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**Fundamentals of public law prevention of the spread of infectious diseases among
the population of the Russian Federation**

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5.1.2. Public Law (State Law) Sciences

GENERAL DESCRIPTION OF THE THESIS

Problem Statement and Relevance. The experience of states infighting the pandemic of the new coronavirus infection SARS-CoV-2 (2019-nCoV) has demonstrated the gaps in statutory regulation and administration of all spheres of public life in the face of the threat of the infectious diseases dissemination. As of 2023, the COVID-19 virus has resulted in the loss of between 17 and 30 million lives. The COVID-19 pandemic has become the most significant since the Spanish flu pandemic of 1918-1920.

Nevertheless, the origin of the virus remains uncertain, and there are ongoing debates regarding its possible artificial creation and dissemination. On January 31st, 2020, two cases of COVID-19 were reported in the Russian Federation. However, even prior to this date preparatory actions for dealing with the infection had begun in Russia, drawing on the expertise of other countries where cases of the disease had already been identified and steps taken to prevent the spread of infection.

Since that date the lives of the country and every citizen have been divided into a before and after COVID-19. The pandemic had become a catalyst for transformation in public relations, raising questions for the state and society that have yet to be addressed.

One of the main issues is the necessity of legal regulation of public health care actions of the prevention the spreading of infectious diseases. The pandemic has accentuated regulatory gaps and inconsistencies that were “latent” during a period of a relative calm. Concurrently it has coerced the executive and legislative branches to devise completely new methods of public management of public relations considering both contemporary advances and those that have become significant menace during the pandemic, such as increased mobility, population density and drug resistance. Simultaneously, certain existing emergency response measures in the context of epidemics and pandemics have proven to be inadequate for a variety of both objective and subjective political reasons.

Significant changes in public affairs were also reflected in the amendments to the Constitution of the Russian Federation in 2020. In plenty relations these changes had

originated well before the pandemic, but the pandemic became their accelerator and further exacerbated many issues that had not been resolved for years.

At the commencement of the pandemic in January 2020, there was an alteration in the structure of the government of the Russian Federation, with a new prime minister, Mikhail Mishustin, taking office. The new government needed to react quickly to rapidly evolving and previously unforeseen circumstances that posed a direct threat to the country's national security. The COVID-19 pandemic in 2020 became corresponding challenge.

These substantial alterations in public affairs had a direct impact on the fundamental regulation of public affairs in general - constitutional and legal relations, and the constitutional and legal position of individuals. The COVID-19 pandemic has brought to the forefront issues regarding guarantees of certain fundamental constitutional rights of citizens, including the right for life, access to healthcare, freedom of displacement and freedom of expression.

Throughout the pandemic there had been an increased focus on the issue of power distribution between federal, regional, and municipal authorities. The application of existing legal regimes, which restricted the constitutional rights of citizens and the authority of governmental bodies, has also become more relevant.

The specific attribute of the COVID-19 response has been characterized by the fact that it has impacted the fundamental human right to life, creating a constant political conundrum between actions to combat the pandemic and actions to protect human rights.

Additionally, the COVID-19 outburst has been the first instance in modern history where all states have been forced to close their borders and restrict movement within their own countries and those of foreign citizens. The closure of borders and disruptions to logistics chains have, in addition to creating a humanitarian medical crisis, also led to an economic crisis. Measures taken locally to combat the spread of infection have also contributed to this economic crisis, including remote working hours, quarantine measures, sick leave, and the use of specialized protective equipment in the workplace to prevent infection.

In this circumstances it has become increasingly important to study the public legal framework for preventing the spread of infectious diseases in the Russian Federation, drawing on experience gained from countering the COVID-19 pandemic.

In their research, scientists have explored various aspects of the concepts of biological and infection safety, the content and challenges of implementing the constitutional right to health care and medical assistance, the relationship between the terms "prevention," "prophylaxis," and "protection" bioethical considerations in ensuring the constitutional right to healthcare, and medical assistance. They have also examined the Russian unified system for preventing and responding to emergency situations, systems of healthcare institutions that provide infection safety, and the balance of powers between the federal, regional, and municipal levels of government in this regard. In recent years, there has been an increasing trend in Russian scientific research on the constitutional and legal aspects of preventing the spread of infectious diseases. This research considers the current context of the fight against COVID-19. Scientists are exploring the impact of government measures to prevent infection on citizens' constitutional rights, examining the legality of mass vaccination, considering the potential of digitalization in the field of infectious disease prevention, analyzing the experience of public authorities during times of high alert, and generally during acute phases of the pandemic. This analysis includes consideration of the positions of supreme judicial authorities. At the same time, the body of knowledge has not developed the fundamental legal and interdisciplinary concepts necessary for the development of a systematic approach to this phenomenon. The concept of the term "prevention" has not been thoroughly examined, and there has been no in-depth research into the concepts of "communicable diseases", "communicable threat", or the prevention of communicable diseases as a systemic process that encompasses stages of activity implementation.

