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a cura di

MATTEO CORTI

IL PILASTRO EUROPEO DEI DIRITTI SOCIALI E IL RILANCIO DELLA POLITICA SOCIALE DELL'UE

Achim Seifert, Cristina Alessi, José María Miranda Boto,
Fabio Pantano, Vincenzo Ferrante, Massimiliano Delfino,
Mirko Altimari, Matteo Corti, Elena Sychenko



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ELENA SYCHENKO

Social policy in Russia Considering constitutional amendments and Covid as the factors of influence

The foundations of the social policy in Russia have been established in the new Russian Constitution adopted after the fall of the Soviet Union in 1993. According to article 7 of the Constitution, the Russian Federation is a social state whose policy is aimed at creating conditions that ensure a decent life and the free development of a person. Further, the content of the social policy is elaborated in part two of the same article: «In the Russian Federation the labour and health of people shall be protected, a guaranteed minimum wage shall be established, state support shall be provided for the family, maternity, fatherhood and childhood, disabled and elderly citizens, the system of social services shall be developed and state pensions, allowances and other social protection guarantees shall be established». This citation demonstrates that labour law and social security law are one of the keystones for building the social policy of the state.

The issue of social policy is a very challenging one. Despite the decade of steady economic development, inequality and poverty remain the problems which urge action from the authorities. In the present paper, the focus will be made on the recent constitutional amendments which were promoted by the authorities as «significantly expanding the concept of “social state”»¹, and on the issue of the state’s reaction to Covid in the field of labour law. The latter is of particular interest as demonstrates most vividly the genuine scale of ‘social burden’ which the state is willing to bear.

1. *Constitutional amendments 2020 and the minimum wage*

On 11th March 2020, the State Duma adopted the third and final reading of the amendments to the Constitution of the Russian Federation. The same day they were approved by the Federation Council. The na-

¹ The words of Andrei Isayev, First Deputy Head of the faction ‘Edinaya Rossiya’ in the State Duma. <http://duma.gov.ru/news/48818/> (accessed 20.04.2021).

tional vote on proposed amendments was scheduled for the 22nd of April, but it was postponed due to the pandemic for the 1st of July 2020. It is remarkable that the draft proposed by the President on the 20th of January went through all the stages of a complicated legislative procedure and was adopted on 14th March 2020². The key amendments concern the term of the President, which has been increased to 6 years. It is also fixed that the same person may not hold the office of the President for more than two terms, this norm though does not apply to the current president (article 81 of the revised Constitution).

The whole ‘package’ of the amendments was officially labelled as addressing social problems. The new provisions about the minimum wage were included, as well as the indexation of the pensions, benefits and other social aids³. Provided the drastic change in the calculation of the minimum wage after the adoption of the amendments it is worth considering these norms in more detail.

Under the introduced section to article 75 of the Constitution, the Russian Federation respects the labour of citizens and protects their rights. The state guarantees a minimum wage not lower than the minimum subsistence level of the able-bodied population in the Russian Federation. According to the Chairman of the State Duma, Vyacheslav Volodin, these amendments «fill the norms with concrete content»⁴. The link of the minimum wage to the minimum subsistence level is indeed the new line in the Constitution, though it has been present in the Labour Code since its adoption in 2001. It was one of the novelties of the Labour code as before that there were no legal links between minimum wage and minimum subsistence level.

The long-awaited article 133 of the Labour Code stated that the minimum wage should be established simultaneously in the entire territory of the Russian Federation by federal law and may not be lower than the minimum subsistence level of the able-bodied population. However, this article did not come into force with the whole Labour Code (LC) in 2002. There was a special rule in article 421 of the LC, which stated that the procedure and terms for a gradual increase in the minimum wage to the amount of the minimum subsistence level of the able-bodied population, as well as the mechanism guaranteeing the payment of the

² Official site of the system ensuring legislative activities: https://sozd.duma.gov.ru/bill/885214-7#bh_hron (accessed 20.03.2021).

