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Sanitization of the protest

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INTRODUCTION

Read the [summary](#) of the report

By the time of Alexei Navalny's arrest and the publication of a high-profile investigation by the Anti-Corruption Foundation about Vladimir Putin's palace in January 2021, public events against the background of the pandemic had already either been **completely banned** in many Russian regions or restricted in the possible number of participants.

After a large-scale **rally on January 23** in support of Navalny, at least 13 people were suspected of violating or inciting violation of sanitary and epidemiological rules leading to the

threat of mass infection. The maximum punishment in such cases is two years in prison.

Cases under the corresponding first part of Article 236 of the Criminal Code were initiated in three regions where «high-alert regimes» with a total ban on public events were put in effect as the government's response to the pandemic: in Moscow (11 people), Nizhny Novgorod (2 people) and Saratov (no information about the defendants was received). In the media, these cases were combined under the general name «the sanitary case». The four defendants are defended by lawyers from OVD-Info: Mikhail Biryukov, Alexey Vasiliev, Ilya Utkin, Sergey Telnov.

The «sanitary case» was accompanied by mass interrogations and searches; they continue even now. There were many famous people among the accused: public figures, journalists and politicians. Some of them were going to participate in the elections in the fall of 2021. Serious pressure within the framework of the «sanitary case» was exerted on Alexei Navalny's headquarters, which later were recognized as an extremist organization: the offices were searched, equipment was seized, and regional coordinators were accused or called as witnesses in criminal cases. In July 2021, a separate criminal case under Article 236 of the Criminal Code was also initiated in Murmansk against Violetta Grudina, the former coordinator of the Alexei Navalny's regional headquarters, who was going to participate in the elections to the Murmansk City Council.

Article 236 has not been used before in connection with rallies or publications about protests: it was usually applied in cases of poor-quality water or food poisoning in kindergartens, schools or military units. The accusations of violating the sanitary and epidemiological rules as a tool for restricting the freedom of expression and participation in elections became possible only after the amendments that

were rapidly made to this article in the spring of 2020 due to the coronavirus pandemic.

The report presents the evolution of Article 236 of the Criminal Code. We have studied how it was used before and after the changes, and analyzed its weaknesses using the «sanitary case» as an example. We are presenting how it is used to create a full-fledged system of political pressure exerted on a wide range of people and what should be changed in the text of the article, its judicial interpretation and law enforcement practice of the Ministry of Internal Affairs and The Investigative Committee in order to ensure respect for human rights and freedoms.

THE CHRONOLOGY OF THE «SANITARY CASE»

For the detailed chronology of the «sanitary case» see the [appendix](#).

Moscow

A few hours after the start of the rally on January 23, the Moscow Health Department, with reference to the [Social Monitoring app](#), announced that «there are 19 people infected with COVID-19 at an unsanctioned rally on Pushkin Square.» At nine o'clock in the evening on the same day, [on the basis](#) of materials received from the metropolitan department of the Center for Countering Extremism, the police initiated a case against violation of sanitary and epidemiological rules. This became known on January 24, when investigators began [to interrogate](#) those detained at the rally and employees of Navalny's structures who were in special detention centers. Official information about the case appeared only on January 29: the Moscow Department of the Ministry of Internal Affairs [reported](#) that they detained five suspects and conducted «more than 20 searches in the

offices and places of residence of persons who called for participation in an unauthorized event, while ignoring sanitary rules and regulations.»

The suspects were not coronavirus patients who violated the quarantine, but public figures who distributed information about the event: employees of Navalny's organizations Lyubov Sobol and Oleg Stepanov, brother of the opposition leader Oleg Navalny, head of the Alliance of Doctors Anastasia Vasilyeva and Pussy Riot member Maria Alyokhina. On January 29, the court **put** all five suspects under house arrest. On January 31, the criminal case **was transferred** from the Ministry of Internal Affairs to the Central Office of the Investigative Committee. The number of suspects continued to grow: Navalny's press secretary Kira Yarmysh, municipal deputies Dmitry Baranovsky, Lyusya Stein, Konstantin Yankauskas were placed under house arrest. The court issued a ban on engaging in certain activities to Nikolai Lyaskin. Subsequently, the court **changed** the deterrence from house arrest to a ban on engaging in certain activities for several of the accused.

The first charges were **brought against the defendants** on February 4: initially, it was about a violation of sanitary and epidemiological rules that created a threat of a disease outbreak (part 1 of Article 236 of the Criminal Code) or «incitement» to such violations (part 4 of Article 33, part 1 of Article 236 of the Criminal Code). Later, all the charges **were reclassified** as «incitement». Only at the end of April there appeared a defendant who was not accused of incitement, but of violating the quarantine, Dani Akel. He turned out to be the only participant of the rally who violated self-isolation without an official negative PCR test result. Initially, Akel denied that he was influenced by the calls to protest, but then admitted guilt — his case was examined on an ad hoc basis.

The court examined Akel's case in one day on August 2, and the announcement of the verdict in the Sobol case, scheduled for that day, was postponed to August 3. As the result, Akel became the first person to be convicted in the «sanitary case». The existence of a verdict against the «perpetrator» created a legal fact— a precedent that could be invoked by the courts to convict the defendants who were under investigation as «instigators». On August 6, the sentences of Nikolai Lyaskin and Oleg Navalny were pronounced. On August 18, the court found Kira Yarmysh guilty under article 236 of the Criminal Code, Oleg Stepanov on August 20, Lucy Stein on August 26, and Dmitry Baranovsky on August 30. The court sentenced Lyaskin, Stepanov and Stein to a restriction of freedom for a year, Yarmysh, Sobol and Baranovsky to one and a half years, Oleg Navalny was given a one year suspended sentence. The case of Konstantin Yankauskas never went to trial and was dismissed during the investigation. The cases of the two remaining defendants — Anastasia Vasilyeva and Kira Yarmysh — were transferred to the court.

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Name	Description	Region	CC art
REGION			
▼ Moscow	11		
1 Dmitry Baranovsky	municipal deputy	Moscow	p. 4
2 Lyudmila Shtein	municipal deputy	Moscow	p. 4
3 Oleg Stepanov	former coordinator of N...	Moscow	p. 4
4 Kira Yarmysh	former press secretary ...	Moscow	p. 4
5 Nikolay Lyaskin	political and public figu...	Moscow	p. 4
6 Oleg Navalny	public figure, brother of...	Moscow	p. 4
7 Lyubov Sobol	politician, formerly ACF...	Moscow	p. 4
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Nizhniy Novgorod

At the end of January, activists and journalists in Nizhny Novgorod **underwent** a series of searches and interrogations in connection with the case of a violation under Article 236 of the Criminal Code. The search warrant mentioned seven people who allegedly posted on their social media pages about the rally on January 23.

A month later, on February 28, it became known that a criminal case **was initiated** in Nizhny Novgorod against Navalny's associate Roman Tregubov. The next day, a Nizhny Novgorod journalist, Natalia Rezontova, was **charged** under the first part of Article 236 of the Criminal Code — she was sentenced to a ban on engaging in certain activities. **Both of them** had previously been witnesses in the case, also subjected to searches and interrogations. **Investigators alleged that** Tregubov, Rezontova, and «persons not identified by the investigation» called on Nizhny Novgorod residents on their social media pages to participate in the rally on January 23.

Вот, собственно, вся суть уголовного дела. Месть за самую масштабную протестную акцию в современной истории Нижнего Новгорода.

pic.twitter.com/6NiHeYMhna

— Навальный | Нижний Новгород

(@navalny_nn) March 1, 2021

Translation (see [here](#)).

By mid-August, the case against Natalia Rezontova was still ongoing. Lawyer Ruslan Sozonov said that the investigator

made him and his client sign a non-disclosure agreement. Thus, more detailed information about the course of the investigation will be available only after the case is referred to the court. Sozonov has not yet been able to answer when it will happen.

The status of Roman Tregubov has not changed at the moment either — he remains a suspect. He himself informed OVD-Info about this on July 13. The investigation, however, did not use any preventative measure against him.

Saratov

On January 29, the police of the Saratov Region **announced** the initiation of proceedings under the first part of Article 236 of the Criminal Code in connection with the rally on January 23.

In early February, the media outlet «Свободные новости. FreeNews-Volga» **posted** a photo of the order issued by the regional office of the Interior ministry: the city police were instructed to collect video recordings of the rally, identify the participants and organizers of the event and their current location and test all the identified persons for COVID-19. The document stated that more than twenty pages were attached to it, containing names of the alleged participants as well as subscribers of the «Freedom to Navalny, Saratov» community in V Kontakte.

In the first weeks, the case developed, following the same scenario as in Moscow and Nizhny Novgorod: numerous interrogations and searches **took place** in **Saratov** and **in Balakov**, the police also **came** to conduct a search of the office of Navalny's Saratov headquarters. However, since March, the Saratov «sanitary case» has disappeared from the public eye: neither the dismissal of the case nor the emergence of any new suspects has been announced. In the last media report in early March, a representative of the Saratov Rospotrebnadzor, Russian consumer safety and

health watchdog, could not name the number of people who fell ill as a result of the rally: «I think, within the framework of the criminal case, an investigation will be carried out, the cause-and-effect relationship will be established and comments will be given, ” **he stated.**

236 OF THE CRIMINAL CODE BEFORE CHANGES IN APRIL 2020

Until April 2020, Article 236 of the Criminal Code «violation of sanitary and epidemiological rules» consisted of two parts. The first provided liability for a violation that «caused a disease outbreak or poisoning by negligence», the second — for a violation that «caused the death of a person by negligence». The maximum penalty for them was, respectively, a restriction of liberty for a year and imprisonment for five years.

This article was applied relatively infrequently. In the ten years from 2010 to 2019, 107 people were convicted on charges of violating sanitary and epidemiological rules (see Appendix). Mainly, these were sentences under the first part of the article — related to violations that caused mass illness or poisoning of people. Under the second part, for violations that caused the death of a person by negligence, three people were convicted during the same period. The courts convicted the biggest number of people under the first part of the article in 2011, namely, 17.

We have studied the court documents from the first part of Article 236 of the Criminal Code which was later used in the «sanitary case». In the period from 2013 to 2019, we managed to find such texts on the courts' websites in the cases of 45 defendants (see Appendix). Typical cases were related to mass food poisoning in schools, kindergartens, orphanages, cafes, hypermarkets or with poor-quality water in the water supply. Cooks or canteen managers were

accused of not following certain rules when preparing food: for example, there was not enough heat treatment or the cook came to work sick. The number of the victims in these cases is estimated in tens, and sometimes hundreds. Thus, in **the case** of low-quality salads in a hypermarket in Surgut, there were 193 people who suffered from mass poisoning. The **verdict** in the case of contamination of drinking water in the water supply system in the Republic of North Ossetia–Alania in 2015 claims that it led to illnesses in several settlements and «exceeding the average level of acute intestinal infections by thirteen times». In **most cases**, the accused admitted their guilt.

