



Judicial Institutions and Legal Services in the Post-COVID Period

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Services as a type of economic activity are likely to suffer the most losses due to the coronavirus pandemic, as one of the characteristics of services is the close interaction between the customer and the producer providing the service. Thus, consumer services, beauty salons, hairdressing salons, consulting, and tourist services suffered more because of the lockdown than other sectors of the economy. Legal services were no exception, which during periods of crises, on the contrary, reveal an increase in demand due to non-payments, violations of contractual obligations, non-fulfillment of delivery conditions, etc.

Legal services should be viewed from several points of view. Thus, the consideration of disputes and the punishment of the guilty are attributed to the competence of the courts, and the activities of the institutions

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of the judiciary require separate consideration from the services of legal bureaus, private lawyers, notaries, and advocates.

Like any other crisis, the coronavirus caused a wave of claims to the court from citizens and legal entities, however, due to the lockdown, the institutions of the judicial system were forced to suspend their activities, which caused a slowdown in the consideration of claims in courts. The post-COVID period is characterized by a decline in the quality of judicial procedures and verdicts, since the courts are forced to consider not only current claims, but also those previously postponed due to the pandemic.

At the same time, the legal business, as a service sector, experienced all the negative consequences of a lockdown. Not all firms were able to resume their activities, as running costs in the absence of customers and profits simply ruined them. However, there were also those who were able to organize the online work of law offices, when lawyers consulted and prepared documents remotely, and law offices raised fees by reducing their share of profits, but increasing new clients by actively attracting them through online advertising.

The institutional method of state legal science proposed by Professor Osipov was used by us in this work to show how the structure and market architecture of the legal services market has changed in connection with the pandemic, as well as to predict the digitalization of legal business in the long term. We have used the same method to characterize the activities of the institutions of the judiciary during the pandemic and post-COVID period. The institutional method of statehood science is a special, real, complementary, synthetic, structural, and functional method of legal science, which serves to determine the normative and actual scope of powers of the state apparatus and its individual parts, branches of government, institutions, and personalities exposed by power (positions) and connections between them (Osipov, 2021b).

The activities of the courts during the coronavirus pandemic were considered in (Baldwin et al., 2020; Finck, 2020; Gonzalez, 2020; Greener, 2021; Gürses, 2021; Harris, 2020; Hecht et al., 2020; Legg, 2021; Liu, 2020; McIntyre et al., 2020; Puddister & Small, 2020; Romano, 2020). Human rights and state's behavior at the pandemic were in the focus of research of Botherway (2020), De Souza and Lima (2020), de Vasconcelos et al. (2020), Gori and Pahladsingh (2020), Jovičić (2020), etc. Economic crisis as follower of pandemic and its influence on court system were discussed in studies of Saurugger and Terpan (2020), Smyth et al. (2020), Wonyra et al. (2021).

As logic, experience, and research of the classics of the economic theory dictate to us, business reacts faster to changes in the external environment, adapts to new conditions than the state and its bodies do. It follows that the ways, means, tools, and mechanisms of adaptation of the institutions of the judiciary and legal business are different from each other. In this study, we will consider the mechanisms of adaptation of the judiciary and law firms, highlight the characteristic features of the adaptation process, general and specific points in it.

The institutions of the judiciary constitute a branch in the separation of powers. Great Montesquieu proposed this principle, and there is no reason to believe that in the modern world it is outdated and irrelevant. The judiciary, as before the pandemic, is responsible for law enforcement, dispute resolution, and the use of legal violence against lawbreakers (Bogoviz et al., 2020a, 2020b; Dahl, 1989; Lloyd, 1964; Mathieu, 2017; Sells, 2014; Waldron, 2012).

The courts consist of judges who, like all people, were in remote access during the pandemic. These people can also get coronavirus, like everyone else, and just like everyone else, they do not want to get infected. In this regard, the closure of courts for proceedings appears to be the norm within the framework of pandemic lockdown. As a result, a sharp suspension of the consideration of court claims, the issuance of verdicts, the issuance of writs of execution, court orders, etc.

The closure of borders between states significantly reduced the volume of international cooperation, which affected the consideration of the following categories of claims: international arbitration, interstate disputes, and disputes over the maritime law (Andhov et al., 2019).

It should be noted that the courts quickly took advantage of the success of the digitalization of public administration and moved to consider civil and administrative claims remotely (Osipov, 2021a). The submission of materials to pending claims, as well as new claims, has been automated. On the Internet platform of the judicial system, it is possible to file a claim electronically after an identification procedure. The case with the consideration of criminal claims was more complicated, since an in-person presence is required to give explanations.