³ In the official post about the amendments in English, these ‘social’ amendments are in the first place. See <http://duma.gov.ru/en/news/48039/> (accessed 20.03.2021)

⁴ The speech is published on the official site of the State Duma: <http://duma.gov.ru/news/47990/> (accessed 20.04.2021).

minimum wage in this amount, shall be established by federal law. No such law was adopted until 2017.

Thus, despite the official link of the minimum wage to the minimum subsistence level in article 133 of the Labour Code, during 15 years there had been no such link in practice. The minimum wage was determined annually by the State Duma in the sum much lower than the subsistence level. The regulation in that period did not correspond at all to the principle of providing the wage which should ensure the decent life of an employee and his family solemnly stated in article 2 of the LC (general principles of the labour regulation). This general principle was adopted from the Universal Declaration of Human Rights and the provision of article 7 of the International Covenant on Economic, Social and Cultural Rights, ratified by Russia.

The situation changed in 2017 with the adoption of a ‘special law’ aimed to bring the minimum wage to the level of subsistence level⁵. Starting from January 2018 and thereafter annually from January 1 of the respective year, the minimum wage should be set by federal law in the amount of the minimum subsistence level of the able-bodied population in the Russian Federation as a whole for the second quarter of the previous year. Here we need to return to the Constitutional amendments, as it becomes clear that the norm promoted as new already existed in law and was implemented for 2 years by 2020. Experts noted that the pledges to enshrine a minimum wage and other benefits in the constitution will resonate among voters and might take the wind out of the sails of any protest movement⁶. Indeed the promotion of amendments as a way of enhancing the social support of the population might have played its role in the outcomes of the vote.

To understand the practical outcomes of the linkage of the minimum wage with the subsistence level there is a need to explain the notion of the subsistence level. Under the legislation which was in force till 2021, subsistence minimum was the cost estimate of the consumer basket, as well as mandatory payments and fees. Consumer’s basket was the minimum set of food, as well as non-food products and services, the cost of which is determined concerning the cost of the minimum set of food products, necessary to maintain human health and ensure their livelihood⁷.

⁵ Federal Law of 28 December 2017. N 421-FZ, available at: http://base.garant.ru/77662184/1cafb24d049dcd1e7707a22d98e9858f/#block_1 (accessed 20.04.2021).

⁶ <https://www.rferl.org/a/why-so-few-protests-against-putin-s-constitutional-shake-up-/30402490.html> (accessed 20.04.2021).

⁷ See article 1 of the Federal Law No. 134-FZ *On Minimum Subsistence Level in the Russian Federation* adopted on October 24, 1997 (norms were in force till 31 December 2020).

The consumer goods basket should have been determined at least once every five years due to changes in the consumption patterns of low-income citizens, as well as the need to improve the quality of life of Russian citizens. The five-year consumer basket, which had been in effect since January 1, 2013, per Federal Law No. 227-FZ of December 3, 2012 *On the Consumer Basket in the Russian Federation as a Whole*, expired on December 31, 2017.

Instead of adopting a new consumer goods basket for the Russian Federation, the Government of the Russian Federation proposed extending the old consumer goods basket until 2020 inclusive, due to the need to bring the minimum wage to the subsistence level. It also refused to support legislative initiatives to review the consumer basket, proposed by some deputies, motivating it by the subsequent need of allocation of additional budget appropriations from the federal budget⁸.

This position of the Government demonstrates that the final linkage of the minimum wage with the subsistence level in 2018 should not be seen as the genuine will to ensure a decent living, as even in the times of calculation of the subsistence level based on consumer basket, the calculation of the latter was outdated and did not represent the level sufficient to ensure living. According to the public poll undertaken in 2019, the real cost of living for Russians was twice as high as the official one⁹.

Since 1 January 2021, the calculation of the minimum wage and the subsistence level has changed drastically. The norms on the consumer basket, which was used before for the calculation of the subsistence level, were abolished. Both sums are now determined based on the median income.