Unlike the cases of many other criminal articles the «sanitary» criminal cases often ended with a dismissal and even acquittal of the defendants. According to the statistics of the Judicial Department, the proportion of convicts in some years before the pandemic was **less than 50%**. Thus, in 2018, the cases of nine people were dismissed, and two more were acquitted by the court, while only six (35%) were convicted.

The most common punishment under the first part of Article 236 of the Criminal Code in 2010-2019 was a fine (58% of all convicted persons according to the main composition), restriction of freedom (11%), mandatory work and a ban on certain positions or activities (10% each). The amount of the fine was usually up to 25 thousand rubles (61% **of all fines**).

In **recent years**, courts have often dismissed cases with an imposition of **a court fine**. To make it possible, the defendant must make amends to the victims (for example, compensate for the damage, apologize, etc.). Although the amount of the court fine is similar to the fine according to the court verdict (as a rule, it was up to 25 thousand), in this case, the accused does not have a criminal record.

CHANGING THE ARTICLE IN THE SPRING OF 2020: THE APPEARANCE OF A «THREAT»

The situation has changed with the beginning of the COVID-19 pandemic. In March 2020, the State Duma hastily finalized a number of administrative and criminal articles, including article 236 of the Criminal Code. A third part was added to it — on a violation that led to the death of several people by negligence. However, significant changes have also occurred in the most common first part. At the same time, the application of the article was expanded and the punishment was significantly increased:

- 1** it has become possible to convict people under this article not only for those actions that led to real negative consequences, but also for those that only «created a threat» of a mass illness and poisoning;
- 2** the maximum fine has increased almost tenfold: from 80 to 700 thousand rubles;
- 3** there appeared a possibility of imprisonment with a maximum term of two years;
- 4** as the result, it is now possible in exceptional cases to apply the most severe measure of restraint in the form of detention (before the amendments, the most severe measure of restraint was house arrest);
- 5** The investigation of the cases under the first and the second part of Article 236 of the Criminal Code was left to the Ministry of Internal Affairs, and the new third part was transferred to the Investigative Committee.

The chairman of the State Duma from United Russia Vyacheslav Volodin and his fellow party member, Chairman of the State Duma Committee on State Construction and Legislation Pavel Krasheninnikov proposed to tighten

responsibility under Article 236 of the Criminal Code. **The draft law** was submitted for consideration on March 25, 2020.

In an explanatory note, the authors of the draft law explained its necessity by the state of the pandemic and by the fact that, according to media reports, many citizens of the country do not comply with the restrictive rules introduced in the explanatory note. «The current situation indicates people's insufficient motivation to ensure both their own safety and the safety of others», noted the authors of the document.

In six days after the introduction of the draft law on March 31 the State Duma immediately considered and adopted it without discussion in the first, the second and the third reading.

At the same time the draft law underwent drastic changes between the first and the second reading in a few hours before the final pass in the State Duma. Initially, it was proposed to only toughen the punishment under first part of Article 236 of the Criminal Code (on mass illness), and in its second part (on a violation that caused the death of a person) to include punishment for violating the sanitary and epidemiological rules, «involving the deliberate creation of a threat of mass illness and poisoning of people». Subsequently «the threat» was moved to the first part, but without «intent». At the same time, two new criminal articles on «public dissemination of deliberately false information» (207.1 and 207.2 of the CriminalCode) appeared in the draft law. The author of the project, Pavel Krashennikov, suggested changing the source text.

The draft law was adopted without discussion. *In total, all three readings took less than ten minutes.* Volodin stressed that the draft law had been finalized within a week by the relevant committee of the State Duma, and that it had been discussed at the Duma Council and with the leaders of the factions when the draft law was considered in first reading.

«We agreed not to speak on this issue, given that everyone understands the need to make this decision. It is tough, but necessary» In the final version, the amendments **were supported** by 294 deputies, none voted against, one deputy abstained.

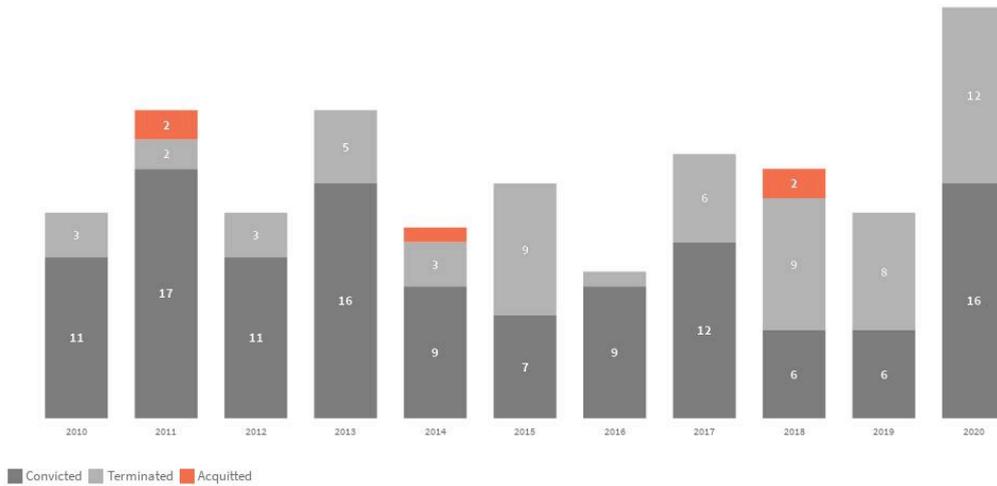
Выступление Володина при рассмотрении поправок ...



On the same day, the draft law was approved by the upper house of the Parliament. On April 1, it was signed by the president and published by Rossiyskaya Gazeta. A week had passed between the introduction of the draft amendments and the moment when it became active.

A TYPICAL CASE UNDER ARTICLE 236 OF THE CRIMINAL CODE AFTER THE AMENDMENTS

After the amendments the number of cases under the first part of Article 236 of the Criminal Code increased. However, this increase was not significant, if one takes into account the pandemic and the expansion of the article's composition: there were no sentences under the second and the new third part of the article in 2020, the courts convicted 16 people under the first part (this corresponds to the level of 2013). Another 12 cases were stopped.



Source: Data of the Judicial Department of the Supreme Court processed within the project Dostoevsky.io
Into account are taken sentences both for the main offense and for additional qualifications

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Many characteristic features of the precedents under Article 236 of the Criminal Code have been preserved even after the amendments:

- in 2020, cases were often terminated, including the imposition of a fine;
- of the preventive measures, the least strict one was mainly used — recognizance not to leave — or no measure was applied;
- in most cases, the defendants admitted their guilt.

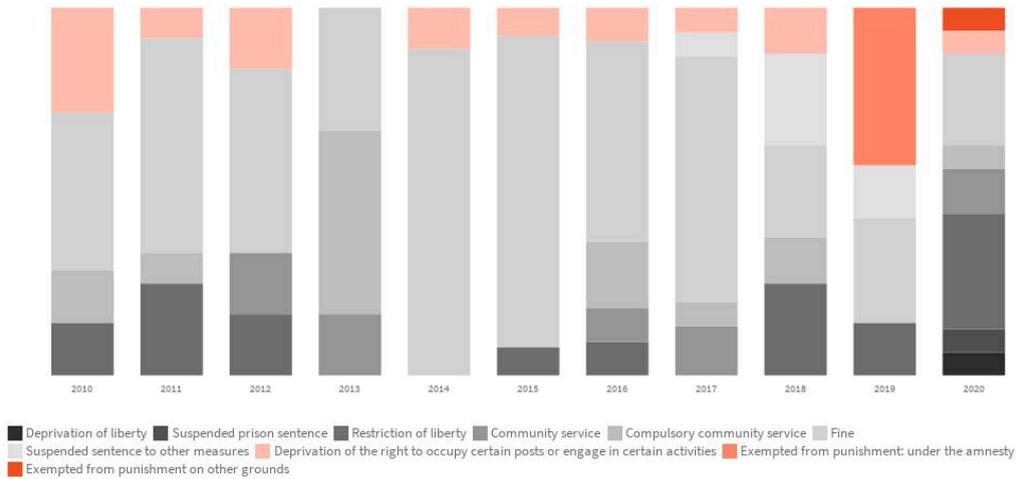
There have also been changes. In 2020 already, along with the cases of mass poisoning, the cases of a «threat» of mass infection began to appear.

On the websites of district courts, we found documents on the cases of 21 people who were accused under the first part of Article 236 of the Criminal Code (see Appendix), that were considered in 2020. These are cases from 14 regions of Russia. Nine of them are not related to the spread of coronavirus infection, but, as before, have to do with mass

food poisoning. The cases of at least ten defendants are related to COVID-19, but only in one of them the actions of the defendant led to the infection of other people, in other cases it is about creating a «threat» of negative consequences.

- In May 2020, a resident of the Rostov region was admitted to the hospital with a diagnosis of COVID-19 coronavirus infection. A week later, around midnight, he got out of the ward through the window and went to the train station. In the morning, he went away by train, changed to a trolleybus, and then to a regular bus. At that moment he was detained by traffic police officers, after which he was hospitalized again, confirming the diagnosis. In court, the man did not deny his guilt. The court found him guilty of a crime under the first part of Article 236 of the Criminal Code and sentenced him to three months of restriction of freedom with a ban on leaving the house at night, attending mass events and traveling outside the city.

This is a typical «coronavirus» case under Article 236 of the Criminal Code. These cases most often are associated with the fact that a person with a confirmed diagnosis leaves an infectious disease hospital using public transport. Less often it concerns a violation of the self-isolation regime at home (that a person was ill at that time may become clear later). In one case charges were brought against a nurse who worked at a perinatal center and came to work ill.