The issue of the legislative framework governing public relations in relation to preventing the spread of communicable disease has not been adequately addressed in the academic literature. Generally, the body of literature does not contain works that summarize patterns of activity to prevent the spread of communicable diseases,

considering their interdisciplinary nature, diversity, and their significant impact on ensuring fundamental constitutional rights.

Degree of scientific development of the problem. Special studies aimed at studying the public legal regulation of the prevention of the spread of infectious diseases in the Russian Federation have not been conducted.

Among the scientific works dealing with aspects of the public legal regulation of the prevention of the spread of infectious diseases in the Russian Federation, as well as special legal regimes (in terms of high-alert regimes, emergency situations), the works of such researchers as S.N. Alekseenko, V.A. Andryushenkov, V.E. Bezsmertny, M.A. Gromov stand out, A.A. Gromyko, A.M. Jafarov, A.I. Donskova, E.V. Epifanova, N.G. Zhavoronkova, A.I. Zemlin, S.I. Konev, O.I. Kubar, E.V. Lungu, E.B. Luparev, L.B. Moskvina, A.A. Mokhov, G.G. Onishchenko, A.V. Pekshev, A.Yu. Popova, N.A. Samokhvalov, V.P. Toporkova, G.R. Fakhrutdinova, E.V. Shatokha, Yu.G. Shpakovsky, S.A. Yakovlev. and other scientists.

Certain aspects of the research area under study in terms of the concept of infectious diseases, the categories "prevention", "prophylaxis", "protection", the features of the prevention of infectious diseases in institutions of the Federal Penitentiary Service, the content of the constitutional right to health protection and medical care, the bioethical aspect of preventing the spread of infectious diseases were considered respectively by such researchers as S.N. Alekseenko, E.V. Drobot, A.V. Shvedko, A.I. Melikhov, Yu.V. Mikhailova, A.K. Teokharov, G. Batbold, E.V. Shatokha, V.V. Puchkova, O.I. Kubar, S.Yu. Shevchenko, E.V. Bryzgalina.

The concept of biological safety was formed and studied by G.G. Onishchenko, V.Yu. Smolensky, E.B. Yezhlova, Yu.V. Demina, V.P. Toporkov, A.V. Toporkov, M.N. Lyapin, V.V. Kutyrev. A.N. Lopanov raised the issues of infectious safety in his research.

The works of foreign legal scientists F. Gibelli, G. Ricci, A. Sirignano, D. De Leo, B.A. Cigler, J.G. Hodge, J.L. Piatt, L. Barraza., P. Trzaskawka, J. Kic-Drgas, P. DaęBrowska are also devoted to the topic of preventing the spread of infectious diseases and understanding the experience of countering the spread of COVID-19-Kłosińska and others.

It should be noted that the research is fragmented, since the works, as a rule, studied certain aspects of the concept of biological and infectious safety, the content and problems of implementing the constitutional right to health protection and medical care, the relationship of the terms "prevention", "prophylaxis", "protection", bioethical aspects of ensuring the constitutional right to health protection and medical care assistance, the issues of emergency situations, the system of medical institutions providing infectious safety were considered, the issues of the correlation of the powers of the federal level of government and the regional and municipal levels of government.

At the same time, the doctrine has not developed the basic legal and interdisciplinary categories necessary for the formation of a systematic approach to the phenomenon – the concept of the category "prevention" has not been considered, there is no in-depth study of the concepts of "infectious diseases", "infectious threat", there are no systematic studies of activities to prevent infectious diseases. The issue of the system of legislation regulating public relations in the field of preventing the spread of infectious diseases is not fully considered in the scientific literature. In general, the doctrine does not present works in which activities to prevent the spread of infectious diseases are summarized considering its interdisciplinary nature in conjunction with the role of guaranteeing the basic constitutional rights of citizens.

In Russian science legal studies of certain aspects of the public legal foundations for preventing the spread of infectious diseases, considering the period of the fight against COVID-19, have become increasingly common in recent years. In recent publications, scientists are trying to understand the impact of measures taken by the state to prevent the spread of infection on the guarantees of constitutional rights of citizens, consider the legality of universal vaccination and the prospects for digitalization of the sphere of preventing the spread of infectious diseases, as well as analyze the experience of implementing the powers of public authorities at different levels during the period of high alert and in general during acute phases of the spread of the pandemic, including taking into account the positions of the highest judicial authorities.

The purpose of the study is to identify patterns and features of the state's activities to prevent the spread of infectious diseases based on a comprehensive analysis of the

public legal foundations for regulating activities to prevent the spread of infectious diseases, allowing to form a holistic view of the system of preventing the spread of infectious diseases in the Russian Federation and to propose potential directions for its development.