The institutional basis for the suspension of the activities of the judicial system was the joint Resolution of the Presidium of the Supreme Court of the Russian Federation and the Council of Judges of the Russian Federation dated March 18, 2020, No. 808 “On the suspension of personal reception of citizens in courts”, which established that from March 19,

2020, to April 10, 2020, legal proceedings will be carried out in a limited mode.

The limited mode included the suspension of personal reception of citizens in courts; recommendation to citizens and legal entities to submit documents only through electronic Internet receiving courts or using postal services, in particular the Russian Post. The courts were ordered to consider only those categories of claims that are of an urgent nature (on the selection, extension, cancellation, or change of a preventive measure (or restriction), on the protection of the interests of a minor or a person recognized as legally incompetent in the prescribed manner, in the event that the legal representative refuses medical intervention necessary to save life, etc.), as well as in the order of simplified proceedings.

In practice, simplified proceedings have also been suspended. By the same decree, the courts were ordered, if it was technically possible, to initiate the consideration of claims by using videoconferencing systems. The last paragraph of the Resolution opened the possibility for a quick transition of the judicial system to digital platforms for the provision of public services—access to justice. Practice has shown that not all courts followed the instructions contained in the Resolution, and some courts continued to consider claims after March 19, 2020, without the presence of the parties or their plenipotentiaries.

It should be noted that the trial of the claims in the absence of the parties, without proper notification and without their consent to be trialed in their absence, constitutes a limitation of the right to access to justice and a fair trial (Article 47 of the Charter of Fundamental Rights of the European Union).

The violation of the right to access to justice was also expressed in the fact that some courts ignored the recommendation of the Supreme Court of the Russian Federation and the Council of Judges of the Russian Federation to citizens and legal entities to submit documents only through electronic Internet receptions of courts. Thus, the Moscow Arbitration Court did not accept documents through the electronic Internet reception “My Arbitrator” from March 27, 2020, to April 06, 2020, by order of the Chairman of the Moscow Arbitration Court dated March 26, 2020, No. 6-k. The recommendation of the Supreme Court of the Russian Federation and the Council of Judges of the Russian Federation indicated the possibility of sending documents to court using postal services, but post offices were also closed due to the lockdown. It is important that the judicial authorities did not suspend the statute of limitations due to the

pandemic and the lockdown, which, together with the lack of access to court procedures, could lead to violations of the rights of access to justice. The restoration of the missed statute of limitations was possible only if the party to the claim had medical documents about the coronavirus disease.

Decree of the President of the Russian Federation of March 25, 2020, No. 206 “On the announcement of non-working days in the Russian Federation” established that the period from March 30 to April 3, 2020, becomes non-working, with the employees retaining their wages for this period. This period was prolonged many times. It is important to note that the Presidential Decree does not apply to employees of continuously operating organizations; medical and pharmacy organizations; organizations providing the population with food and essential goods; organizations performing urgent work in emergency conditions, in other cases, endangering the life or normal living conditions of the population; organizations carrying out urgent repair and loading and unloading work.

As we can conclude, legal services, notary services are not classified as continuously operating, and therefore are subject to closure on lockdown. Some notary offices continued to operate as notary offices on duty. They had to inform the Notary Chamber of the constituent entity of the Russian Federation about this, which posted the relevant information on its Web site for clients.

Notarial activities and attestation can’t be carried out remotely, since the notary is obliged to verify the legal capacity and identity of the client, in addition, the notarial act itself can’t be performed remotely. It follows that the majority of notaries could continue consulting activities, but they could not carry out notarial acts themselves, which was reflected in the economic activity, including registration actions, amendments to the constituent documents of legal entities, etc. The suspension of notarial acts significantly complicated the exercise of citizens’ powers to draw up wills—this could have been done with great difficulties by the notaries on duty, for whose services the demand had grown sharply. Accordingly, citizens who had risks to their health or life could not prepare for the execution of their will in the event of opening an inheritance.

Separately, it should be noted the complexity of the activities of trustee of a bankrupt’s estate and creditors of companies and individuals to collect debts. Self-regulatory organizations of insolvency practitioners were forced to send appeals to the federal authorities to clarify the procedure for their activity during a pandemic. This contour of affairs indicates that the pandemic and lockdown have led to the fact that all meetings of

creditors, all procedures carried out in the framework of bankruptcy cases can be challenged in the arbitration court as carried out in violation of the order of work during a pandemic.

The tax authorities also stopped accepting citizens and representatives of legal entities in connection with the decree of the President of Russia on the announcement of non-working days during the pandemic, however, the time corridor for submitting tax reports was expanded. Thus, the tax authorities tried not to create difficulties for taxpayers and did not create grounds for filing claims in arbitration courts. Here it should be noted the positive approach of state bodies to solving the problems of taxpayers caused by the lockdown.