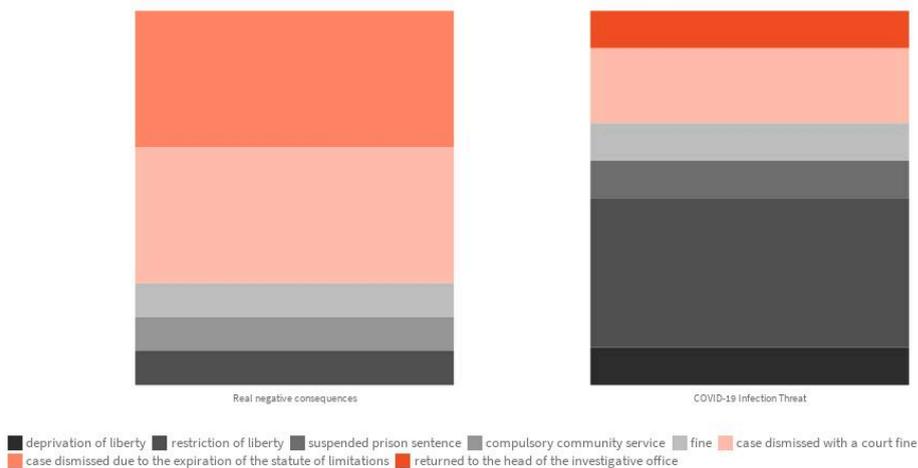
Source: Data of the Judicial Department of the Supreme Court processed within the project Dostoevsky.io
Into account are taken sentences for the main offense

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The range of punishments has expanded over the first year after the amendments were introduced. Judging by the published court decisions, the courts imposed stricter decisions precisely in cases with no real negative consequences, that is, only for creating a hypothetical «threat» of the spread of the coronavirus infection. The most severe punishments in the form of imprisonment (for four months) and suspended sentence (for eight months with a probationary period of one year) were imposed merely for creating a «threat» of contagion, restriction of freedom was often implemented as well (for a period from three months to a year). At the same time, cases with real consequences were still often dismissed with the imposition of a court fine (in the range from 5 to 35 thousand rubles).

Consideration of the case under article Part 1 of Article 236 of the Criminal Code: real consequences vs hypothetical “threat”

Comparison of court decisions in 2020



Источник: Texts of 21 court decisions on cases considered in 2020 under Part 1 of Art. 236 of the Criminal Code, published on the websites of district courts by July 2021.

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Similarly, among the cases we reviewed, a preventive measure was imposed more often in cases that included merely «creating a threat», than in cases with real medical consequences (80%/36%), and the measures chosen were sometimes stricter: the strictest preventive measure in our sample — the prohibition of certain activities — was imposed in the case of «creating a threat».

Another specific feature of the cases of «creating a threat» of a spread of coronavirus was that they were investigated faster than cases involving mass poisoning. This may be due to the fact that they take less time to collect evidence of a violation of sanitary and epidemiological rules. According to the court documents we examined, it took an average of 15 months for cases with real medical consequences, and only 4 months for cases that involved «creating a threat».

Although article 236 of the Criminal Code did not become widespread after the spring amendments, by the beginning of 2021 a new practice of its use has already taken shape: courts in various regions have gained experience in considering cases related to «creating a threat» of a spread

of the coronavirus infection. In January 2021, the Article found a new application — it was used to put pressure on political opponents of the government.

ARTICLE 236 OF THE CRIMINAL CODE AGAINST PROTESTERS: THE EMERGENCE OF AN IDEA

A speculation that it would be possible to apply Article 236 to participants of street rallies appeared in the media back in **May-June** 2020. At that time, public events were already banned in **many regions** due to the «high-alert state» imposed during the pandemic. Warnings about the possibility of applying the «sanitary» Article 236 in the context of rallies came from everywhere on the eve of the first major rally on January 23, 2021.

- On January 22 **the comment** of Mikhail Barshchevsky, authorized representative of the RF Government in Constitutional and Supreme Courts, widely declared the following in the official mass media: «I would like to remind you that there is Article 236 of the Criminal Code of the Russian Federation, which provides criminal liability for organizing mass events, not only for causing serious medical consequences, but also for creating a threat of such consequences. The organizers can be accused under Article 236 of the Criminal Code of the Russian Federation, which is inexpedient for them during the pandemic». In order not to violate the decree that introduced the the «high-alert state», the lawyer advised to go out to protest not on the streets, but on the balconies.
- On the same day, Rospotrebnadzor **warned** The Anti-Corruption Fund that the actions of the organizers of the rally in support of the arrested Alexei Navalny may fall under Article 236 of the Criminal Code. The agency referred to the decree of the mayor of Moscow on the imposition of the «high-alert state» and to the federal law «On sanitary and epidemiological welfare of the population». Rospotrebnadzor suggested not to hold the rally and «not to put people's health and lives in danger».
- Warnings were also expressed in other regions. Thus, the Penza City Hall on January 22 **noted** that «the rally is planned during the period of the high-alert state» and in case of further development of the mass disease, «criminal liability may arise» under Article 236 of the Criminal Code.

- Before the rallies, various departments of the Ministry of Internal Affairs in **different regions** began to publish warnings, which stated, among other things, that «violation of sanitary and epidemiological rules (Article 236 of the Criminal Code of the Russian Federation) entails criminal liability. This act is punishable by imprisonment for two years or more». There was no mention in the warnings that a mass infection, or at least, its «threat», must occur for a criminal case to be started.

There was also criticism of the protests during the pandemic in general. Dissuading people from protests, on the eve of the rally officials stressed that it would lead to infecting the participants, and then other citizens, endanger the lives of elderly people, and cause a new surge in morbidity and, consequently, an introduction of the restrictions that would affect the lives of all residents.

- On the 22nd of January Moscow mayor Sergei Sobyenin **made** a public statement in which he noted that the situation with coronavirus in the capital city «inspires cautious optimism», it was allowed to hold in-person classes in schools, visit theaters and movie theaters, but in order to defeat the pandemic and return to normal life, it was necessary to comply with the remaining «minimal but necessary restrictions», thus an «illegal mass rally» is «unacceptable». The mayor's appeal was massively reprinted by local Internet resources.



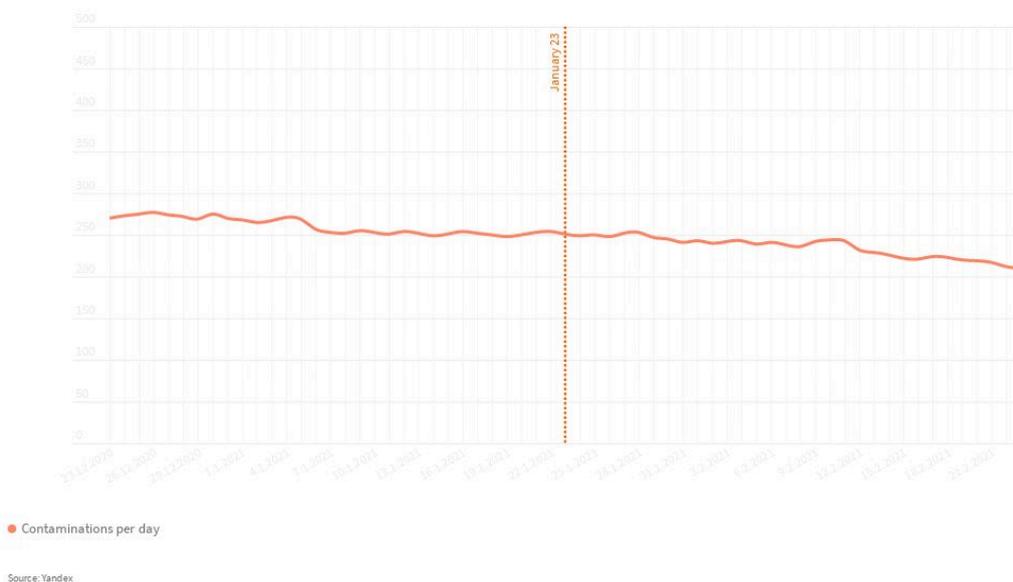
- On the same day a similar appeal was made by the head of the Moscow department of Rospotrebnadzor Elena Andreeva. She **urged** not to go to the rallies, calling them «highly risky events» that can cause a new surge in morbidity and endanger people’s health, especially the elderly. «Just for the sake of their life and health, you can’t call for such events today in a city that is just returning to normal life, because it could end very sadly at the moment», — Andreeva said.



The predictions of the increase in new cases and deaths were not justified: according to the official **statistics**, the number of new cases of coronavirus after January 23 continued to decline in waves in the largest cities, like Moscow and St. Petersburg, as well as in Russia as a whole.

Official statistics on COVID-19 contamination in the Saratov region

ОБД-Народ



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However, to initiate a criminal case under article 236 after the amendments of 2020, there was no longer a need for real negative consequences: it was enough to prove the fact that a violation of the sanitary rules had occurred and that a «threat» of mass conagation was created.

PROTESTS DURING THE PANDEMIC ARE ILLEGAL: HOW DID THE VIOLATION OF THE SANITARY RULES IN THE «SANITARY CASE» LOOK

It is not possible to commit a crime under the first part of article 236 of The Criminal Code without violating sanitary and epidemiological rules. However, which rules fall under this

definition is not explicitly stated in the article itself nor in other laws.

Regulatory documents indicate that sanitary and epidemiological requirements are established by «sanitary norms and rules», SanPiNs — - special normative acts approved by Rospotrebnadzor and registered by the Ministry of Justice. In Moscow's «sanitary case», the prosecution refers, among other things, to a violation of sanitary and epidemiological rules that were stated in the sanitary regulations **SP 3.1.3597-20 «Prevention of a new coronavirus infection (COVID-19)»** dated May 22, 2020, with the last amendments made on November 13, 2020.

But there is also a broad interpretation, in which it is proposed to consider the «norms of legislation» that regulate the sphere of sanitary and epidemiological well-being of the population and which include an indefinite range of documents, such as sanitary and epidemiological rules in addition to SanPiNs approved by Rospotrebnadzor. This is the interpretation used by the Ministry of Internal Affairs. As the result of this interpretation, the prosecution in the «sanitary case» indicates a violation not only of the sanitary regulations of SanPins, but also of the decrees of the mayor of Moscow that introduced the «high-alert regime» and the phases of lifting restrictions, federal laws «On the sanitary and epidemiological welfare of the population» and «On the protection of the population and territories from natural and man-made emergencies», and government resolutions on the list of diseases that pose a danger to others. At the same time, the persons involved in the «sanitary case» are charged with violations, which for the most part are not directly related to SanPiNs.

The prosecution in the Moscow «sanitary case» refers to four blocks of «violations» at once:

- 1 participation in an action that was unauthorised by the authorities during the ban on rallies due to the pandemic;
- 2 violation of mandatory quarantine by several participants of the protest action;
- 3 absence of personal protective equipment for some participants of the action;
- 4 non-compliance with social distancing.