According to the changes to the law on minimum wage, the minimum wage for the next year is established by federal law in the current year and is calculated based on the value of the median wage for the previous year. From 2021, the ratio between the minimum wage and the median wage is set at 42%. The ratio of the minimum wage to the median wage is reviewed at least once every five years based on the conditions of

⁸ Conclusions of the Government of the Russian Federation on the draft Federal Law *On Amending Article 4 of the Federal Law 'On the Consumer Basket in the Russian Federation in General'*, submitted to the State Duma by State Duma deputy Y.E. Nilov. 05 April 2018. Available at: http://sazd.lenoblzaks.ru/SAZD/%D1%84%D0%B0%D0%B9%D0%BB/1340478/2588_1_18_02_0-PDF (accessed 20.04.2021).

⁹ L. SHAMARDINA, *Less than a third of Russians believe that their income is above the subsistence level*, in «The Bell», 19 September 2019. Available at: <https://thebell.io/menshe-treti-rossiyan-schitayut-cto-ih-dohod-vyshe-prozhitochnogo-minimuma> (accessed 20.04.2021).

socio-economic development of the Russian Federation. The minimum wage for the next year shall not be lower than the minimum subsistence level of the able-bodied population in the Russian Federation for the next year and not lower than the minimum wage set for the current year.

Under the new norms on the subsistence level, this level is the minimum amount of a citizen's income necessary to ensure his or her livelihood. It is now determined based on the median salary. The ratio of the minimum per capita subsistence level in the Russian Federation as a whole to the median salary for the previous year shall be set at 44%. Here there is a need to point that the establishment of the links between the minimum wage and the median salary is not bad per se, as it is the method used in some countries.

In developed economies, the ratio of minimum to median wages typically varies between about 35 and 60%, with some clustering around 45-50% and it is often higher in developing countries, where inequality is typically broader and where even median workers earn low wages¹⁰.

However, provided the evident trend of artificial curbing the subsistence level growth as pointed above, there is a huge risk that the per cent of the median salary fixed in the new law (42%) will very unlikely to be significantly increased in the nearest future. The experts assert that many other questions arise in this field: how the median wage will be calculated, what data will be collected and accumulated for this purpose. Because it is well known that a favourite pastime of the executive branch lately is playing with statistical data when all indicators are growing, but the quality of life of people is deteriorating¹¹.

Summing up the new approach to the minimum wage it should be noted that in contrast to the new Constitutional provisions it has now no links with the real subsistence level. The real subsistence level should at least reflect the sum needed for survival. The idea of ensuring decent living through the regulation of the minimum wage never determined the regulation in this field. The per cent of the median salary which is used now to determine the minimum wage and the subsistence level was calculated, supposedly, in a way to ensure that these sums will not increase the burden on the budget. After the changes to the way of calculation of the minimum wage, it increased only around 5%, while official inflation

¹⁰ CEACR, *General Survey of the reports on the Minimum Wage Fixing Convention*, 1970 (No. 131), and *the Minimum Wage Fixing Recommendation*, 1970 (No. 135), International Labour Organization, 2014.

¹¹ A. TRUSHIN, *With the new minimum wage! How the salaries and pensions of Russians will change*, in «Ogonyok magazine», 2021, 1. Available at: <https://www.kommersant.ru/doc/4640749> (accessed 20.04.2021). In Russian.

was 4,9%¹². It should be noted that the average salary is four times more than the subsistence level¹³.

The Preamble to the ILO Constitution of 1919 proclaims the urgency of improving conditions of labour through, among other measures, «the provision of an adequate living wage». While there is no universally accepted definition of a living wage, the idea behind it is that workers and their families should at least be able to lead a simple but decent life considered acceptable by society, in light of its level of economic development¹⁴. Even though Russia did not ratify the Minimum Wage Fixing Convention (No. 131), the same obligation to ensure the wage not less than the cost of living might be found in other ratified treaties.

