) [Federal Law No. 104-FZ of 1 April 2020], Art. 1 Point 1.

54 [Зарплатное неравенство: сколько и где официально зарабатывают россияне](#) [Salary Inequality: How Much and Where Russians Officially Earn], RBC, 20 July 2019.

55 [Федеральный закон № 81-ФЗ от 19 мая 1995 г. с изм. внесенными Федеральным законом № 166 от 8 июня 2020 г. «О внесении изменений в отдельные законодательные акты РФ в целях принятия неотложных мер, направленных на обеспечение устойчивого развития экономики и предотвращение последствий распространения новой коронавирусной инфекции»](#) [Federal Law No. 81-FZ of 19 May 1995 “On State Benefits for Citizens with Children” with Amendments Introduced by Federal Law No. 166 of 8 June 2020 “On the Introduction of Amendments to Certain Legislative Acts of the RF with a View to Adopting Urgent Measures Intended to Ensure Sustainable Development of the Economy and Prevent the Consequences of Spreading a New Coronavirus Infection”].

of the RF to extend this entitlement to foreign citizens but to date, this proposal has not been supported.⁵⁶

As a reaction to the coronavirus crisis, unemployment benefits were extended and increased. The minimum unemployment benefit amount of 1,500 roubles (17 EUR) was raised to 4,500 roubles (53 EUR) for the period from March to August 2020.⁵⁷ The maximum amount was significantly raised from 8,000 (93 EUR) to 12,130 roubles (141 EUR, corresponding to the amount of the minimum wage at that time⁵⁸). For the period from April to June 2020, for the first time, the unemployment benefit was supplemented by a lumpsum benefit for children up to the age of 18 years amounting to 3,000 roubles (35 EUR) per child.⁵⁹ For unemployed persons who lost their entitlement to unemployment benefits as of 1 March 2020, benefits were extended for three additional months.

From April 2020 until 31 December 2021, citizens could register remotely as unemployed and apply for unemployment benefit using the platform “Work in Russia”⁶⁰. Previously, an application to the public employment office could only be made personally at the place of registration.⁶¹ Because of the increased level of unemployment benefits and the simplification of the registration procedure, the number of registered unemployed persons increased rapidly in spring 2020.⁶²

The abovementioned increases in unemployment benefits in 2020 were of a temporary nature. In 2021, the level of unemployment benefits decreased significantly. The minimum amount of unemployment benefit has dropped back to 1,500 roubles (the minimum amount before the pandemic). The maximum amount of 12,130 roubles introduced in 2020 is now

56 Lyutov/Davletgildev, (supra fn. 12).

57 [Постановление Правительства РФ № 346 от 27 марта 2020 г. «О размерах минимальной и максимальной величин пособия по безработице на 2020 год»](#) [Resolution of the Government of the RF No. 346 of 27 March 2020 “On the Minimum and Maximum Amounts of Unemployment Benefits for 2020”].

58 It was the first time the maximum amount of the unemployment benefit reached the level of the minimum wage.

59 [Постановление Правительства № 844 от 10 июня 2020 г.](#) [Resolution of the Government of the RF No. 844 of 10 June 2020].

60 Portal of Public Services of the RF. [Obtaining the Unemployment Benefit](#).

61 Копыток/Kuzmina, [Безработица времен COVID-19: что могут рассказать административные данные?](#) [Unemployment during COVID-19: What can the Official Data Tell us?].

62 Zubarevich/Safronov, [Regions of Russia in the Acute Phase of the COVID Crisis: Differences from Previous Economic Crises of the 2000s](#), Regional Research of Russia, 4/2020, Vol. 10, p. 451.

paid only in the first three months of unemployment, after which the maximum amount drops to 5,000 roubles (58 EUR) for the fourth, fifth and sixth month of unemployment. In 2020, 45% of the unemployed (including those formerly employed in the shadow economy, graduates, long-time unemployed persons, “new” self-employed persons, etc.) received the unemployment benefit in the minimum amount.⁶³