The attorney's and lawyer's companies, as we noted above, quickly adapted to the difficult working conditions during the pandemic. Here messengers and human-centered design machines (HCDM: Zoom, TrueConf, Skype, etc.) played a great role. Clients were sympathetic to working with their lawyers and attorneys online, because the main thing was that clients received the necessary legal assistance and even in a shorter time frame than before the pandemic. The digitalization of the legal business accelerated thanks to the pandemic and lockdown, because the service industry simply had no other choice to provide communication channels with their clients.

An example of a successful exit from a lockdown and even rapid development in the post-COVID period was demonstrated by a new form of interaction in the triangle of "attorney's business -lawyer (attorney)-client" in the form of a cloud-based lawyer service. Cloud-based lawyer firms have been providing online services to clients since the turn of the century, such as the American firm FisherBroyles. The online format for the provision of lawyer services immediately became their feature. The same feature in the banking business is possessed by Tinkoff Bank, which does not have offices for customer service, since all financial services are performed online using the bank's web application (Konina, 2021).

LegalTech turned out to be a winning strategy during the pandemic and post-pandemic period, as during the pandemic clients managed to get used to the new format of providing the legal services they need. Cloud-based lawyer's firms were not only able to predict the direction of development of this specific service market, but also in time to hire lawyers and attorneys who appeared on the remote mode, forced to obey the rules of the lockdown. For lawyers, the choice was obvious—it is better to work for a cloud service than not to work and not receive a salary

at all. While lawyer's firms scrambled funds to pay for idle offices and downtime, cloud-based lawyer's firms hired new employees, expanded their advertising, and built a client base.

It turned out that lawyers were not only comfortable working from home online using human-centered design machines, but also much more profitable compared to offline, because cloud-based lawyer's firms offered higher fees. The distribution of customer payments went up to 20% to the cloud-based firm and 80% to the lawyer/attorney. For comparison, pre-COVID era law firms offered lawyers 20–35% and kept the rest for themselves. It is important to note that lawyers quickly got used to the new conditions of remuneration for their labor, and in the post-COVID period they are unlikely to return to their old conditions. For a cloud-based lawyer's firm, it turned out to be profitable not only to attract clients through advertising and social networks and Internet platforms, but also to reduce the “organizational” costs and shift them to lawyers who had to deal directly with the client. Due to economies of scale, cloud-based lawyer's firms were able to show high financial results during the pandemic and post-COVID periods, which confirms the viability of the new architecture of the lawyer's services market.

High motivation and fees of lawyers, freedom to manage their time and methods of communication with clients were complemented by an increase in the efficiency of their job by optimizing work processes, more convenient organization and rest time, as well as more comfortable working conditions due to the employer's trust in their decisions, which are very essential for professionals.

Classic lawyer's and attorney's firms are faced with the need to retain employees (especially professionals) in the post-COVID period, to make significant efforts to create more comfortable and profitable working conditions so as not to lose their business completely, especially after the disastrous year 2020 (Osipov et al., 2020). It should be noted that classic lawyer's and attorney's firms did not actually have the same volume of work until mid-2020 and were limited to consulting their clients, drafting documents, and preparing for the resumption of litigation. Such activities were not very profitable, but rent payments, taxes, and wages were subject to monthly payments. Around the middle of summer 2020, the demand for legal services began to recover, and for some firms even returned to the before pandemic level. This is typical for those lawyer's firms whose client base is very limited, sustainable, and the relationship with clients is deeply business in nature, so that clients are not ready

to change their lawyers and attorneys, to which they are accustomed over the years of cooperation. Nevertheless, even classical lawyer's firms had to master the digital technologies of LegalTech and maintain their use in the post-COVID period, as clients got used to the new format of communication with consultants and the speed of responses to their inquiries on legal problems. It uses popular messengers for communication between clients and lawyers, and human-centered design machines for online consultations at the moment a client's need arises. This is how the value co-creation system was formed in legal business services. The client became involved in the process of providing the service more deeply than was typical for the before pandemic period.

We can't ignore the fact that in 2020, many clients and lawyers got the coronavirus infection or receive a vaccine against the virus in the first quarter of 2021, which opened up opportunities for offline communication between clients and lawyers in the habit format. However, the architecture of the market has already changed and the clientele turned out to be focused on online quick consultations.

It turned out that a lawyer may well work without an office, since the digitalization of processes, which significantly accelerated during the pandemic, showed the inefficiency of the traditional approach in terms of time and financial costs. It turned out that an effective result of interaction between a client and a lawyer can be achieved faster, with less cost, without unnecessary time wasted.

Some cloud-based lawyer's services are owing to the pandemic for expanding their businesses and re-architecting the legal services market that could not have happened so quickly without the pandemic.

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