To achieve this, the following **tasks were solved within the framework of the study**:

- to consider the meaning of the term "prevention" within the context of the doctrine and legal regulation in the Russian Federation;
- to identify approaches to the concepts of "infectious diseases" and infection control in scientific and legislative terms;
- to establish the stages and content of measures implemented to prevent the transmission of infectious diseases;
- to examine the essence of the constitutional right to health care and the role of preventive measures in ensuring this right;
- to analyze the current regulatory framework in Russia for preventing infectious diseases and identify patterns in its internal structure that reflect its consistency;
- to review materials from judicial decisions in the area of infectious disease prevention and determine the role of court rulings in shaping common approaches to preventing infectious diseases;
- to identify and analyze the ethical aspects of measures to prevent the spread of infectious diseases, using the example of combating the spread of COVID-19, while considering current ethical frameworks in the field;
- to determine the nature and content of a system for preventing infectious disease transmission in the Russian Federation;
- to develop practical recommendations to enhance the system for controlling infectious diseases and their regulatory framework.

The object of the research is public relations in the sphere of implementation by public authorities and other subjects of activities to prevent the spread of infectious diseases.

The subject of the research is the current normative legal acts of the Russian Federation regulating the procedure for preventing the spread of infectious diseases and ensuring guarantees of certain related constitutional rights of citizens, relevant scientific and monographic literature, materials of law enforcement and judicial practice.

Sources of dissertation research are divided into the following groups:

1) regulatory legal acts. This group of sources includes the legal basis of the study. The study uses international legal acts, the Constitution of the Russian Federation, federal constitutional laws, federal laws and other regulatory legal acts, the regulatory regulation of which affects the subject of the study – the prevention of infectious diseases. One of the main domestic normative legal acts directly regulating the public relations in question are: Federal Constitutional Law No. 3-FKZ of May 30, 2001 "On the State of Emergency", Federal Law No. 68-FZ of December 21, 1994 "On the Protection of the Population and Territories from Natural and Man-made Emergencies", Federal Law of March 30, 1999 No. 52-FZ "On Sanitary and Epidemiological welfare of the population", Federal Law No. 492-FZ dated December 30, 2020 "On Biological Safety in the Russian Federation".

2) materials of judicial practice. This group of sources includes court decisions affecting the subject of the study. The most significant judicial decisions for the study are: Resolution of the Constitutional Court of the Russian Federation dated December 25, 2020 No. 49-P¹, Resolution of the Presidium of the Supreme Court of the Russian Federation, the Presidium of the Council of Judges of the Russian Federation dated April 8, 2020 No. 821². The study also used indirect references to other significant court decisions that were considered in the works of other researchers³.

¹ Resolution of the Constitutional Court of the Russian Federation dated 12/25/2020 No. 49-P "In the case of verifying the constitutionality of subparagraph 3 of paragraph 5 of the Decree of the Governor of the Moscow Region "On the introduction of a high-alert regime in the Moscow Region for the management bodies and Forces of the Moscow Regional Emergency Prevention and Response System and some measures to prevent the spread of a new coronavirus infection (COVID-2019) on the territory of the Moscow region" in connection with the request of the Protvinsky City Court of the Moscow region." // Legal reference system ConsultantPlus.

² On the suspension of personal reception of citizens in courts: resolution of the Presidium of the Supreme Court of the Russian Federation, the Presidium of the Council of Judges of the Russian Federation dated April 8, 2020 No. 821 // Legal reference system ConsultantPlus.

³ *Lebedev V.A.* Constitutional foundations of restrictions on human and civil rights and freedoms // *Lex Russica*. 2017. No. 1 (122). pp. 130-139.

3) dissertations and abstracts of dissertations. The dissertations and abstracts of dissertations contain some of the most generalized and systematized views on the subject of research. The classification of special legal regimes in the Russian Federation is taken from D.M. Brykin's dissertation⁴. Information on the importance of high economic damage from infectious diseases as a factor for criminalizing the spread of such diseases among the population is taken from S.S. Vlasenko's dissertation⁵. In the study of A.K. Teokharova⁶ noted the confirmation of the hypothesis about the high importance of prevention as a stage in countering infectious diseases in modern conditions. The importance of combating diseases dangerous to human health in the context of national security was noted by A.V. Basova⁷. The content of the constitutional right to health protection and medical care is disclosed in the works of T.Y. Kholodova⁸, V.P. Bushueva⁹, E.V. Shleneva¹⁰ and other authors.

4) monographs and textbooks. The basic ideas of disciplines are taken from monographs and textbooks, the study of which addresses the issues of prevention of infectious diseases – "Constitutional Law of Russia"¹¹, "Disease prevention"¹², "Public medical law"¹³. Of particular importance for a comprehensive consideration of the topic of preventing the spread of infectious diseases was the collective analytical

⁴ *Brykin D.M.* Restrictions on the constitutional rights and freedoms of citizens of the Russian Federation in conditions of special legal regimes: abstract of the dissertation of the Candidate of Law: 12.00.02 / Moscow, 2010. 167 p.

⁵ *Vlasenko S.S.* Criminal and legal aspects of countering the spread of dangerous infectious human diseases: abstract of the dissertation of the Candidate of Law: 12.00.08 / Rostov-on-Don, 2011. - 23 p.