In short, the unemployment benefit offers no protection against poverty. Already in 2013 and in 2017, the European Committee of Social Rights expressed the opinion that the minimum level of the unemployment benefit was manifestly inadequate and largely below the minimum subsistence level (in 2021: 11,653 roubles/139 EUR); in 2017, the Committee maintained its finding of non-conformity of the Russian regulation on this point with the principles of Art. 12 of the European Social Charter.⁶⁴ It seems that the situation has not significantly improved. Many decisions made by the Constitutional Court of the RF are based on the broad scope of the discretion of the legislator in the field of unemployment, including the determination of benefit levels.⁶⁵

b) Protection against Unemployment of Self-Employed Persons

In general, individual entrepreneurs can claim unemployment benefits only on the minimum level. In 2020, for a short period of time (three months and latest until 1 October), the amount of the unemployment benefit for entrepreneurs who stopped their activity after 1 March 2020 was increased to the maximum level.

For self-employed persons who do not have entrepreneur status, e.g. for “freelancers” (*самозанятый*) – payers of the tax on professional income (*налог на профессиональный доход*)⁶⁶ – the size of the unemployment benefit was not increased at all; they are entitled to unemployment bene-

63 Sychenko (supra fn. 16); [Meeting concerning the Situation on the Labour Market](#), 27 March 2020.

64 Chesalina, *The Legal Framework of Unemployment Benefits in Russia*, Davulius (ed.) *Labour Law Reforms in Eastern and Western Europe*, 2017, p. 483; [Conclusions 2013 - Russian Federation - Article 12 – Right to Social Security](#); [Conclusions 2017 - Russian Federation - Article 12 – Right to Social Security](#).

65 [Определение Конституционного Суда РФ №550-О-О от 12 апреля 2011 г.](#) [Decision of the Constitutional Court of the RF No. 550-O-O of 12 April 2011].

66 Chesalina, [Social and Labour Rights of “New” Self-Employed Persons \(and in Particular Self-Employed Platform Workers\) in Russia](#), *Russian Law Journal*, 2/2020, p.71 et seq.

fits in the minimum amount under the condition that they have stopped their activity. Many of the “freelancers” who were active in the platform economy (especially drivers on demand) had to stop their activity at the beginning of the coronavirus pandemic. However, many of them did not deregister themselves as payers of tax on professional income because they were not aware that this was a condition for the entitlement to the unemployment benefit. Now, the public employment offices are filing many claims for repayment of unemployment benefit.⁶⁷

c) Family Benefits

Numerous one-time and monthly benefits from the state budget were introduced on a temporary basis (for several months) for families – citizens of the RF, and for children – citizens of the RF. Such benefits are not dependent on income and are not taken into account when receiving social assistance: one-time payment for children aged 3 to 16 years in the amount of 10,000 roubles (119 EUR) from 1 June 2020⁶⁸; one-time payment for children up to the age of 8 in the amount of 5,000 roubles (59 EUR) from 1 June 2020⁶⁹ and from 17 December 2020⁷⁰; monthly payments for children under 3 years of age for the months of April to June 2020 in the amount of 5,000 roubles⁷¹; one-time payment for children from 6 to 18 years in the amount of 10,000 roubles from 1 July 2021.⁷²

On the one side, state budget-financed cash benefits for families with children fit into a current system of family benefits which consists of some social insurance benefits (the maternity benefit and the monthly childcare benefit until the child reaches the age of 18 months) and different family benefits from the state budget. For this reason, new family cash benefits do not change the nature of the system of family benefits. On the other side,

67 Sukhovskaya, Самозанятый получал пособие по безработице? Придется вернуть назад [Did the Self-Employed Receive Unemployment Benefits? It has to be Paid Back], Главная книга [Principal Book], 22/2020, СПС «Консультант Плюс» [Legal Database “Consultant Plus”].

68 Указ Президента РФ № 249 от 7 апреля 2020 г. [Executive Order of the President of the Russian Federation of 07 April 2020 No. 249].

69 Указ Президента РФ № 797 от 17 декабря 2020 г. [Executive Order of the President of the Russian Federation of 17 December 2020 N 797].