Neither the miscoordination between protest organizers and the authorities, nor participation in public events under the conditions of the «high-alert mode» are direct violations of the «sanitary and epidemiological rules», even in their broad interpretation. If the «sanitary rules» referred to in the charge mean specific «coronavirus» Sanitary Rules and Regulations, then the only thing they explicitly prohibit is a violation of the self-isolation regime for people with a confirmed coronavirus infection. The requirements for restricting events, wearing masks and maintaining a distance stated in the rules concern not the citizens, but the authorities, and, therefore, only representatives of the authorities can violate them. And the rules for wearing gloves on the street were present neither in the Sanitary Rules and Regulations, nor in other regulatory documents.

Miscoordination between protest organizers and the authorities and the ban on rallies during the pandemic

Since the spring of 2020, public events **have been restricted or completely banned in many regions** (these regions include, among others, Moscow, Nizhny Novgorod and Saratov regions, where criminal proceedings were initiated under the «sanitary» article, as a result of the January protests). Attempts to obtain government approval for the January protests in various cities **were unsuccessful**.

The ban on public events due to the pandemic **contradicts** the recommendations of the World Health Organization, which, on the contrary, suggests minimizing spontaneous events to allow the authorities to prepare and mitigate possible risks. Therefore, it is critically important to be able to coordinate the protest in advance, and it is precisely this that is made impossible by the current bans in many regions. WHO also believes that mass events «may not include an event held for several hours in a large city in a country with a well-developed and modern healthcare system» — and Moscow undoubtedly fits this definition.

Whether protesting is a violation of sanitary rules is not an obvious question. The restriction is prescribed in the regulations on the conditions of the «high-alert regimes», introduced not by the federal legislators and not by Rospotrebnadzor, but by regional executives. Those are **the decrees** of the mayor in Moscow, the decree of the governor in the Nizhny Novgorod region, and **the decree** of the regional government in the Saratov region.

The **relevant sanitary regulation (SanPiN)** on the «prevention of the new coronavirus infection (COVID-19)» does not contain a strict ban on rallies and other public events. It only states that «restricting or canceling mass events (entertainment, cultural, sports)» is one of the ways of «breaking» the mechanism of transmitting the infection and does not explicitly mention rallies and other public events.

Importantly, it is not obvious whether the very fact of participating in an event mentioned in the «sanitary case» violates sanitary rules. The decree of the mayor of Moscow, the decree of the governor of the Nizhny Novgorod region, and the decree of the government of the Saratov region prohibit «holding» public or other mass events, rather than participating or calling for participating in such events.

Mandatory self-isolation

- The sanitary regulations on the prevention of the spread of the coronavirus infection require that «patients, persons with suspected COVID-19 and those who were in contact with COVID-19 patients must comply with the mandatory isolation regime».
- This is the only requirement from the sanitary and epidemiological rules that targets all citizens, rather than just the officials.

Social distancing

- Sanitary norms identify «the need to maintain social distancing (1.5-2 meters) during the rise in morbidity» as a preventive measure.
- At the same time, the order of the chief sanitary doctor **asks** to «keep the distance of at least 1 meter from other persons» in public places. The decree of the mayor of Moscow **establishes** an appropriate distance of 1,5 meters in public places.
- At the same time, the requirements for social distancing in the documents differ. The sanitary norms do not provide any general regulations of social distancing but specify that social distancing is needed «during the rise of morbidity» with no further explanations. According to the official statistics, there was a decline in the number of detected cases in Moscow at the end of January, and Sergei Sobyenin **claimed** on January 21 that «the situation with the spread of the coronavirus infection inspires cautious optimism.»

Gloves

- The «coronavirus» sanitary norms do not contain a requirement to wear gloves. Instead, the sanitary norms only state that «compliance by all individuals with the rules of personal hygiene (washing hands, use of antiseptics, medical masks, and gloves)» is one of the «measures aimed at 'breaking' the mechanism of transmission of the infection»
- The decree of the mayor of Moscow on the introduction of the «high-alert» state **specifies** that citizens must use gloves when «visiting buildings and structures» beginning from June 1, 2020.
- Thus, the requirement to use gloves outdoors was not enforced in January 2021. In addition, at that time, **researchers had already repeatedly stated** that gloves are ineffective in preventing the spread of the coronavirus infection. WHO's recommendations **do not include** a requirement to use gloves in public places either. Subsequently, Moscow's authorities **have cancelled this requirement** for indoors as well.

Masks

- The above-mentioned sanitary norms on masks are the following: «The education of the population as a method of preventing COVID-19 includes <... > an explanation of the rules for wearing masks to protect the respiratory organs.»
- A separate **decree** of the chief sanitary doctor of Russia from October 16, 2020 contains a provision on wearing masks by citizens «in places of mass gatherings of people». This document is not a formal sanitary norm (SanPiN).
- The decree of the mayor of Moscow **states** that citizens must use masks «when leaving their place of residence» starting from June 1, 2020.

RALLIES AND MEDICAL MASKS: THE INCONSISTENCY IN THE REGULATIONS

The prosecution in the «sanitary case» emphasizes that the protesters did not wear masks and thereby put others in danger. However, the **conflicting laws and regulations**, as well as mutually exclusive statements of Russian officials prevent participants of public events from understanding the rules. Firstly, it is not clear in which case one should wear a mask outside. Secondly, it is not clear under which conditions the participants of a political event must wear them.

- Since 2012, the federal law on rallies prohibits participants from intentionally hiding their face. Although the Constitutional Court clarified in 2016 <http://doc.ksrf.ru/decision/KSRFDecision240541.pdf> that the wearing scarves and masks due to specific weather conditions or medical reasons is not prohibited. In the last year political events have been suspended in both cases: when participants **wore** masks and when **they did not**.
- In the autumn of 2020, MPs from the LDPR faction submitted to the State Duma **a bill** that is supposed to allow wearing masks at rallies, if wearing masks is mandatory during the «high-alert» state. By the summer of 2021, these amendments have still not been considered. **A set of amendments that tightened regulations on public events** has been adopted, even though these amendments have been introduced a month later. In particular, these amendments required journalists covering political events not to wear masks. This set of amendments was proposed by an MP from the «United Russia» party Dmitry Vyatkin.
- During the consideration of Vyatkin's draft law, deputies from the Communist Party of the Russian Federation proposed to clarify in the bill that wearing masks is allowed in order to comply with anti-epidemic requirements. This amendment was rejected. «It is quite obvious that if there is a requirement of the law not to hide your face, then, consequently, these norms have priority, » Vyatkin commented on this proposal when considering the draft law on the second reading. «In cases where there is a special regime, including the high-alert regime, which has been introduced in a number of regions, wearing masks, as a rule, if we turn to the current experience, is mandatory in closed rooms, and on the street, where most public events are held, it is not mandatory, therefore, there is no particular problem here, you can not hide your face there, but you do not need to wear masks necessarily.»

- On the official website of the Mayor of Moscow in the autumn of 2020, in the section with questions and answers about coronavirus, a material with popular questions and answers on the topic of coronavirus restrictions was published and is still available. It **states** that «wearing a mask on the street is not necessary.» The head of the Moscow Department of Rospotrebnadzor, Elena Andreeva, **predicted** on the eve of the January protests that the participants of the rally would not wear masks «because there is no mask mandate on the street.»
- In February, the governor of St. Petersburg, Alexander Beglov, explained the ban on any demonstrations, marches, rallies and picketing in the region by the fact that their participants are forbidden to hide their faces, «therefore, it is not possible to hold public events given the risk of spreading the new coronavirus infection (COVID-19) among the participants of such events using personal protective equipment.» The governor's response **was published** by Boris Vishnevsky, a deputy of the St. Petersburg Legislative Assembly from the Yabloko party.

According to the regulatory acts, in January, in places of «mass gatherings of people» there was a requirement to wear medical masks, while using them at rallies for medical purposes was not prohibited. However, in official statements, government representatives express ideas that contradict the established norms, for example, that wearing masks at a rally is prohibited. The refusal to use masks by the protesters can be explained precisely by the fact that the representatives of the authorities in official statements express ideas that contradict the established norms. And the very fact that such official statements take place indicates the excessive complexity of the regulations and the lack of awareness among the officials.

THE DISCRIMINATORY NATURE OF THE «SANITARY» REQUIREMENTS IN RELATION TO PROTEST ACTIONS

The ban on rallies is obviously discriminatory: it continues to apply when many other forms of mass gatherings of people are allowed. Moreover, on the eve of the protests, from January 22, restrictions on visiting educational institutions, cultural, sports, advertising and other events **were relaxed** in Moscow. In Nizhny Novgorod, in January 2021, mass events with the in-person presence of people were banned, but these bans did not apply to a number of sports, cultural, commemorative and other events.

The selectivity of the application of the requirements on mask wearing and social distancing is also striking. Failure to comply with these rules outside a rally in public transport, during official events or in a crowd on the street often does not entail any legal consequences.

At the time of the protests, the authorities held numerous mass events indoors and outdoors (a list of such events is available **in the Appendix**). The most prime example is the multi-thousand concert «Crimean Spring» in honor of the anniversary of the «annexation» of Crimea. It **was held** in March 2021 at the Luzhniki Stadium in Moscow in the presence of President Vladimir Putin.

There was no information about any new legal cases under Article 236 of the Criminal Code in connection with such events even despite numerous appeals to law enforcement agencies. We have collected some examples of such events here.

*A more detailed list can be found **in the appendix**.*

THE «REALITY» OF AMASS DISEASE THREAT

On April 30, 2020 — a few weeks after amending Article 236 to include liability for creating a danger of mass contagion — the Supreme Court of the Russian Federation **issued** a «review of judicial practice», in which an attempt was made to clarify what should be understood by «mass contagion» and «creating a danger of such consequences». The Court drew attention to the following:

- when deciding whether to classify a contagion or poisoning as a mass one, it is necessary to take into account not only the number of infected or poisoned people but also the severity of the disease (poisoning);
- to determine the extent of contagion or poisoning, the court has the right to invite the corresponding specialists, such as representatives of federal executive authorities authorized to perform state sanitary and epidemiological supervision or supervision in the field of consumer protection and human welfare;
- it is necessary to prove the reality of the danger if a mass contagion or poisoning of people did not occur *only as a result of measures taken in time by state authorities, local authorities, medical workers and other persons, or due to other circumstances beyond the control of the defendant.*

Despite the requirements of the Supreme Court, in «coronavirus» cases under Article 236 of the Criminal Code in 2020, the reality of the danger of a mass contagion or poisoning, as a rule, was not proved. Only in three out of ten court decisions were we able to find indications of the measures taken by the authorities that prevented mass contagion: the forced return of sick people who left a hospital of infectious diseases, and the disinfection of the premises.

Only in **one case** the lack of evidence of the reality of danger became a reason to return the case to the prosecutor.

Proving the «reality of the danger» of a mass contagion has become a key part of the «sanitary case».