Already mentioned article 7 of the ICESCR or article 4 of the European Social Charter do fix the obligation to ensure the right of workers to a remuneration such as will give them and their families a decent standard of living. The latter document is of particular interest in this context as the European Committee of Social Rights (ECSR) in its interpretation of article 4 stated that such remuneration should be in any case above the poverty line. The poverty line is 50% of the national average wage. If the wage lies between 50 and 60% of the national average wage, a State is asked by the ECSR to demonstrate that the wage is sufficient for a decent standard of living, for example, by providing detailed information on the cost of living¹⁵. If this method was used by the Russian legislator the minimum wage would be 2 times more than under the new rules. Russia did not ratify this particular clause of the article 4 of the ESC, this is why these positions of the ECSR cannot be referred to in Russia as binding.

However, there is another international instrument fixing the requirements for the minimum wage and which was ratified by Russia. Under article 7 of the 7 of the ICESCR states should ensure fair remuneration. The requirements to the minimum wage form part of the notion

¹² <https://www.vedomosti.ru/economics/news/2021/01/12/853807-inflyatsiya-v-rossii-v-2020-godu-stala-samoi-visokoi-za-poslednie-chetire-goda> (accessed 20.04.2021).

¹³ A. DUEL, *Rosstat: The Average Wage Grew by 6 Percent in 2020*, in «Rossiyskaya Gazeta», 18 February 2021. <https://rg.ru/2021/02/18/rosstat-sredniaia-zarplata-vyrosla-v-2020-godu-na-6-procentov> (accessed 20.04.2021). In Russian.

¹⁴ CEACR, *General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135)*, International Labour Organization, 2014. Available at: https://www.ilo.org/wcmsp5/groups/public/-ed_norm/-relconf/documents/meetingdocument/wcms_235287.pdf (accessed 20.04.2021).

¹⁵ Council of Europe: *Digest of the case-law of the European Committee of Social Rights*, 1 September 2008, p. 43. http://www.coe.int/t/dghl/monitoring/socialcharter/digest/DigestSept2008_en.pdf.

of fair remuneration. According to the General Comment of the N 23 adopted by the Committee on Economic, Social and Cultural Rights in 2016¹⁶, States parties should prioritize the adoption of a periodically reviewed minimum wage, indexed at least to the cost of living, and maintain a mechanism to do this and ensure that workers, employers and their representative organizations participate directly in the operation of such a mechanism.

Under this General Comment, the minimum wage should be recognized in legislation, fixed with reference to the requirements of a decent living, and applied consistently. The ICESCR recognizes the general level of wages in the country, the cost of living, social security contributions and benefits and relative living standards as the elements to take into account in fixing the minimum wage. It also refers to the mentioned approach of the ECSR to this issue and proposes the opportunity to fix the minimum wage as a percentage of the average wage «so long as this percentage is sufficient to ensure a decent living for workers and their families». Summing up the position of the ICESCR, the body competent to interpret the ratified by Russia Covenant on Economic Social and Cultural Rights, there is a need to underline the link of the minimum wage with the real cost of living in a country and the necessity to ensure the indexation of this sum according to the real inflation. Both requirements are not met in the Russian approach to the minimum wage.

Considering the ‘social’ amendments to the Constitution mention should be made of the new article 75.1. It provides the need «to create conditions for sustainable economic growth of the country and improvement of the well-being of citizens, for mutual trust between the State and society, the protection of the dignity of citizens and respect for working people, as well as of the need to ensure a balance between the rights and obligations of citizens, social partnership and economic, political and social solidarity». Provided that the Constitution already in 1993 has set the right to respect for human dignity, the social orientation of the state, the mechanism for balancing human rights with the interests and rights of others, this article seems void of any sense.

It is worth mentioning the way of adoption of the amendments to understand better the background of these changes. The Constitution and the Federal Law N 33-FZ¹⁷ do not provide carrying out of the referendum. Despite this, to underline the value of peoples’ opinion on the

¹⁶ CESCR, *General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)*, 7 April 2016. Available at: <https://www.refworld.org/docid/5550a0b14.html>.