70 Ibid.

71 Supra fn. 68.

72 Указ Президента РФ №396 от 2 июля 2021 г. [Executive Order of the President of the RF No. 396 of 2 July 2021].

the new benefits are provided only for citizens of the RF, while recipients of other, already existing insurance family benefits (related to salaried employment) can be foreign citizens or stateless persons permanently or temporarily residing in the RF.

First evaluations indicate that despite the fact that the group “families with children” were prioritised over other recipients of social benefits, the support measures helped to compensate only a part of the lost income: for families with children under 7 years: 43%; for families with children over 7 years: 24%. Support measures⁷³ have not made families with children better off than those without children, as the income gap in families with children was already significantly higher (than in families without children) before the pandemic. The poverty rate for families with children increased from 21-26% to 31-35%.⁷⁴ On average, the poverty rate rose during the pandemic among the whole population from 12.5% to 20%, and among families with children from 21-26% to 31-35%.⁷⁵ The new family cash benefits (irrespective of whether they are means-tested or not) rather fulfil the function of protecting against poverty and show resemblance to social assistance.

d) Social Assistance

During the pandemic no reforms of the general social assistance system occurred (e.g. abolishing of means-testing or simplification of existing rules). However, different new means-tested benefits for several groups of citizens of the RF, including for families, were introduced. From 1 July 2021 on, a monthly benefit amounting to half the subsistence minimum level (as of 2021, the subsistence minimum level per capita is 11,653 roubles/approx. 140 EUR) is provided to women registered at the hospital in the early stages of pregnancy if the family income per capita is below the subsistence minimum level. Furthermore, means-tested benefits were introduced in the amount of half the subsistence minimum level for single mothers/

73 It means all family benefits, including means-tested benefits.

74 Институт социальной политики НИУ ВШЭ. [Поддержка семей с детьми в условиях пандемии COVID-19](#) [Institute of Social Policy of the Higher School of Economics. Support of Families with Children under the COVID-19 Pandemic. Discussion Paper #4, p. 6 et seq.

75 Ibid.

fathers in need with children aged 8 to 17 years.⁷⁶ From 1 January 2020 on, additional monthly benefits were introduced to families whose per capita family income does not exceed the subsistence minimum level in the respective subject of the RF, in the form of payments for each child from 3 to 7 years in the amount of 50% of the subsistence minimum level. Since 1 January 2021, the conditions for this benefit (the eligibility rules) were tightened: Apart from a per capita income below the minimum subsistence level since 1 January 2021, it is required that assets and savings do not exceed a certain size. The amount of the benefit varies from 50 to 100% of the subsistence minimum level.

e) Protection of Vulnerable Persons

At the beginning of the first wave of the pandemic, the Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing recommended employers to transfer to remote work persons with chronic diseases, reduced immunity and pregnant women.⁷⁷ From 6 April 2020 until 1 May 2021, all insured persons older than 65 years were ordered to self-isolate, with the exception of those who worked remotely or were on paid leave.⁷⁸ These persons were allowed to leave their dwelling only for an important reason, e.g. to buy food or to take a walk. The isolation and exclusion of pensioners from public life has been criticised by some researchers.⁷⁹ As compensation for their lost wage, a sickness benefit for this period was paid from the Social Security Fund. The regime of self-isolation is to be distinguished from the regime of quarantine for persons who were

76 [Постановление Правительства РФ № 1037 от 28 июня 2021 г.](#) [Resolution of the Government of the RF No. 1037 of 28 June 2021].

77 [Письмо Федеральной службы по надзору в сфере защиты прав потребителей и благополучия человека № 02/6338-2020-15 от 7 апреля 2020 г.](#) «О рекомендациях по профилактике коронавирусной инфекции (COVID-19) среди работников» [Letter No. 02/6338-2020-15 of 7 April 2020 from the Federal Service for the Supervision of Consumer Rights Protection and Human Welfare on Recommendations for the Prevention of Coronavirus Infection].

78 [Постановление Правительства РФ № 402 от 1 апреля 2020 г.](#) [Resolution of the Government of the RF No. 402 of 1 April 2020].