The main argument of the prosecution is the number of participants in the January 23 protests. According to the investigators, there were about 4,000-5,000 people. Due to a large number of people on the street, «the event was a direct and real threat of mass contagion.» The problem was that there was only one person at the protest who, according to the investigation, could have infected someone — Dani Akel. However, the investigators decided that the people who had suffered COVID-19 and who held negative recent PCR tests still posed a threat to others «due to the poor knowledge of the disease caused by the new coronavirus infection.»

The evidence of a danger of mass contagion was based on the testimony of a witness Daria Vasilevskaya, the deputy head of the Epidemiological Surveillance department of Rospotrebnadzor in Moscow. Employees of the Investigative Committee showed Vasilevskaya a video footage of the protests on January 23 from the city surveillance cameras, after which she concluded that «there is a real threat of mass contagion with the new coronavirus infection in such a mass gathering of people.» Vasilevskaya explained that the protesters were not wearing masks, gloves, and they were not practicing social distancing, so contagion threatened not only the participants of the rally but also other residents of the city. Based on the testimony of doctors and a Rospotrebnadzor employee questioned as part of the criminal investigation, the investigators decided that «the probability of contagion of persons who contacted the sick people is almost one hundred percent.»

Thus, in proving the threat of mass infection, the investigation committee considered it sufficient to rely on the

subjective opinion of a Rospotrebnadzor staff member, and to claim that the amount of people gathered (4000-5000 people) was enough to pose a threat in itself. The indictment does not explain how the January 23 situation differed from many other mass gatherings.

WAS IT ABOUT PREVENTING THE THREAT OF A DISEASE OR SUPPRESSING THE INTRODUCTION OF POLITICAL RISK?

According to the investigators, after the January 23 rally in Moscow mass illness «was avoided only as the result of coordinated actions of law enforcement officers, an organized system of disease prevention, preventing the prolonged presence of people in conditions of violation of the social distancing regime and other measures taken.» The investigators support their version of events with testimonies of five police officers who detained protesters on January 23, as well as with responses to requests from the Moscow departments of the Ministry of Internal Affairs and Rosgvardiya.



1 of 4

From the indictment in the case of Nicholas Laskin

"Due to the unprecedented measures taken by the law enforcement agencies to reduce the number of protesters present in places of public gathering; to supply everyone and subjected to administrative detention citizens by personal protective equipment (gloves, masks, sanitizers); the stay of citizens in the internal Affairs agencies; for sanitary treatment of places and service vehicles, etc. managed to avoid the spread of the new coronavirus infection COVID-19 and a mass of human contamination with this infection".

According to the investigation committee, the «unprecedented» measures generally consisted of the following:

- **«explanatory work»:** it is alleged that law enforcement officers used sound-amplifying equipment to call on protesters to wear masks and gloves, observe social distancing, not participate in an uncoordinated event and disperse;
- **distribution of masks** by police officers and Rosgvardiya (data on the scale of these actions — for example, on the number of masks distributed or employees involved in this — is not provided);
- **reducing the number of protesters:** Rosgvardiya reported that a cordon was set up to prevent the " mass gathering» of people; police officers reported detaining «the most active participants in the rally».

The claim that the actions of the authorities prevented a threat of mass contagion seems unconvincing and unfounded. All police officers acting as witnesses for the prosecution claimed that «the citizens attending the rally did not react in any way» to the distribution of masks and demands to comply with the rules, and that this was the reason for the detentions.

It seems that in the conditions of a pandemic, a much greater risk of infection was created not by the actions of protesters on the street, but by the actions of the authorities who suppressed the protests. According to the Ministry of Internal Affairs data obtained from the materials of the case of Nikolai Lyaskin, about 4,000 people participated in the protest, 1,786 of whom were detained and taken to police departments. The consequence of the unprecedented mass detentions was that the participants of the protest were kept

for hours, and sometimes for days, **without social distancing** in a tight, enclosed space: in car parks, police departments, courts and special retention facilities for administrative detainees. All this could not but increase the probability of infection.

In the Lyaskin case materials, the Department of the Ministry of Internal Affairs in Moscow reports on compliance with the necessary sanitary measures:

- «The police officers involved in ensuring public order on 23.01.2021 were provided with all the necessary personal protective equipment (medical masks, gloves, hand sanitizers)»;
- «The cars used for the transportation of police officers and administrative detainees, as well as the office premises of the internal affairs bodies, were constantly sanitized»;
- Law enforcement agencies took measures «to supply all those that required them, as well as citizens subjected to administrative detention, with personal protective equipment (gloves, masks, hand sanitizers)».

This contradicts the testimonies of the detainees who requested support from OVD-Info. They **reported** cases of obvious violations of sanitary standards: crowded detention vehicles, demands to remove medical masks in police departments, police refusals to provide masks and gloves to replace used ones.

«We stood in line in Sakharovo for ten hours» **reported** one of the detainees. «Almost everyone was taken for questioning to the investigator as a witness in a criminal case of violation of sanitary and epidemiological norms, although the police themselves did not care about these norms. And we sat for hours in the detention vehicles, no one offered us masks. In the special retention center, crowds of people were also constantly merged with each other. Out of interest we asked

for masks — both in the detention vehicles and in the special retention in Sakharovo, they told us that there were no masks»

The overcrowding of the Moscow special detention centers in early February **was confirmed** by the president's press secretary, Dmitry Peskov, who said «More people were detained than the isolators can handle, there are more detainees than can be processed in a short time, so, unfortunately, there are such consequences, » he said.

The testimony of police witnesses does not reveal any information on the fulfillment of sanitary and epidemiological requirements in transport or on the premises.

Subsequently, the detainees complained about the violation of sanitary standards to the National Guard and the Moscow divisions of the Ministry of Internal Affairs, but they responded by saying they had not detected violations (three responses to the complaints are available to OVD-Info).

Рассмотрев Ваше обращение, специалистами Центра государственного санитарно-эпидемиологического надзора ФКУЗ «МСЧ МВД России по г. Москве» в рамках своей компетенции проведены внеплановые проверки ОМВД России по району Братеево г. Москвы (г. Москва, ул. Братеевская, д. 22), ОМВД России по Нагорному району г. Москвы (г. Москва, Черноморский бульвар, д. 9) и ЦВСИГ ГУ МВД России по г. Москве (г. Москва, Троицкий АО, 64 км Варшавского шоссе, д. Сахарово, пос. Вороновское).

По результатам проверок установлено:

личный состав подразделений при исполнении своих служебных обязанностей используют средства индивидуальной защиты (далее – СИЗ) (маски медицинские, респираторы, одноразовые перчатки);

личный состав подразделений обеспечен дезинфицирующими средствами для обработки рук;

в подразделениях имеется запас СИЗ и дезинфицирующих средств для обработки рук;

в подразделениях имеется разграничительная разметка для соблюдения социальной дистанции не 1,5 м;

сотрудниками полиции, выдаются посетителям СИЗ при посещении подразделений;

На момент проверки нарушений санитарно-эпидемиологических норм, указанных в обращении, в подразделениях не выявлено.

Заместитель начальника –
начальник ЦГСЭН –
главный государственный санитарный врач
капитан внутренней службы

В.В. Полховский

Excerpt from a response to the appeal of a detainee in Moscow

Translation (see [here](#)).

Attempts to hold law enforcement officers to account under article 236 of the Criminal Code were also unsuccessful.

- In February, the «Public Verdict» Foundation **applied** to the Investigative Committee with a report of a crime under Article 236 of the Criminal Code by law enforcement officers in connection with a gross violation of sanitary standards. «Social distancing was not observed in the detention vehicles, conditions for washing and disinfecting hands were not created, the detainees were not given masks and gloves, or checked for signs of infectious diseases. Thus, the conditions of detention grossly violated all the regulations applicable to this situation, which created a real threat of mass illness of the detainees, " the foundation noted. The case has not been opened: the Investigative Committee redirected the appeal to the police. In April, the Moscow Department of the Ministry **of Internal Affairs replied to the fund** that paddy wagons were disinfected, «while boarding a special car, the protective equipment was issued to citizens who did not have it, the equipment was provided by the police officers from the reserves designated for these purposes» and «placement was carried out according to the number of seats and the occupancy limit was not exceeded.»
- On the day of the protest rally on January 31, the Moscow police **came** to the home of the Navalny LIVE journalist Alexandra Shapalina, she was detained and taken to the Department of the Internal Affairs later, the lawyer from OVD-Info, Dmitry Grabatov, who represented her interests, **said** that the journalist had a fever at 38,6 °C, but the ambulance refused to pick her up from the police department. «We have filed an application against the employees under part 1 of Article 236 of the Criminal Code of the Russian Federation, since there are a lot of people in the department, which creates a threat of mass infection», said Grabatov.

«INCITEMENT» IN THE «SANITARY CASE»

The materials of the Moscow «sanitary case» contain a letter from the Department of Information Technologies of the Moscow Government saying that thanks to the technology of social monitoring four people were recorded to have left the appointed place of isolation earlier than specified, all because of the rally on January 23. Three of them had negative PCR tests. Only one person, Dani Akel, did not have such a PCR test. The investigators asked the district doctor and the doctor who went to Akel's house, they received a response from the Moscow City Health Department and thus confirmed that he should have been in self-isolation on the day of the rally. In an interview with Novaya Gazeta, Akel **said that** instead of an official test, he has done two express tests: «I was told later that these express tests had no legal force». «At that moment, I did not consider this important and I did not think that in three months they would file a criminal case against me».

Other figures of the Moscow «sanitary case» were accused of publishing posts about the rally. Since this in itself is not a violation of the sanitary standards, the Moscow investigators declared it «incitement» to a violation «by persuasion and appeal».

According to the Criminal Code, «an instigator is a person who has inclined another person to commit a crime by persuasion, bribery, threats or using any other way» (part 4 of Article 33 of the Criminal Code). In the «sanitary case», the investigation decided that the «incitement» lies in the publication of appeals: it is not stated that any other means of influence were used- such as deception, threats, etc.

In the period from January 18 to January 23, 2021, the accused people have shared posts and video messages on their own pages on the social networks Twitter, Facebook,

Instagram, messengers, as well as on the website navalny.com and the YouTube channel «Navalny LIVE». According to the investigation, the posts and videos contained appeals encouraging an unlimited number of people to take part in an unapproved rally planned on January 23 at the Pushkin Square and other public places in Moscow. An example of such a post:

Navalny has been fighting for our rights for many years. It's our turn to fight for him, January 23, 14: 00. The central streets of your cities. Go out. Don't stay away.