⁶ *Teokharov A.K.* Countering infection with infectious diseases: criminal law and criminological aspects: abstract of the dissertation of the Candidate of Law: 12.00.08 / Omsk, 2013. - 19 p.

⁷ *Basova A.V.* The constitutional principle of equality of human and civil rights and freedoms regardless of the state of health in the Russian Federation: abstract of the dissertation of the Candidate of Legal Sciences: 12.00.02 / Penza, 2018. - 35 p.

⁸ *Kholodova T.Y.* Constitutional and legal provision of citizens' rights to health protection and medical care in the Russian Federation: abstract of the dissertation of the Candidate of Law: 12.00.02 / Moscow, 2006. - 23 p.

⁹ *Bushueva V.P.* The constitutional right of citizens to health protection and medical care in the Russian Federation at the present stage: abstract of the dissertation of the Candidate of Legal Sciences: 12.00.02 / Moscow, 2006. - 26 p.

¹⁰ *Shleneva E.V.* The constitutional right to health protection in the Russian Federation: abstract of the dissertation of the candidate of Legal Sciences: 12.00.02 / Moscow, 2004. - 26 p.

¹¹ *Avakian S.A.* Constitutional Law of Russia. Training course: textbook: in 2 volumes. Volume 1 / S. A. Avakian. — 7th ed., reprint. and add. — Moscow: Norm: INFRA-M, 2021. - 864 p.; Ilyin A.V. Constitutional law of Russia. Author's course // Eksmo. Moscow. 2022 . 448 p .

¹² *Alekseenko S.N.* Disease prevention: a textbook for students of higher educational institutions / S. N. Alekseenko, E. V. Drobot. – Moscow : Academy of Natural Sciences, 2015. - 449 p.; Pilshchikova V.V., Bondina V.M., Gubareva D.A., Puzanova E.A. Disease prevention: a textbook for students of medical and pediatric faculties. / Krasnodar, GBOU VPO KubSMU of the Ministry of Health of Russia, 2016. - 224 p.

¹³ *Luparev E.B., Epifanova E.V.* Public medical law. / Krasnodar: Kuban State University., 2021. 191 p.

interdisciplinary work "Society and the pandemic: experience and lessons from combating COVID-19 in Russia."¹⁴.

5) scientific articles. The study directly used more than 120 relevant scientific articles, including foreign authors. Among the significant conceptual works is a series of articles edited by G.G. Onishchenko "Actual problems of biological safety in modern conditions."¹⁵. The ideas of N.G. Zhavoronkova and Yu.G. Shpakovsky¹⁶ on reforming the public administration system in connection with emergency situations of a new nature, public legal aspects of special legal regimes, etc. were significant for the study. A.A.'s ideas Mokhov's¹⁷ were used in formulating the characteristics of the reaction of the domestic healthcare system during the pandemic and in formulating the conceptual foundations of the infectious disease prevention system in the context of the country's biosafety system.

6) other sources. This group includes mainly sources from the Internet that have a news character, as well as information sources that do not have a material carrier (online dictionaries, statistical data, sites with foreign sources).

Research Methodology and Methods. To accomplish the designated objective of scientific research, both general scientific and private scientific research methods were used.

¹⁴ *Mau V.A., Idrisov G.I., Kuzminov Ya.I., Radygin A.D., Sadovnichy V.A., Sinelnikov-Murylev S.G.* (ed.). Society and the pandemic: the experience and lessons of fighting COVID-19 in Russia. / Moscow: 2020. - 744 p.

¹⁵ *Onishchenko, V.Y.* [et al.] Conceptual foundations of biological safety. Part I / G. G. Onishchenko, V.Y. Smolensky, E.B. Yezhlova [et al.] // Bulletin of the Russian Academy of Medical Sciences. – 2013. – Vol. 68, No. 10. – pp. 4-13.; Onishchenko G. G. [et al.] Actual problems of biological safety in modern conditions. Part 2. Conceptual, terminological and definitional base of biological safety / G. G. Onishchenko, V. Y. Smolensky, E. B. Yezhlova [et al.] // Bulletin of the Russian Academy of Medical Sciences. – 2013. – Vol. 68, No. 11. – pp. 4-11.; Onishchenko G. G. [et al.] Actual problems of biological safety in modern conditions. Part 3. Scientific support of national standardization of a wide format of biological safety / G. G. Onishchenko, V. Yu. Smolensky, E. B. Ezhlova [et al.] // Bulletin of the Russian Academy of Medical Sciences. – 2014. – vol. 69, No. 11-12. – pp. 118-127.

¹⁶ *Zhavoronkova N.G., Shpakovsky Yu.G.* Legal aspects of reforming the public administration system for the protection of population and territories in emergency situations: lessons from the COVID-19 pandemic // Bulletin of the O. E. Kutafin University. 2020. No. 5 (69). pp. 130-142.; Zhavoronkova N.G., Shpakovsky Yu.G. Constitutional and legal regulation of restrictions on human and civil rights and freedoms in Russia in special circumstances // Bulletin of the O.E. Kutafin University (MSAL). 2021. № 4 (80). Pp. 115-124.