79 Egorova/Duflo/Shpakovsky, *Современные проблемы правового регулирования смягчения угроз для населения и бизнеса последствий пандемии коронавируса COVID-19* [Current Problems of Legal Regulation Admitted to Mitigate Threats to Population and Business from the Coronavirus COVID-19 Pandemic], Юрист [Lawyer], 11/2020.

in contact with persons infected with coronavirus. Persons in quarantine were also entitled to sickness benefit in accordance with Art. 7 of Federal Law No. 255-FZ⁸⁰ (introduced long before the pandemic). In the case of a breach of the regime of self-isolation, the sickness benefit had to be paid back to the Social Security Fund; also the administrative liability was provided for such violations⁸¹. The employer was obliged to ensure that employees complied with the self-isolation regime⁸². For these persons, the possibility to use social cards for concessionary and free travel on public transport was suspended in order to ensure the effective enforcement of the provision. A one-off targeted social assistance payment was provided for compliance with the self-isolation regime for persons older than 65 years in Moscow in the amount of 4,000 roubles (48 EUR)⁸³. As of 1 May 2021, employers were recommended to transfer primarily employees of 65 years of age or older to remote work instead of implementing a regime of self-isolation.⁸⁴ However, the Russian labour legislation, according to which in 2020 the reform of remote work was carried out⁸⁵, does not contain the special obligation of the employer to allow for remote work only for older workers or for other categories of employees. In Russia, there are many working pensioners since generally the pension is not sufficient to make ends meet. During the pandemic, the number of working pensioners increased from 7.3 million in 2019⁸⁶ to 8.9 million in April 2021⁸⁷.

80 [Федеральный закон № 255 от 29 декабря 2006 г. «Об обязательном социальном страховании на случай временной нетрудоспособности и в связи с материнством»](#) Federal Law No. 255 of 29 December 2006 “On Compulsory Social Insurance Against Temporary Incapacity for Work and in Connection with Maternity”].

81 See [Art. 20.6.1](#) of the Code of Administrative Offences.

82 [Оплата труда в период самоизоляции](#) [Remuneration during the Period of Self-Isolation].

83 [Выплаты по самоизоляции приходят пенсионерам автоматически](#) [Self-Isolation Payments Automatically Come to Pensioners], Moscow24, 27 March 2020.

84 [Постановление Правительства РФ № 300 от 2 марта 2021 г.](#) [Resolution of the Government of the RF No. 300 of 2 March 2021].

85 Chesalina, [The Reform of Remote Work in Russia](#), Dispatch No. 33 – Russia, 2021.

86 [В Минтруде назвали число работающих пенсионеров в России](#) [The Ministry of Labour has Named the Number of Working Pensioners in Russia], Российская газета [Rossiyskaya Gazeta], 1 September 2019.

87 [В России подсчитали количество работающих пенсионеров](#) [The Number of Working Pensioners in Russia has been Calculated], 25 August 2021.

Russia has a large informal sector, estimated at 20.7% in 2020⁸⁸ with a significant share of self-employed persons. Informally employed persons are lacking labour law protection and protection in case of sickness, but they are still eligible for social benefits not connected to the employment status (family benefits, social assistance). Furthermore, persons working in the informal sector are (or can be) insured in the compulsory medical⁸⁹ insurance system in accordance with the rules for the non-working population.

Migrants (especially those who work/live in Russia temporarily) have been one of the most vulnerable groups⁹⁰ during the pandemic.⁹¹ There are different estimations as to how many migrants were in Russia before the pandemic and how many of them had to leave Russia during the pandemic. According to one estimation, there were 3.5 million official migrants and additionally between 3 and 5 million undocumented migrants.⁹² According to another estimation, there were between 9 to 12 million migrants (official as well as undocumented) until April 2020, and after the beginning of the pandemic there were between 7 and 8 million migrants remaining in Russia.⁹³ Many of the migrants had lost their jobs and their accommodation and were at an elevated risk of exposure to coronavirus. Foreign citizens, including migrants, have no access to social assistance. Migrants temporarily residing in Russia are eligible to sickness payment only if their employer or their employers (if they changed jobs) has/have paid insurance contributions for them not less than six months

88 Cit. of Karpushkina/Danilova/Voronina/Savelieva, [Assessing the Impact of Employment in the Informal Sector of the Economy on Labor Market Development, Sustainability](#) 2021, 13, 8435.