¹⁷ http://www.consultant.ru/document/cons_doc_LAW_18043/ (accessed 20.04.2021).

subject Putin decided that the amendments will come to force upon the general vote of Russian citizens. The Constitutional Court, in its opinion on the legitimacy of the amendments to the Constitution, reported that the all-Russian vote «has a special legal nature» and is in line with the constitution though is not provided in law¹⁸. The vote was widely publicized using the words: «Our country, our constitution, our decision», which reminds a mantra for self-conviction.

In sum, the proposed constitutional amendments seem a symbol of the guardianship of the state for the welfare of the people. However, they are rather a ‘smokescreen’ for changing the presidential terms.

2. *Labour and social security law in times of Covid*

Russian labour law is traditionally one of the most conservative branches of Russian law. Rooted in Soviet labour law it remains very protective for workers and little flexible for the employers. While these qualities of regulation are not necessarily bad per se, in the times of pandemics they have turned out to be the real problem. The state has adopted a very particular way for coping with the issue of labour relation in times of quarantine: the President announced a series of non-working days (in sum from 28th March to 11th May 2020) all over Russia which should be paid as working time¹⁹.

2.1. Non-working days regime – a new concept in Russian labour law

Under the Russian Labour Code, the Presidential decrees should comply with the Code (article 5 of the LC), which does not provide such a type of non-working time as «paid non-working days»²⁰. This decision leads to the restriction of the right to work (article 37 of the Constitution) and the right to engage in entrepreneurial activity (article 34).

¹⁸ Conclusion of the Constitutional Court of the Russian Federation in connection with the request of the President of the Russian Federation dated March 16, 2020, N 1-3 <https://rg.ru/2020/03/17/ks-rf-popravki-dok.html>.

¹⁹ Decree of the President of the Russian Federation of 25.03.2020 N 206 «*on declaring non-working days in the Russian Federation*»; Decree of the President of the Russian Federation of 28.04.2020 N 294 «*on the extension of measures to ensure the sanitary and epidemiological well-being of the population on the territory of the Russian Federation in connection with the spread of a new coronavirus infection (Covid-19)*».

²⁰ See more about the measures adopted by Russia in J. OSTROVSKAIA, *Covid-19 and Labour Law: Russian Federation*, in «Italian Labour Law e-Journal», 13 (2020), 1 (Special Issue).

Article 55 of the Constitution provides that the rights may be limited by the federal law only to such an extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring the defence of the country and security of the State. Taking into account that the state of emergency was not declared in Russia we suppose that the measure announced by the President is very questionable from the legal point of view. The adoption of this decree gave a start to the serious challenges to the very basics of labour law, to its principles and in particular to the system of sources. Labour law scholars were joking that the interviews of the president's spokesman, Alexander Peskov, have become the new source of labour law. Indeed, after the adoption of the first «non-working days decree» a lot of questions were born. Employers were puzzled: should they also stop the activities if the workers already switched to the distant working, how should the time of people working during these days be paid and so on.

The journalists referred these questions to the Press Secretary of the Russian President. He stated, for example, that those who switched to the remote mode of work should continue to work. This position was immediately fixed in the revised letter of the Ministry of labour. It should be noted that these letters and recommendations have become the main source of regulations in the quarantine as they provided if not clear but more detailed and comprehensive guidelines²¹.

In May 2020 the President adopted Decree No. 316 which finished non-working days and granted the power of suspension (restriction, including through defining peculiarities of the work regime, number of employees) of business activities, based on the sanitary and epidemiological situation, to the subject of the Russian Federation. The Government considered a draft of temporary temporally less restrictive regulations of labour, however, this idea was not supported by the Russian Tripartite Commission for the Regulation of Social and Labour Relations. This body consists of representatives of All-Russian trade union associations, All-Russian associations of employers and the Government of the Russian Federation.