The investigation conducted a forensic linguistic analysis. The expert concluded that the phrase published by Oleg Navalny «watch the latest investigation of the FBK, and on January 23 go to the central square of your city to discuss it» implicitly calls to get acquainted with the latest investigation of the FBK and to go to the central squares of your cities on January 23. In Nikolai Lyaskin's post «The authorities and the security forces did everything to make it a shame to stay at home», the expert has found a hidden incentive «go, don't stay home», but from the context he could not establish «where exactly and when» one «has to go».

The suspected «instigators» in the «sanitary case» are charged with calls to participate in a protest rally, which in itself is not a violation of sanitary and epidemiological norms. The investigation does not prove that the accused called for participation in a rally without the masks, ignoring social distancing, and even more so to go to the rally while having the symptoms of the coronavirus infection. In the indictment, the investigation indicates that Lyaskin has written a post «intentionally, with the aim of inducing an unlimited number of people to participate in an unapproved public mass event». But then the calls for

violation of the rally legislation are transformed into deliberate incitement to violation of sanitary and epidemiological norms. The logic of the charges is as follows:

- public events were not approved;
- without the legal approval and «under conditions of spontaneous mass gathering» of people it was impossible to comply with the sanitary standards;
- the spread of coronavirus infection is a real threat during a mass gathering of people;
- all calls for street protests are equal to calls for violating COVID-19 sanitary protocols since all the risks were evident.

Those calls weren't for someone in particular. They addressed all persons. The linguistics expert provided by the prosecution called the addresses of those calls «Internet users».

The prosecution uses testimonial evidence by seven witnesses to prove that messages on social media published on the eve of the January 23rd street protest were their motive to join. For instance, Mr. Karasev's testimony says that he looked through social media pages of Mr. Navalny's supporters and «after reading and watching their publications and videos he and his friends decided to join the rally because it promised to be an interesting and ambiguous event». According to the testimonial evidence from the case's materials, four witnesses testified that they weren't participants of the rally and their presence was a matter of curiosity only. Three others decided to go «to see what's going on with their own eyes».

The investigators conclude that the defendants «could not be unaware that part of the participants will be COVID-19 positive considering the widespread of the disease».

Dani Akel is the only hypothetically contagious person who «clearly realized that he violated the self-isolation protocol.». His testimony explicitly states that he made the decision independently. Thus, the defendants of the Moscow Sanitary Case didn't provoke him to commit a crime in any way. Nevertheless, the investigation still decided that Mr. Akel was «influenced by the calls of Mr. A. A. Navalny's supporters.». Dani Akel's trial was held in a special order, which formally meant that the defendant and the prosecution were in full agreement.

The concept of incitement, in theory, is defined by the following criteria:

- 1** Incitement is the action of provoking unlawful behavior or urging someone to behave unlawfully according to the Criminal Code, not to abstract offenses;
- 2** Incitement is always deliberate. Instigator wants or knowingly allows negative results to come;
- 3** Incitement involves referring to a specific person chosen to be the perpetrator of a concrete crime;
- 4** A causal relationship between the instigator's and the perpetrator's actions is crucial. That is, it is necessary to demonstrate that the instigator's activities persuaded the perpetrator to commit a crime.

The prosecution's interpretation of incitement in the Moscow Sanitary Case doesn't meet those criteria.

The defense's position on the Moscow Sanitary Case can be explored here.

The investigation took an even stranger position in the case of the Nizhny Novgorod journalist Natalia Rezontova. It follows from the indictment that she allegedly provoked COVID-19 positive persons to join 23.01.2021 street protests (similarly to the defendants in Moscow Sanitary

Case), and thus created a threat of a spread of the disease, just as defendants in Moscow Sanitary Case. But at the same time, she was charged with committing a crime under the Criminal Code of the Russian Federation article 236 part 1, with no use of «incitement» (the Criminal Code of the Russian Federation article 33 part 4). This bureaucratic omission may lead to the termination of the criminal case against Natalya Rezontova.

SELECTIVITY OF LAW ENFORCEMENT AND THE SPREAD OF THE THREAT OF CRIMINAL PROSECUTION

The indictment of the Moscow Sanitary Case says that there were calls to street protests from other persons, not from the defendants only.

Besides, some testimonies say witnesses saw numerous publications regarding street protests. One of the witnesses testifies that he «saw the video 'Palace for Putin' and other publications of A. A. Navalny's supporters with information about 23.01.2021 street protests in Moscow and other cities in Russia. That idea was in every publication I saw». This case justified collective incitement of any Mr. Navalny's supporters, not the guilt of an individual. Anyone who has a large audience and posted calls to street protests can be included in that list.

From the Khesin A. B.'s witness testimony in the indictment in the case of Nikolai Lyaskin

"From the Khesin A. B.'s witness testimony in the indictment in the case of Nikolai Lyaskin "During the period of self-isolation, he browsed various Internet pages and social network pages that said about the detention of Alexey Navalny. It was also said that a rally in support of Navalny is planned to be held in Moscow on 23.01.2021 As a result, he decided to participate in this rally. His goal was just to look at how the rallies themselves are held, so it was a simple curiosity.

<...>

He found it difficult to remember where exactly he saw calls to go to the rally, However, he remembered that, among other things, he had seen this information on the official page of Navalny A. A., to whom he is subscribed. At the same time, he does not personally know Navalny and his followers and does not communicate closely."

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Back in January, lawyer Sergei Badamshin **published** a fragment of the protocol of Lyubov Sobol's interrogation, during which the investigator listed the names of 37 people. There were different persons (actors, artists, journalists, writers and many others) who recorded and published **videos** in support of Alexey Navalny on the eve of 23.01.2021 street protests.

All this indicated that the number of accused could grow. An indefinitely wide range of people found themselves under the threat of criminal prosecution within the framework of the «sanitary case».

This uncertainty was compounded by the fact that application of the new version of the Criminal Code's article 236 means that the participants of the protests can be doubly charged under a number of administrative offense articles.

- With the beginning of the pandemic, the new article 20.6.1 of the Code on Administrative Offenses («Non-compliance with the rules of conduct when introducing the high-alert state») and its analogues from the regional Codes on Administrative Offenses began to be applied to the participants of the rallies.
- Due to the inability to authorize rallies in regions where they were completely banned due to the coronavirus, charges of participating in a non-authorized public event were also used (parts 5 and 6.1 of Article 20.2 of the Administrative Code).
- It is a common practice to equate the calls to participate in rallies with the organization of an unauthorized event (part 2 of Article 20.2.2 of the Administrative Code)
- Article 20.2.2 of the Administrative Code is also used. It includes, among other things, punishment, for calls to participate or participation in a «simultaneous mass presence» that resulted in a violation of sanitary standards.
- In case of a violation of mandatory self-isolation rules, Article 6.3 of the Administrative Code was also applied («Violation of legislation on ensuring the sanitary and epidemiological well-being of the population») for example **after returning from abroad**. In Moscow in 2020 the «Social Monitoring» system was introduced. It **issued fines** under Article 3.18.1 of the Administrative Code of Moscow, if there was a suspected violation of the self-isolation regime by people with confirmed coronavirus.

This allows law enforcement agencies to manipulate the prosecution and ensure selective law enforcement. For the same actions, someone is charged with an administrative article, and someone is charged with a criminal one.

The double prosecution for the same actions is also possible. This happened to the defendants of the «sanitary case»

in Nizhny Novgorod. Roman Tregubov and Natalia Rezontova **were charged** with administrative fines of 25 and 20 thousand rubles for posting about the rally on January the 23d. They were accused of organizing an unauthorized rally (according to Part 2 of Article 20.2 of the Administrative Code). In Moscow, Lyubov Sobol was also accused of organizing an unauthorized event and was **fined** 250 thousand rubles for calls to take part in the rally on January the 23d.

Today, during a pandemic, dozens of people are under the threat of a «sanitary» criminal case. For example, people who are recognized as the organizers of an unauthorized event because of their posts in social media are under such a threat.

THERE IS POLITICAL PRESSURE ON A WIDE RANGE OF PEOPLE, INTERROGATIONS AND SEARCHES UNDER THE HEADING OF THE «SANITARY CASE».

The very fact that the «sanitary case» exists allowed the authorities to create a system of political pressure on a potentially very wide range of people. This concerns not only more than ten individuals involved in the criminal cases, but also hundreds of people, namely, the relatives of those individuals and witnesses in the case who faced detentions, **searches** and interrogations. Some witnesses eventually turned into defendants. Large-scale investigative actions were launched at the end of January 2021 and continued for many months.

Interrogations and searches under the heading of the «sanitary case» investigation began suddenly, when the suspects were serving administrative sentences in special detention centers. Sometimes, after interrogations, people

were detained based on administrative charges, followed by a prolonged arrest.

- The former accused in the «sanitary case», municipal deputy Konstantin Yankauskas, began to be **interrogated** back in the Sakharovo special detention center.
- The former director of Open Russia, Andrey Pivovarov, and the ex-head of the Krasnoselsky district of Moscow, Ilya Yashin **were detained** on January 31st, interrogated as witnesses in the «sanitary case», and then the reports were filed on an administrative offense and Pivovarov and Krasnoselsky were left in the police office overnight. Subsequently, Pivovarov was sentenced to 29 days of arrest.
- The former head of Navalny's headquarters in Nizhny Novgorod **was detained** on January 31st at the exit of a cafe, after which he was taken to the police station for questioning with regards to the «sanitary case». After the interview, a protocol of an administrative offense charge was drawn up for him, followed by the appointment of an administrative arrest by the court.

On January 27, the Tverskoy District Court of Moscow authorized at least 29 searches in criminal cases initiated after the protests on January 23d. According to media **reports**, most of them were connected to the case under Article 236 of the Criminal Code. Mass searches and interrogations regarding the «sanitary case» were also held in Nizhny Novgorod and Saratov. In some cases, searches were carried out when the witnesses themselves were not at home. For example, on January 30, the apartment of the former coordinator of Navalny's headquarters in Saratov, Dmitry Tsibirev, was **searched**, while Tsibirev himself was serving an administrative arrest for organizing an unauthorized rally.

Not only the suspects were raided but also an unlimited number of witnesses and their relatives. Searches on the «sanitary case» took place, among other things, in the office of the Anti-Corruption Foundation and Navalny's headquarters, at the editor-in-chief of Mediazona Sergey Smirnov's apartment, and the assistant to municipal the deputy Nikolai Kasyan and a member of the Libertarian Party of Russia Igor Efremov's apartment.

Searches were carried out not only in the homes of public figures, politicians and activists, but also in the homes of their family members, for example, at the place of residence of Yulia Navalnaya's parents, in the home of the head of Navalny's regional headquarters, Leonid Volkov, in the home of the parents of the future defendants in the «sanitary» case Konstantin Yankauskas in Moscow and Roman Tregubov in Nizhny Novgorod.