89 [Федеральный закон № 326-ФЗ от 29 ноября 2010 г. «Об обязательном медицинском страховании в Российской Федерации»](#) [Federal Law No. 326-FZ of 29 November 2010 “On Compulsory Medical Insurance”], Art. 23, 24.

90 The other group is that of homeless persons.

91 Cook/Twigg, Can Russia’s Health and Welfare Systems Handle the Pandemic?, *Current History*, 119/819, 2020, p. 255.

92 Sychenko, Введение [Introduction], *Правовое регулирование социально-трудовых отношений с иностранными гражданами: междисциплинарный подход: монография. Под общ. ред. Хохлова/Сыченко* [Khokhlov/Sychenko (eds.), *Legal Regulation of Social and Labour Relations with Foreign Citizens: An Interdisciplinary Approach: A Monograph*], 2019, p. 14.

93 Sedlov/Kubishin/Soboleva (supra fn. 21), p. 64.

(in total) before the illness⁹⁴; they are not eligible to maternity or family benefits (ordinary and extraordinary) and pensions.⁹⁵ In fact, before starting to work, foreign citizens temporarily residing in Russia have to submit to the employer a voluntary health insurance contract (policy) valid in Russia. In the context of the pandemic, from 15 March 2020 until 15 June 2021⁹⁶ the following regulations were suspended/prolonged: the periods of the temporary stay, the temporary or permanent residence of foreign citizens and stateless persons in Russia, and of the validity of documents (visa, residence permit and so on). For this period, migrants were exempted from monthly payments (charges) for work permits (“patents”). Despite the fact that the permit costs devour a significant part of their income, these measures were/are not sufficient to prevent in-work poverty and to support unemployed people who were left without a livelihood.⁹⁷

5. Conclusion

The coronavirus pandemic has put the economy, the labour market and the social security system in Russia through a severe stress test. Since the beginning of the pandemic, the authorities have introduced a wide range of support measures to help businesses mitigate the impacts of the pandemic. Russian legislation does not provide for an unemployment insurance and an instrument like “short-time work”. However, wage subsidies and wage loans introduced since 2020 fulfil the same function as short-time work in Germany or new job retention schemes in Denmark or the UK: to support the viability of businesses and maintain employment.⁹⁸ However, the level of such support (in the amount of a minimum wage per employee) was/is not sufficient and adequate to fulfil its functions. In general, the measures to support the economy are still not sufficient to keep businesses afloat and to maintain workplaces. Almost all measures

94 Filippova, Обязательное социальное страхование иностранных граждан в РФ [Mandatory Social Insurance for Foreign Nationals in the Russian Federation], in: supra fn. 87, p. 266 et seq.

95 Other treatment for the purposes of social insurance can be provided for by way of international agreement (e.g. between GUS or EAEU member states).

96 Указ Президента РФ № 274 от 18 апреля 2020 г. [Executive Order of the President of the RF No. 274 of 18 April 2020].

97 Lyutov/Davletgildev, (supra fn. 12).

98 Seemann/ Becker/ He/ Hohnerlein/ Wilman, *Protecting Livelihoods in the COVID-19 Crisis: A Comparative Analysis of European Labour Market and Social Policies*, Global Social Policy, 2021, p. 14.

intended to protect businesses have a temporary character; only the reduction of social contributions for SMEs has the potential to be of permanent character.

Until now, at least two stages in adapting different (economic, social and labour market) measures can be distinguished. At the first stage, during the first wave of the pandemic, temporary measures were relatively generous. Since 2021, the level of many ad hoc and of some permanent benefits⁹⁹ was reduced; the conditions for entitlements (to social benefits like unemployment benefit and means-tested family benefits as well as for temporary economic instruments like loans) were tightened.