The policy of non-working days significantly influenced the labour market and the rights of workers. The number of registered unem-

²¹ For example, see *Recommendations to employees and employers in connection with Presidential Decree No. 206 of 25 March 2020 "On declaring non-working days in the Russian Federation"*, Letter of the Ministry of Labour of the Russian Federation No. 14-4/10/P-2696 adopted on 27.03.2020, Letter N 0147-03-5 adopted on 09.04.2020. Database Consultant Plus.

ployed for non-working days increased by almost 30%. The Chamber of Commerce and Industry commented that around 3 million entrepreneurs could stop operating putting more than 8.6 million people at risk of unemployment²².

Among the most common illegal practices used by employers are forced resignation, decreasing wages and forcing employees to take unpaid leave for the duration of «non-working» days²³. According to the expert's calculations about 30% of the companies which stopped working under the Presidential Decree did not pay to employees, about 10% reported redundancy procedures²⁴. It should be noted that the Ministry of Labour²⁵ forbid the dismissal of workers during non-working days upon the will of the employer in the answers to the questions published on the official site of the body. This source of law was aimed at interpreting the new norms on non-working days.

In the organization which remained functioning the employer had to undertake additional measures to ensure occupational health: to organize measurement of body temperature of workers at workplaces with the mandatory removal of persons with elevated temperatures and further control of an employee calling a doctor to provide primary care at home (Letters of Federal Service For Supervision of Consumer Rights Protection and Human Welfare (Rospotrebnadzor) dated 03.03.2020 N 02/3401-2020-27 and N 02/3633-2020-29 adopted on 06.03.2020).

2.2. Sick pay in quarantine

During the pandemic, the authorities have immediately taken measures to suspend those workers who returned from the territory of countries where cases of a new coronavirus infection have been registered and adopted the Temporary rules for registration of sheets of disability, appointment and payment of benefits for temporary disability in case of quarantine as well as to insured persons who live together with them (Decree of the Government of the Russian Federation of 18.03.2020 N 294). These rules provided insured people returned from abroad and

²² M. EFIMOVA, *Either the Budget Cracks or People*, in «Novaya Gazeta», 17 April 2020. <https://novayagazeta.ru/articles/2020/04/17/84949-libo-byudzhnet-tresnet-libo-lyudi> (accessed 20.04.2021). In Russian.

²³ *Ibidem*.

²⁴ E. SABELNIKOVA, *Operational monitoring of social processes*, Center of macroeconomic analysis and short-term prognosis. In Russian. www.forecast.ru/_ARCHIVE/MON_SC/2020/sm2.pdf (accessed 01 April 2021). In Russian.

²⁵ Ministry of Labour, *Q&A on work organization and employee rights during the non-working week*, <https://rosmintrud.ru/employment/54> (accessed 20.04.2021).

the people who live with them with sick leaves and sick benefits for 14 days calculated from the date of arrival.

To protect the most vulnerable elderly people the Government introduced the opportunity of paid sick leaves for workers over 65 years old (Decree of the Government of the Russian Federation of April 1, 2020. No. 402). Such workers are entitled to the leave and the relevant benefit from the social security fund if they observe the regime of self-isolation. Other workers in case of their contact with the Covid-positive person should be suspended from work under article 76 of the Labour Code and will be paid sick leave under the Order of the Ministry of Healthcare and Social Development of Russia N 624n adopted on 29.06.2011.

2.3. Support of unemployed people

With the growth of unemployment caused by the stoppages of business activities, the support of unemployed people has become one of the main concerns for the authorities. This field has been for many years a pain point of Russian labour law as the levels of unemployment benefits were far beyond the subsistence level in the country. Though the law provided for the calculation of the benefit based on a certain per cent of the previously received average wage the maximum sum was limited. Before the pandemic the limitation was equal to 4500 rubles (about 65 USD) no matter what was the sum of the previous wage gained by the person, no matter the reason for the dismissal, the level of minimum unemployment benefit was set at the sum of 1500 rub (25 USD). The minimum sum is still paid²⁶ to 45% of unemployed²⁷ as the Russian Law «On employment of the population» includes several exceptions to the rule of calculating the unemployment benefit based on the average wage of an employee.