- «They are performing a search now at the place where my elderly parents live, who I have not lived with for 8 years. The police are breaking into the apartment, my mother is trying to restrain them until the lawyer arrives, » wrote Konstantin Yankauskas in his social media accounts in January, a former defendant in the Moscow «sanitary case» and a municipal deputy, .
- The former head of Navalny's Nizhny Novgorod headquarters Roman Tregubov describes the use of searches in the homes of the family members as an instrument of pressure: police officer «said that we just «poked a little» at your parents and that my house was raided, told me about my repair. <...> Threatened to push relatives: not only my freedom and health were at stake, the focus has shifted to my loved ones.»

Although formally searches and interrogations are ways to investigate criminal cases, at the same time they themselves become a difficult experience. People can be forcibly brought to interrogations, without a lawyer and

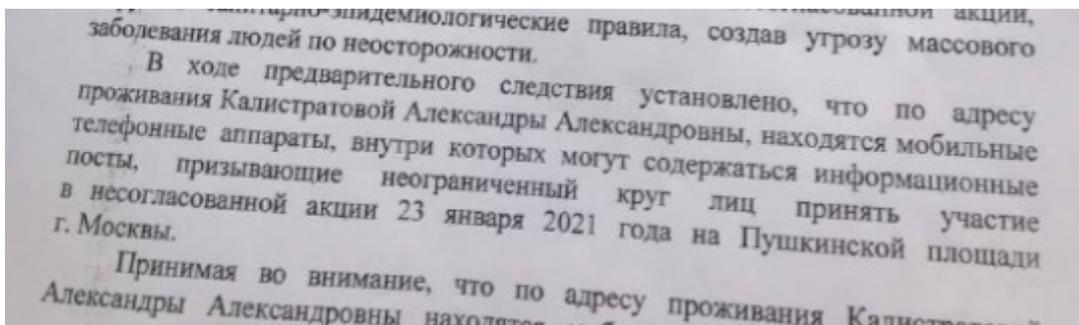
with violations of procedural norms. Searches are carried out unexpectedly, often early in the morning and last for hours. Security forces also do not always wait for the arrival of a lawyer, they often seize electronic equipment, which complicates professional and educational activities and brings additional financial costs. In July, as part of the Nizhny Novgorod «sanitary case», a witness, a former employee of Navalny's team, **was searched** during a wake for his deceased father.

Pressure and force are not a rare thing as well, examples of this include forcing a person to open the door or leave their apartment, unlocking personal mobile phones and other electronic devices, gaining access to personal correspondence.

- The SMM editor of Navalny's Moscow headquarters, Alexander Shepelev, **was** searched by armed men in bulletproof vests; they threatened to open his door with a grinder. The search was carried out as an urgent one by the decision of the senior investigator of the GSU Investigative Committee — allegedly, in the event of investigative actions, Shepelev could «destroy objects and documents of interest to the criminal case under investigation at his place of residence.» Shepelev told Mediazona that they **beat him**, demanding to tell them his password to the telegram channel. After they searched him, he was taken away in an unknown direction, his relatives managed to find him only the next morning, in court.
- On January 31, in Moscow, the police came to the press secretary of the municipal deputy Yulia Galyamina and Nikolai Kasyan <https://nash-sever.info/2021/01/31/v-moskve-zaderzhali-press-sekretarja-galjaminoj-i-otca-chlena-ee-shtaba/>, to take them for questioning. Since they didn't have a search warrant, they couldn't get into the house, but they turned off the electricity in the apartment to lure the residents out.
- To get into the apartment rented by Alexey and Yulia Navalny, law enforcement officers **broke** down the door, the lawyer was not allowed to be present at the search.

During the searches regarding the «sanitary case», office equipment was taken from the offices of opposition organizations, electronic equipment, mobile phones, **foreign passports**, bank cards and other things important for work and everyday life — without proper justification of their connection to the case.

- «Everything was seized at the headquarters, even our merchandise: socks with ducks, socks with the Navalny logo, the letter «N», T-shirts, two more printers, a copier, a router, all the computers, » — this is how the former head of Navalny’s headquarters in Nizhny Novgorod **describes** the search under the «sanitary case».
- In a similar way **searches** took place in the headquarters office in Saratov: «They took office equipment, flash drives, flags, posters, routers and even balloons! They were not hindered by the closed door of the pantry, it was simply broken down.»
- On January 26 the author of the telegram channel «Freedom of Russia», Alexandra Kalistratova, **was detained** in Moscow. During the detention, a mobile phone was seized from Kalistratova as part of the investigation under the «sanitary case». Subsequently, they filed a report with charges on an administrative offense and left the woman in the police for the night.



Translation (see [here](#)).

Thus, the initiation of a case under Article 236 of the Criminal Code made it possible to intimidate a wide range of people, hindering the work of individuals and organizations, and obtaining information that goes beyond the investigation. In Moscow alone, more than 300 people were interrogated in relation to the «sanitary case», as of March 2021. The threat of investigative actions under the «sanitary case»

persists for many months, and geographically it can go beyond the specific city or region in which the action took place. Thus, at the beginning of August in Moscow, a former member of Navalny's team **was searched in the morning** in connection to the «sanitary case», which was initiated because of the protests on January 23 in Nizhny Novgorod.

PREVENTIVE MEASURES UNDER ARTICLE 236 OF THE CRIMINAL CODE

On January 27, immediately after the searches, the first suspects in the Moscow «sanitary case» were detained — Lyubov Sobol, Oleg Navalny, Maria Alyokhina and Anastasia Vasilyeva. They were detained for 48 hours before the trial as a preventive measure. In a document **published** by the head of the FBK legal service Vyacheslav Gimadi, the investigation justified the need for detention by the fact that «the person was caught committing a crime, obvious traces of a crime were found in the person's home» (which were not reported specifically).

The most severe preventive measure possible for a case under the first part of Item 236 of the Criminal Code is house arrest. According to this measure, one can be taken into custody only in exceptional cases — when the person involved in the case does not have a permanent place of residence, is hiding from the investigation, or violates the preventive measure appointed earlier.

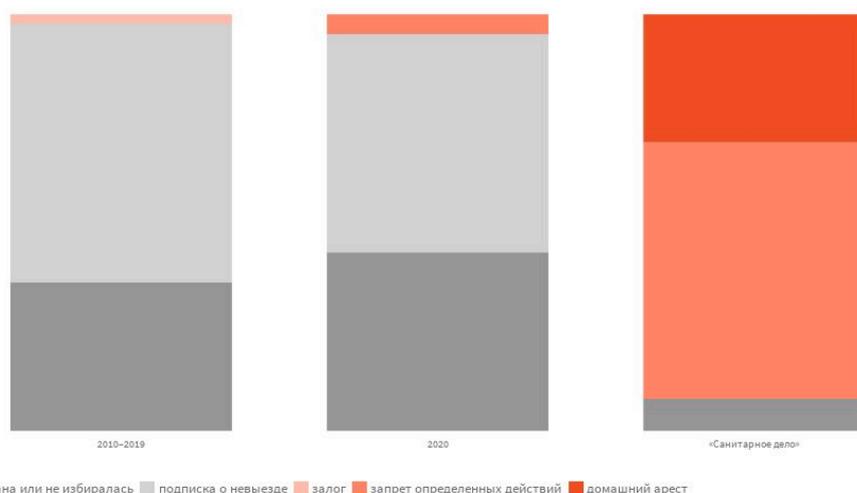
The first people of interest in the «sanitary case» were specifically given house arrests, however, in some cases, they were later replaced by a ban on certain actions. Among the 13 people of interest, known to us, preventive measures were distributed as follows:

- only two defendants weren't appointed any preventive measures;
- in three cases, a ban on certain actions was initially assigned;
- in four cases house arrest was appointed, but then replaced by a ban on certain actions (in one case, for Konstantin Yankauskas, the ban was not extended later);
- in four other cases, house arrest was sustained.

Even taking into account the replacement of house arrests with a ban on certain actions, the preventive measures in the «sanitary case» were more severe than in cases under the first part of Item 236 of the Criminal Code, which were not related to demonstrations, including cases of violation of COVID-19 rules and creating a «threat» of infection. Among cases found by us, under the first part of Item 236 of the Criminal Code for 2013-2020, none of the defendants were given house arrests at the time of the trial. We are aware of only **one case** of a ban on certain actions being put and **one case** of a bail being put up. In other cases, a travel ban was issued or no preventive measure was appointed.

Меры пресечения в делах по ч. 1 ст. 236 УК

ОВД-Инфо



Источники: Тексты судебных решений, опубликованные на официальных сайтах районных судов к июлю 2021 г., ОВД-Инфо. Для дел, рассмотренных с 2010 по 2020 г., указаны меры пресечения на момент суда. Для «Санитарного дела» указаны меры пресечения, действовавшие в середине июня 2021 года.

Reasons for appointing a preventive measure are very vague, which gives the authorities ample opportunities to change them.

- This way, the head of the «Alliance of Doctors» Anastasia Vasilyeva, one of the defendants in Moscow's «sanitary case», was **appointed** a two-month house arrest at the end of January by the court as a preventive measure. Besides, initially, Vasilyeva was to spend her house arrest at her ex-husband's apartment, but not where she lived with her two underage children. In mid-February, the defendant had **to violate her house arrest** in order to be with her daughter, who had an allergic reaction. After that, the defendant was allowed to be under house arrest together with her underage children. Subsequently, at the end of February, the appeal **softened** the preventative measure to the ban on certain actions. In particular, Vasilyeva was banned from leaving the house from 8 pm to 8 am, attending public and social events, using various means of communication, including the Internet, and contacting other defendants involved in the case. In the beginning of August, FSIN appealed to the court with a petition to replace the preventive measure for Vasilyeva with detention in a pre-trial detention center. According to the lawyer, **the reason for that** were several cases of Vasilyeva arriving home 3-10 minutes late. Subsequently, it became known that FSIN **withdrew** the petition.

Taking into account the relative «softness» of the punishments stated in the first part of Item 236 of the Criminal Code, preventive measures for the duration of the investigation became an independent punishment for the defendants. Ban on certain actions, as well as house arrest, are considered as serious restrictions.