¹⁷ *Mokhov A.A.* Biological safety and legal regimes for its provision // Donetsk National University, 2021.pp. 60-65.; Mokhov A.A. On the issue of bioresource centers and biocollections // Business, Management and Law. 2021. No. 1 (49). pp. 26-30.; Mokhov A.A. The concept of four "bio" in law and legislation // Actual problems of Russian law. 2020. № 8 (117) (15). Pp. 146-154.; Mokhov A.A. Principles of legal regulation of the state model of national health care // Actual Problems of Russian Law, 2021. Vol. 16. No. 3 (124). pp. 85-96.

Therefore, the dialectical method made it possible to consider the public legal foundations of activities to prevent the spread of infectious diseases among the population of the Russian Federation in their development, taking into account the interaction of their constituent parts (the constitutional right to health and medical care, regulation of special legal regimes, terminological features of the sphere), as well as with other institutions of constitutional law (issues of the constitutional process, application of the powers of public authorities of the subjects of the Russian Federation) and other branches of law (administrative and criminal liability as instruments that form sanctions for violation of the rules for preventing the spread of infectious diseases).

The abstraction method allowed us to focus on some of the most important points of the study separately from other particular problems of regulatory regulation of the sphere and the exercise by public authorities of their powers for subsequent detailed analysis (in particular, using the abstraction method, the stages of activities to prevent the spread of infectious diseases and its sequence and unity were formulated, a classification of normative legal acts was proposed acts in the field of preventing the spread of infectious diseases).

The generalization method allowed us to draw conclusions as a result of processing the data obtained along with the use of deduction and induction methods (the generalization method allowed us to identify the principles of ensuring biological safety relevant to the field, to identify existing trends in ensuring infectious safety).

Various special methods of cognition were used to write the dissertation, such as historical and legal analysis, formal legal analysis, comparative legal analysis, method of interpretation of legal norms and others.

In particular, the formal legal method was used as the main method for determining significant legal characteristics in defining the concepts of "prevention of the spread of infectious diseases", "infectious diseases", "infectious safety" when analyzing the current regulatory legal regulation. The specifics of special legal regimes of high alert, state of emergency, quarantine, etc. were also analyzed.

The comparative legal method was used to review the experience of regulatory and managerial response to the spread of COVID-19 infection in foreign countries.

The historical and legal analysis made it possible to identify the peculiarities of legal regulation during the period of countering the spread of the COVID-19 pandemic.

Using the method of interpretation of legal norms, the specific normative meaning of the term "prevention" was revealed.

These methods made it conceivable to determine the objectives assigned in the research.

Scientific Novelty of the research is expressed in the development, based on a theoretical understanding of public relations to prevent the spread of infectious diseases and an assessment of their regulatory legal bases, of a generalized systematic approach to activities to prevent the spread of infectious diseases, identify key elements of the system to prevent the spread of infectious diseases, as well as the development of practical recommendations for improving legislation in the field under study to increase guarantees of ensuring constitutional rights to health protection and medical care, the development of predictability and legitimacy of regulatory legal regulation in the context of the emergence and spread of new infectious diseases.

The conducted research expands scientific ideas about the system of preventing the spread of infectious diseases in the Russian Federation by revealing the features of the process of forming this system, identifying trends in the legal regulation of public relations in this area, as well as predicting ways to improve current legislation and subordinate regulatory legal acts. The scientific novelty of the research is reflected in the provisions submitted for protection.

Provisions for defense (Main Results):

1. The expediency of applying in science and legislation a single concept generalizing the group of studied relations "prevention of the spread of infectious diseases", which is proposed to mean the continuous systemic activity of authorized public authorities and other organizations covering the entire process of protecting the population from infectious diseases, including the prevention of the spread of infectious diseases, the elimination of infectious threats and the restoration of public relations to a condition preceding the realization of an infectious threat.

2. The system for preventing the spread of infectious diseases in the Russian Federation is cyclical and includes three stages (levels), each of which has its own specific goals, objectives and tools:

1) prevention of infectious diseases (monitoring of the epidemiological situation and active actions of public authorities to prevent the development of infectious risks and infectious threats in it);

2) elimination of the infectious threat (reduction of the infectious threat to an acceptable infectious risk or its exclusion);

3) restoration of public relations to the state that was in effect at the time of activation of the stage of eliminating the infectious threat (compensation for damage caused, analysis of positive and negative practices, improvement of legislation).

3. The formation and functioning of a system for preventing the spread of infectious diseases should be based on a set of principles. These principles can be divided into general and special ones. At the head of the general principles are the principles of constitutionality, legality and justice, special principles include the following:

- a balance between public safety and individual rights and freedoms;
- priority of reducing infectious threats;
- centralization of the emergency response system;
- constant monitoring of the status of infectious threats.
- taking into account the principles of bioethics in determining restrictive measures.