According to the article 34 of the Law of the Russian Federation of 19.04.1991 N 1032-1 (edition of 07.04.2020) «On Employment in the Russian Federation» the minimum amount of the unemployment benefit is paid to the citizens looking for a job for the first time (previously not working), to citizens striving to resume working activity after a long (more than one year) break, to citizens who have stopped individual business activity in the order established by the legislation, to citizens

²⁶ At the time of writing the President instructed the government to ensure that the minimum amount of unemployment benefits will be increased to the sum of 4500 rubles (about 65 USD).

²⁷ Transcript of the meeting headed by the President and dedicated to the situation at the Labour Market. 27 May 2020. <http://kremlin.ru/events/president/news/page/2> (accessed 20.04.2021).

fired for violation of labour discipline or other guilty actions provided by the legislation of the Russian Federation, to citizens fired on any grounds within 12 months preceding the beginning of unemployment and those who during this period were in an employment (service) relationship of less than 26 weeks, citizens sent by the employment services for training and expelled for culpable actions, citizens who left a peasant (farm) household, as well as citizens who did not submit a certificate of average earnings for the last three months at the last place of work (service).

This problem of insufficiency of such benefits has been twice pointed out by the European Committee of Social Rights but their opinions were completely ignored by the authorities²⁸.

In the time of the pandemic, this problem could not be silenced any more. Already in the first speeches upon the beginning of the pandemic the President promised to raise the unemployment benefits to the sum of a living wage (about 160 US dollars).

The Government adopted the temporary rules of registration of unemployed²⁹ which provided the mechanism of an electronic application to the employment service, regardless of the place of residence in Russia, as well as the mechanism of distant interviews with the potential employers. To be registered as unemployed the person should be registered first for seeking employment and offered suitable employment opportunities³⁰.

Another Government Decree has increased the maximum amount of unemployment benefits to the sum of the subsistence level, as required by the President, by the Decree No. 346 adopted on 27.03.2020 (Decree of the Government of the Russian Federation of 27.03.2020 No. 346). However under para. 16 of this decree the minimum sum was still paid to first-time jobseekers (except for orphans); people who did not work more than one year; those who were dismissed for misconduct or other wrongful acts; those who worked less than 26 weeks; who stopped individual business activities; citizens who do not have information about their average earnings. It was also fixed that the period of payment of unemployment benefits to these categories of citizens may not exceed 3 months in total for 12 months. These reg-

²⁸ ECSR, *Conclusions 2017 - Russian Federation - Article 12-1 2017/def/RUS/12/1/EN*; *Id. Conclusions 2013 - Russian Federation - Article 12-1 2013/def/RUS/12/1/EN*.

²⁹ Decree of the Government of the Russian Federation from 08.04.2020 N 460. Database Consultant Plus.

³⁰ Law of the Russian Federation of April 19, 1991, N 1032-1 *About Employment of the Population in the Russian Federation*. Database Consultant Plus.

ulations evidently could not ensure the support of a large part of the unemployed. This is why in April 2020 the President instructed the government to ensure that the sum of unemployment benefits to be paid in April-June 2020 to persons who lost their jobs after March 1, 2020, would be equal to the subsistence level. It was immediately fixed by the Decree N 485 adopted on 12.04.2020. The mentioned para 16 of the Decree No. 346 was suspended till 1 July.

It was also established that the unemployed will receive payments for each minor child of 3000 rubles per month in the period April-June 2020.

However, the main problems remain: the unemployed who lost jobs before 1 March 2020 are still in many cases receiving the only minimum sum of the benefit, the period of payment of the increased sum under the most recent Decree N 485 is too short (3 months), the general maximum periods of payments are too short. Under article 31 of the Law of the Russian Federation of 19.04.1991 N 1032-1, the period of payment is no more than 6 months in the 12 months, while for certain categories of unemployed it is decreased to 3 months in 12 months period.