Plenty of new ad hoc cash social benefits and temporary increases of the level of existing benefits were implemented to compensate lost income, i.e. as temporary measures of crisis compensation. Hereby, the level of some important social benefits (the maximum level of unemployment benefit; monthly childcare benefit for children up to 18 months) was increased permanently. The need to increase their level was discussed even long before the pandemic, but only the coronavirus crisis triggered their increase. The level of sickness benefits was increased temporarily but the sickness benefits were/are used in a more universal way and are dedicated to compensating lost income for persons who were ordered the regime of self-isolation or quarantine. The state has resorted to the targeted social support for families through ad hoc measures (lump sum benefits) and has not created or expanded universal social support mechanisms (social assistance). Unlike many European countries, in Russia the self-employed are covered by the unemployment benefits scheme. However, the level of unemployment benefits for the self-employed is insufficient even to protect against poverty.

The implemented support measures have not changed the architecture of the social security system in Russia but rather entrenched/underlined some of its existing features:

- fragmentation of the social insurance system and the social security system (*система социального обеспечения*) and resorting to cash lump sum benefits from the state (or regional) budget during the crisis situation;
- the social security system is still tailored to salaried employment;
- in Russian social security law, the majority of scholars (and also practitioners) include into the systems of family benefits insurance bene-

99 E.g. unemployment benefits.

fits as well as benefits from the state budget, including means-tested benefits. For this reason, in the literature, the introduction of new means-tested family benefits is considered as the expansion of support measures for families with children and not as an expansion of social assistance;

- the unemployment benefit is granted to many categories of unemployed persons, including the self-employed, but does not fulfil the function of income replacement nor of protection against poverty;
- other social benefits (in particular, many kinds of non-means-tested family benefits) can in the best case protect against poverty, but also not replace lost income;
- foreign citizens are excluded from social protection benefits (apart from coverage in some social insurance schemes);
- self-employed persons, migrants and homeless people belong to the most vulnerable groups.

Until now, the transformation from the Soviet system of social protection to a comprehensive social insurance system has not yet been completed in Russia. If the coronavirus pandemic takes longer, it may lead to further developments toward more social protection through budget-financed social payments to certain groups rather than to the extension of the social insurance system.

During the pandemic, the state resorted to different internalising measures, in particular, for job retention and also to ensure the sanitary and epidemiological well-being of the population (in particular “non-working paid days” were introduced). The imposition of additional duties and financial obligations on employers during the pandemic was highly debated/criticised in Russia.¹⁰⁰ However, there is a lack of legal discussion or claims, from the point of view that this instrument may interfere with the fundamental rights of employers and concerning the legal justification for the financial and factual responsibility of the employer for the fulfilment of a task in the public interest (beyond the duties arising from the employment relationship). As is already known from the past¹⁰¹, employers try to keep their labour costs as low as possible and try to shift them to employees by violating the labour and social legislation. As past experience has shown, sooner or later, as a reaction to such practice, the state, apart

100 Lyutov/Davletgildeev, (supra fn. 12); Golovina (supra fn. 15); Sychenko (supra fn. 16).

101 See Chesalina/Becker, *Die Verantwortung des Arbeitgebers für den sozialen Schutz in Russland*, 2018.

from monitoring the enforcement of regulations, has to intervene and take back its part of the responsibility¹⁰² and/or provide state guarantees¹⁰³ and/or modify/ease the respective burdens on employers. Such an easing of burdens has already occurred concerning the regulation of non-working days by permitting the employers to determine themselves the number of employees who may work despite of “non-working paid days”.

102 From 2006 to 2021, the employer had to pay sickness and maternity benefits to employees. Since many cases of non-payment of benefits were reported, the state had to intervene. Starting from 2012 in the framework of pilot projects, finally since 1 January in 2021 in the whole country, this duty was shifted back to the Social Insurance Fund, cf. Federal Law No. 243 of 3 July 2016.

103 In 2007, the Constitutional Court of the RF derived from the constitutional right to social security and the equality principle a state obligation to pay unpaid pension contributions on behalf of the employer if enforcement of the contributory debt from the employer was not possible.