4. The system of preventing the spread of infectious diseases, which is closely linked to the constitutional right to health protection and medical care, is inherently complex in nature. Therefore, the legal regulation of relations in the field of preventing the spread of infectious diseases should be based on an intersectoral "universal" approach, which provides, in addition to the adoption of special regulatory legal acts on the prevention of the spread of infectious diseases, the integration of relevant norms into regulatory legal acts of various industries and levels of adoption, as well as the creation of conditions for timely adjustment of legislation in the context of the spread of infectious diseases in the within the limits, ensuring respect for human rights and legitimate interests and the security of society as a whole. This will make it possible to form an effective

intersectoral and integrated system that includes legal regulation at the federal, regional and municipal levels.

5. A classification of regulatory legal acts in the field of preventing the spread of infectious diseases is proposed, based on an intersectoral approach to regulating activities and taking into account the high importance and specificity of law enforcement practice in the field of research:

1) according to the level of adoption of norms, which ensures a high-quality and effective distribution of powers between public authorities of different levels (Constitution and normative legal acts of the federal level; normative legal acts of the regional level; normative legal acts of the municipal level);

2) by the level of management, which is necessary to determine a set of appropriate effective measures and criteria (acts of a strategic nature; acts of a tactical nature; acts of an operational nature);

3) by industry affiliation, which creates the necessary conditions for taking into account the complex nature of relations (acts directly regulating the sphere of countering the spread of infectious diseases, acts regulating the sphere of medical activity; acts regulating the sphere of countering the occurrence of emergency situations; acts regulating the sphere of environmental protection; norms providing for liability for offenses in the spread of infectious diseases).

The proposed classification will make it possible to apply regulatory instruments more widely in the course of law-making, while taking into account their specifics for the prevention of infectious diseases and correctly embed new acts into the general system of legislation.

6. The heterogeneity and partial fragmentation of regulation of the studied public relations during the pandemic imposed on the courts both an additional burden and increased responsibility for the decisions made. The quality of court decisions in cases of violation of the high-alert regime introduced during the COVID-19 pandemic was directly related to the following factors:

the court assessed not only formal adherence to the letter of the law, but also the compliance of actions / decisions with the goals, objectives and principles of legal regulation;

The essence of the regulatory changes and their compliance with the unified state policy to reduce the damage caused by the pandemic became priority guidelines.;

Additionally, the increased value of collective public security is indicated in comparison with the value of individual non-absolute rights of specific citizens.

In this regard, during the period of countering the extraordinary circumstances of the COVID-19 pandemic, the role of higher courts in interpreting normative acts has significantly increased, which determined not only the correctness of the application of a particular norm, but also revealed the purpose and essence of the legal regulation of the relations in question. This indicates the exceptional importance of including in regulatory legal acts to prevent the spread of infectious diseases, rules of law establishing the goals and principles of such regulation.

7. The necessity of taking into account the principles of bioethics and assessing the risks of bioethical problems in law-making and law enforcement in the field of preventing the spread of infectious diseases is substantiated.

The analysis of relations during the period of countering the COVID-19 pandemic demonstrates the aggravation of both macro- and microbioethical problems associated with the restriction of certain constitutional rights of citizens, which is either a consequence or a cause of such restrictions.

The study revealed the following factors that caused the escalation of bioethical problems during the pandemic:

1) the absence of regulatory legal acts or the untimely adoption of regulatory legal acts in the field of biosafety;

2) distributive justice in the distribution of resources among the population of large agglomerations and other settlements;

3) the problem of choosing between economic stability and a large number of possible victims;

4) uncoordinated management actions and decisions;

- 5) the problem of reliability of information on the level of morbidity and mortality;
- 6) Inconsistency of management methods and practices;
- 7) problems of personal ethical choice of doctors in the moments of collapse of the medical system;
- 8) possible non-compliance with the principle of informed consent and truthfulness in the vaccination of the population.

Mandatory consideration of these factors in the formation of legal regulation of relations to prevent the spread of infectious diseases and the practice of its application is a prerequisite for the creation of a high-quality management system in the Russian Federation, which cannot be achieved without taking into account the principles of bioethics and risk assessment of bioethical problems.

8. Ensuring the constitutional right to health protection and medical care, setting limits on permissible limitations of constitutional rights in the framework of preventing the spread of infectious diseases should be achieved through the implementation of a set of interrelated legal and organizational measures, including:

- 1) identification and application of indicators of the health system's preparedness for epidemics and pandemics (legal and organizational measure);

- 2) the introduction of criteria for the effectiveness of measures to prevent the spread of infectious diseases, including the development of appropriate methodological documents and regulations in the field of combating epidemics, taking into account effective practices, including those aimed at regulating the collection, analysis and publication of morbidity statistics (organizational and legal measure);

- 3) search for new ways to ensure the right to health protection and medical care, theoretical rethinking and modernization of existing ways to ensure it due to their lack of demand or insufficiency during the period of countering the COVID-19 pandemic (organizational measure);

- 4) the formation of a system of special legal regimes, taking into account the experience of countering the COVID-19 pandemic, the development of unified approaches to delineate criteria for establishing such regimes, methods for assessing the

proportionality of restrictions imposed to emerging threats (legal and organizational measure).