2.4. Long-term implications of Covid

Pandemic has been a great challenge for the authorities. It had very fast become evident that the traditionally restricted regulation of labour is not suitable for such situations, that labour law had huge gaps in the fields of regulating the transfer of workers for the remote work, of the exchange of documents between the parties of employment contract in the electronic form, it is not apt for regulating work on the rotational business in the quarantine. These issues made the Government reflect on the possible amendments. First the Federal law No. 122-FZ adopted on April 24, 2020, provided a basis for the experiment on the use of electronic documents related to work without duplicating on paper documents related to work. This experiment will run till November 15 2021 and is aimed at establishing the conditions for the further changes to the Labour Code substituting the needed written form of all the documents related to work and 'live' signatures with e-documents and e-signature of both employer and employee. The participation of employers and employees in this experiment is voluntary and the employee can at any time withdraw his consent.

In January 2021 the new norms of the Labour Code regulating distant work came into force. They provide for the inclusion in the employment contract of the possibility of a temporary or partial performance by an employee of his work in remote form and fixes certain requirements to this agreement. It is now possible to work remotely

based on either an employment contract or an additional agreement to the employment contract. In exceptional cases such as a pandemic, for example, this regime might be fixed in a local act adopted by the employer at his initiative. Other important changes concern the provision of the necessary equipment for a distant worker. The amendments provide that the employer shall provide the employee with the equipment, software and hardware, information protection tools, etc. necessary for the performance of the work function. If the employee, with the employer's consent and in his/her interests, uses his/her own or leased equipment and the aforementioned means, the employer shall pay him/her compensation and reimburse the expenses related to the use of such property.

Revolutionary changes might be traced in the approach to the termination of an employment contract with the distant worker. If under much-criticized previous norms such a contract might have been dissolved by the employer at any reason stipulated in the contract and this group of workers was exempt from the general very restrictive regulation of dismissals, since 1 January 2021 no such opportunity exists. The legislator though included two new grounds for the termination at the will of an employer in the new Article 312.8 of the Labour Code. They are the following:

- the employee fails to interact with the employer for more than two consecutive working days without good reason from the employer's request (unless a longer period is set);
- the employee has changed the place of work and this has made it impossible for him/her to fulfil his/her duties under the previous conditions (for permanent contracts of distant employment).

There had been a discussion about the inclusion of the right to disconnect to ensure a better balance between the work and private life of a distant employee, as recently enacted in France and Spain. However, this proposal did not find support. Overall the new regulation of distant work is a bright example of changing the law in the right direction, ensuring fairer and more flexible regulation. It is also an example of the state's attention to academic opinion, as new norms are largely determined by the criticism of the former regulation from the academic society.

There have been several initiatives of increasing the flexibility of labour regulations. In March 2020, the Ministry of Labour proposed to amend the Labour Code providing the government with the right to determine the notification period for upcoming layoffs or in connection with the liquidation of an organization during an epidemic. The government did not support the bill due to potential risks for employees.

3. *Conclusions*

In the present paper, the research was focused, firstly, on the impact of the recent constitutional amendments on the social policy in Russia in the field of minimum wage was considered and, secondly, on the policy of the State in times of pandemic. It is argued that the recent amendments, promoted as increasing the social support of the citizens, turned to be void of sense in the field of establishing decent wage. At the same time during a pandemic, the state has adopted numerous measures to ensure the support of people as an important part of its social policy in an emergency. However, the social policy in emergency had serious shortcomings. The measures in the field of unemployment were mostly temporary and insufficient. The maximum amount of the unemployment benefit for the first time in post-soviet history has been equalized to the subsistence level, but this sum is not enough for living.

The placement of the main burden of the pandemic on employers through the introduction of ‘non-working’ but paid days is a striking feature of the state approach to business restrictions. The burden of the crisis should not be placed on one of the parties of the employment relationship but distributed between the state (through providing special measures of support to business and workers/unemployed) and the business. Workers, as the most vulnerable party, should be protected either by the means of labour law or social security law. Placing the whole burden upon the employers might have a deep and long-lasting effect on the employment market, increasing unemployment and informal employment in Russia.