9. It is advisable to introduce and expand the use of digitalization tools for the prevention of the spread of infectious diseases and the emergency response system, as well as create an automated methodology for assessing the economic damage from the spread of infectious diseases, ensuring their implementation and operation with high-quality legal regulation.

The theoretical significance of the research is that it is forming the theoretical foundations of legal regulation of activities to prevent the spread of infectious diseases by identifying its most essential elements, which take into account the prevailing theoretical and practical views on the phenomena under study and take into account to the greatest extent the essential features of the public legal regulation of the system for preventing the spread of infectious diseases, requiring detailed attention. The research provides a basis for further scientific or applied research in the fields of legal regulation of the prevention of infectious diseases, constitutional law, the institute of special legal regimes, and the distribution of powers of public authorities of the Russian Federation.

The practical significance of the research is determined by the possibility of using the results obtained to improve the legislative framework of the phenomenon under study, as well as the application of the studied criteria in law enforcement in case of violation of citizens' rights, in the framework of judicial law enforcement in resolving litigation on violations of the rights to health protection and medical care, freedom of movement, freedom of speech, reliable information about the state of the environment, as well as updating the basics of the academic disciplines "Constitutional Law", "Medical law", "Administrative law", "Legal foundations of national security".

The degree of reliability and approbation of research results.

Based on the results of the dissertation research, the dissertation candidate composed several articles published in academic periodicals including in the list of recommended journals of the National Research University Higher School of Economics (list D), as well as in publications included in the list of peer-reviewed scientific publications in which the main scientific results of dissertations for the degree of

candidate of sciences, for the degree of Doctor of Sciences (list of the Higher Attestation Commission) should be published. The formulated conceptual provisions were reported at the scientific and practical conference "International Scientific Forum "Lomonosov-2021", Moscow (Litovko K.S. Report on the topic: "On the issue of legal regulation in the field of biological safety", 2021.), they were also discussed during the presentation during the preparation of the collective presentation of the project (a report on the topic: "Trends in the development of biological safety") based on the results VIII Winter School of Young Scientists of the O.E. Kutafin Moscow State Law University (MSAL) "Law and Biotechnology" January 25-28, 2022, Moscow.

In addition, certain provisions of the dissertation research were used by the author within the framework of the project "Ethics and Law: correlation and mechanisms of mutual influence" (HSE Basic Research program in 2022).

The approaches outlined in the study were used by the author in the course of practical work at the Ministry of Economic Development of the Russian Federation, the Ministry for the Development of the Russian Far East and Arctic and the Arctic and Far East and Arctic Development Corporation in terms of taking into account the conclusions of the study when improving regulatory regulation, as well as when the author conducts classes in the discipline "Law" ("Legal Literacy") at the Faculty of Creative Industries of the Higher School of Economics.

SUMMARY OF THE WORK

The **introduction** to the dissertation reflects the relevance of its topic, as well as the degree of its development, identifies the subject and goals of the research, sets research objectives, defines the object, subject, and methodology of the research, substantiates the scientific novelty, presents the main provisions put forward for defense, reveals the theoretical and practical significance of the study, provides information about the approbation of the research, and describes the structure of the dissertation.

The first chapter *“Prevention of infectious diseases as a guarantee of the constitutional right to health protection and medical care”* examines the constitutional

right to health protection and medical care during the spread of infectious diseases, the terminological foundations of preventing the spread of infectious diseases, infectious safety, and takes into account the theoretical medical foundations of the epidemiological process, Medical and terminological features are used to formulate the concept of the stages of prevention of infectious diseases and the content of these stages.

In paragraph 1.1 *“The constitutional right to health protection and medical care during the spread of infectious diseases”*, the restriction of the constitutional right to health protection and medical care, as well as certain other constitutional rights during the period of countering the COVID-19 pandemic, is considered, and proposals are formulated to increase guarantees of constitutional rights in the event of infectious threats in the future. Attention is drawn to the need to expand the digitalization of the sphere.

Paragraph 1.2 *“The concept of infectious diseases and infectious safety in science and legislation”* compares the terms "prevention", "prevention", "prevention", concludes that it is advisable to separate these terms and use the term "prevention" to describe the entire process of combating infectious diseases. The term "infectious diseases" is characterized both from a medical and legal point of view. The conclusion is made about the high importance of the fight against infectious diseases and the need to improve infectious safety in order to reduce economic damage and damage to national security. There is a continuing risk of the formation of new infectious diseases. The definition of the term "infectious safety" is proposed.

Paragraph 1.3 *“The concept of the infectious disease prevention system as a guarantee of the constitutional right to health protection and medical care”* examines the stages of activities to prevent the spread of infectious diseases, taking into account the epidemiological patterns of the development of the process of infectious infections. It is proposed to develop and implement in the Russian Federation a single interconnected system for preventing the spread of infectious diseases based on three stages (elements) - prevention of infectious diseases, elimination of the infectious threat, restoration of public relations to the state that was in effect at the time of activation of the stage of elimination of the infectious threat. Each stage has its own goals and objectives, and response tools.

The second chapter “*The legal mechanism for preventing the spread of infectious diseases among the population of the Russian Federation*”, is devoted to the analysis of the system of domestic legislation in the field of preventing the spread of infectious diseases, the powers of public authorities, consideration of relevant court decisions affecting the fight against infectious diseases and the formulation of principles for regulating the prevention of the spread of infectious diseases.

In paragraph 2.1 “*The system of domestic legislation in the field of preventing the spread of infectious diseases*”, regulatory legal acts and certain norms of current Russian legislation in the field of combating the spread of infections are considered.

It is proposed to classify them according to 3 main criteria and types of acts within groups divided by criteria: I. By the level of adoption of norms (norms of the Constitution of the Russian Federation; norms of normative legal acts of the federal level; norms of normative legal acts of the regional level; norms of normative legal acts of the municipal level); II. According to the level of management (norms of a strategic nature; norms of a tactical nature; norms of an operational nature); III. By industry affiliation (norms directly regulating the sphere of countering the spread of infectious diseases; norms regulating the sphere of medical activity; norms regulating the sphere of countering the occurrence of emergency situations; norms regulating the sphere of environmental protection; norms providing for liability for violations (crimes) in the field of the spread of infectious diseases).

It is concluded that the system of Russian legislation in the field of preventing the spread of infectious diseases is intersectoral and complex.

Paragraph 2.2 “*Powers of public authorities in the field of preventing the spread of infectious diseases*” examines the powers of individual public authorities in the field of preventing the spread of infectious diseases, analyzes the specifics of their implementation during the period of countering the COVID-19 pandemic.

In paragraph 2.3 “*Positions of courts in the field of preventing the spread of infectious diseases*”, the main positions of the courts of the Russian Federation are considered, which address issues that are directly or indirectly related to the prevention of the spread of infectious diseases. It is concluded that during the adoption of a large

number of new measures in extraordinary circumstances, the courts were given increased responsibility in interpreting such norms of law, and the decisions of the courts reflected the dynamics and essence of the state's approaches to combating the pandemic.

It is noted that the essence of the regulatory changes, their compliance with the unified state policy to reduce the damage caused by the pandemic, have become priority guidelines. The courts have additionally justified the possibility of restricting certain personal non-absolute rights of citizens in extraordinary conditions in which the risk of causing damage to public safety is too high.

It is noted that the Reviews of the Supreme Court of the Russian Federation on certain issues of judicial practice related to the application of legislation and measures to counter the spread of a new coronavirus infection in the territory of the Russian Federation contributed to the improvement and streamlining of daily law enforcement practice in extraordinary circumstances.

In paragraph 2.4 “Principles of regulation of the prevention of the spread of infectious diseases among the population of the Russian Federation”, the principles on which it is advisable to base the regulation of the system for preventing the spread of infectious diseases are considered.

It is noted that the regulation of activities to prevent the spread of infectious diseases should be based on general legal and a number of special principles. The list of these principles relates to intersectoral guidelines and has a synergistic structure. General principles belong to a group of legal principles, formulated special principles belong to a group of doctrinal principles.

The list of special regulatory principles is formulated, among other things, taking into account the principles highlighted in science for guidance in ensuring biological safety. Such principles include: the need to achieve a balance between public safety and the rights of a particular individual, reducing infectious threats should be the goal of regulation, the emergency response system should be centralized, constant monitoring of the state of infectious threats should be implemented, taking into account the principles of bioethics when formulating restrictive measures. It is possible to reflect the need to take into account the principles of bioethics as one of the principles of health protection.

The dissertation ends **with a conclusion** containing a brief overview of the research conducted.

LIST OF THE AUTHOR'S PUBLICATIONS ON THE SUBJECT OF THE DISSERTATION RESEARCH

Publication in journals included into the National Research University Higher School of Economics Journal List (list D):

1. *Litovko K.S.* Prevention of the spread of infectious diseases as a guarantee of constitutional rights to health protection and medical care in the Russian Federation // Law Enforcement Review. 2023. Vol. 7. No. 2. P. 105-115. 1,23 p.p.;

2. *Litovko K.S.* The right to health protection and medical care in an epidemic conditions // Proceedings of Voronezh State University. Series: Law. 2022. No. 4 (51). P. 96-108. 0.97 p.p.;

3. *Litovko K.S.* Biological safety in Russia: ethical issues // Theoretical and Applied Law. 2022. No. 4 (14). P. 45-53. 1,15 p.p.;

Publications in journals included in the list of reviewed scientific periodicals in which the main scientific results of dissertations for the degree of Candidate of Sciences, for the degree of Doctor of Sciences (list of the Higher Attestation Commission) are published:

4. *Litovko K.S.* Selected problems of legal regulation and restrictions of constitutional rights in the framework of countering the spread of infectious diseases // Herald of the Eurasian Academy of Administrative Sciences. 2022. No. 2 (59). P. 56-61. 0.7 p.p.