- In March, after house arrest being appointed to Kira Yarmysh as a preventive measure, the lease on the apartment in which she lived was terminated. «When the owner of the apartment found out that Kira was under house arrest... well, let's be frank, not everyone would like FSIN coming [...] She terminated the lease agreement with us in a statement, written to us. I brought this package of documents to the investigator», explained Yarmysh's lawyer Veronika Polyakova.
- A ban on certain actions appointed to the defendant in the «sanitary case» in Nizhny Novgorod Natalia Rezontova **included** a ban on using the Internet and the telephone, receiving and sending written correspondence, as well as on communicating with other defendants in the case and attending public events. Given that Rezontova is a journalist, these restrictions can be considered as a ban on one's professional activity.
- Many people of interest in the «sanitary case» were also limited in their political activity, including the ability to carry out an election campaign: Lyubov Sobol, Oleg Stepanov, Konstantin Yankauskas and Natalia Rezontova were preparing to be nominated as candidates for the State Duma elections.

SENTENCES IN THE «SANITARY CASE»

The first part of Item 236 of the Criminal Code provides for various types of penalties:

- a fine of five hundred to seven hundred thousand rubles,
- deprivation of the legal right to hold certain positions or to engage in certain activities for one to three years,
- restriction of freedom for up to two years,
- community hours for up to two years,
- imprisonment for a term of up to two years.

The charge of «enticement» does not affect the range of possible penalties. An admission of guilt, according to the law, affects only the maximum penalty, reducing it by a third.

By the 26th of August, at the time of the publication of the report, the courts had issued orders against 6 out of the 13 defendants in the «sanitary case», another case was dismissed before the trial:

- The criminal case against Konstantin Yankauskas was dismissed at the stage of the investigation. On July 14, 2021, Konstantin himself received a corresponding court ruling. A few weeks earlier, he publicly **announced** that he would not take part in the elections to the State Duma.
- Dani Akel (pleaded guilty) was sentenced to a fine of 100 thousand rubles on the 2nd of August;
- Lyubov Sobol (pleaded not guilty) was sentenced to restriction of freedom for a year and a half on the 3rd of August;
- Nikolai Lyaskin (pleaded not guilty) was sentenced to a year of imprisonment on the 6th of August;
- The same day, Oleg Navalny (pleaded not guilty) was sentenced to a suspended prison sentence of a year;
- Kira Yarmysh (pleaded not guilty) was sentenced to restriction of freedom for a year and a half on the 16th of August;
- Oleg Stepanov (pleaded not guilty) was sentenced to restriction of freedom for a year on the 20th of August.
- Lyudmila Stein (pleaded not guilty) was sentenced to a year of imprisonment on the 25th of August.
- Dmitry Baranovsky (pleaded not guilty) was sentenced to restriction of freedom for a year and a half on the 30th of August.

The «sanitary case» rulings were harsher than those previously issued for «non-protest» cases under the same article — both those involving mass poisonings and other real adverse effects, and the «threat» of mass coronavirus contamination cases made in 2020 after the article was amended. Such cases were characterized by a high proportion of terminations, often with a judicial fine, and when passing a sentence, most often the courts chose fine

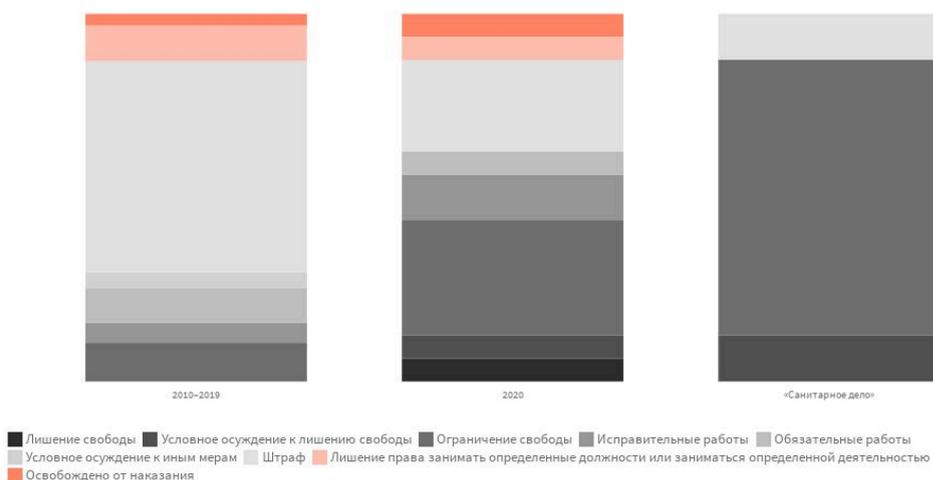
as a penalty. In the «sanitary case» by the end of the summer of 2021, not a single case had been terminated in court, and at the investigation stage, only the case against Yankauskas was terminated. The only fine was imposed on Dani Akel on charges of direct violation of sanitary standards, while the court chose a more severe punishment for those accused of «incitement». The maximum prison sentence for the cases of creating a «threat» found by us in 2020 was a year, the maximum probation period was 8 months.

- For comparison, the court terminated the case of a coronavirus patient who left quarantine for a few days in May 2020 with a court fine of six thousand rubles.

Наказания по ч. 1 ст. 236 УК

Сравнение восьми приговоров, вынесенных в рамках "Санитарного дела" в Москве, с приговорами за 2010-2020 гг.

ОВД-Инфо



Источники: Данные Судебного департамента Верховного суда, обработанные в рамках проекта Dostoevsky.io ОВД-Инфо. За 2010-2020 годы учитываются приговоры только по основному составу.

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In addition to investigative actions, imposition of a preventive measure, and then punishment, criminal proceedings are also fraught with a criminal record if the court finds a person guilty. A criminal record itself imposes a number of restrictions: it is taken into account in case of sentencing for crime, inflicts some limitations in the professional sphere, etc. At the same time, a criminal record under Article 236 of the Criminal Code does not limit the possibility of being elected to representative positions.

USING CASES UNDER THE ARTICLE 236 OF THE CRIMINAL CODE TO MARGINALIZE PROTEST

The rapidly emerging cases under the «sanitary» article gave the authorities an opportunity to peddle a negative image of protest as dangerous for society in the media over the next months.

If before the protest actions the main message of the reporting the possibility of initiating cases under Article 236 of the Criminal Code was to dissuade the audience from participating in the protests and from spreading information about them, then in the future the emphasis is on the devaluation of the past protest actions. Attention to the problems that caused the protests — corruption and political persecution — is being replaced by criticism of the protesters themselves.

In online publications, articles are published under the headings:

- «The Navalnists turned an illegal rally in Moscow into a coronavirus hotbed» ([the website of the Anti-Maidan movement](#));
- «Oleg Navalny, who put the lives of Muscovites at risk, has been detained» ([RIA «FAN»](#));
- «Navalny's COVID-terrorists»: Who was detained in Russia after the rallies on January 23?» ([«Public News Service»](#));
- «The Investigative Committee of Russia asks the court to arrest five COVID-dissidents who took part in an illegal rally on January 23» ([«Moscow.ru»](#)).

The image of the protesters as narrow-minded or irresponsible violators of public order, whose actions could harm other people, is being created.

- «One COVID-spreader is able to infect up to 16 people around him, " **it was reported** on the Kadara portal.
— In a crowd, the rate of infection increases at least four times. The organizers of the rally attracted demonstrators from regions that are not in the database of the Moscow healthcare system, these people could be the carriers of a deadly infection. According to experts, more than 1,200 infected with COVID-19 could have left Pushkin Square. Inciting people to mass gatherings in a pandemic is not only a violation of the law, but also a direct biological attack on a multi-million city. <... > The result of the rally may put an extreme pressure on the city's health system, on doctors who have been pushed to the limit since the spring of 2020; new deaths among the sick and refusal to return to the ordinary way of life. A sharp jump in the number of new COVID cases can lead to a forced lockdown and new strict regulations, hundreds of people may lose their jobs and find themselves in difficult life circumstances.»
- «The organizers of unauthorized actions should be punished: their calls to «walk down the street» could lead to an increase in the number of residents of St. Petersburg infected with coronavirus.»."The instigators of the riots may be responsible for the COVID outbreak [in St. Petersburg], «the New News Agency **wrote** in February 2021.

These theses are constantly repeated in official public statements. «Everything that takes place within the legislative framework on the part of any political forces of the opposition is completely normal, » Dmitry Medvedev, deputy chairman of the Security Council, **argued** in April. — In other words, as for the rallies, permitted rallies—yes, but not during a pandemic, when thousands of people gather, everyone goes in formation, and then our figures for the number of COVID cases in Moscow begin to jump. «Any political activity must comply with the law»

In the media, there is also a transformation of the very essence of the «sanitary case». For example, **it is claimed** that cases were initiated «against persons who were infected with coronavirus and participated in uncoordinated rallies in Russian cities» — despite the fact that the vast majority of charges are related to publications in social networks, and among thousands of participants, the investigation could not find a single patient. The only participant, whom the ten accused in the «sanitary case», according to the investigation, incited to violate self-isolation, at the time of the protest action did not have a negative PCR test, but at home he did an express test that showed a negative result. The actual circumstances of the «sanitary case» are strikingly different from its press coverage, and the paucity of the prosecution's arguments clearly demonstrates that the protesters, on the contrary, acted extremely responsibly when it concerned the health of others.

At the same time, the authorities prevent the dissemination of reliable information about the case and the charges made.

The Ministry of Internal Affairs in Moscow made an announcement about the initiation of the case only six days later, on January 29. By this time, dozens of searches had been conducted in Moscow and the first suspects had already been detained. The website of the Investigative Committee, which later took over the case, has not published any news about it. At the same time, **it reported** cases being investigated during the same period, under Article 236 of the Criminal Code, related to poisoning. There are no public statements about the status of the «sanitary case» in Saratov, although investigative actions related to it were actively carried out in the winter.

The «non-disclosure agreements» of the investigation data are being applied. The investigator signed such an agreement with the defendant of the «sanitary case» in Nizhny Novgorod Natalia Rezontova and her lawyer Ruslan Sozonov.

As a result, they cannot disseminate detailed information about the progress of the case until it is submitted to the court.

Lawyer Vladimir Voronin in May **said** that he found a falsified non-disclosure agreement in the materials of the case of Lyubov Sobol: «We have not even been shown it, especially since we did not «get acquainted with its text by reading it in person, » as the investigator indicated, » **he said** in a conversation with Novaya Gazeta. According to the investigator, Sobol and her lawyer refused to sign. Voronin stressed that there were no signatures of witnesses in the document, which were supposed to confirm the refusal. In addition, the Moscow department of the Ministry of Justice **sent** a disciplinary statement to the regional Chamber of Lawyers against Voronin because personal data were present in the document of the interrogation of a witness in the «sanitary case» published by him. In August, the Council of the Moscow Chamber of Lawyers **issued** a note of warning to Voronov.

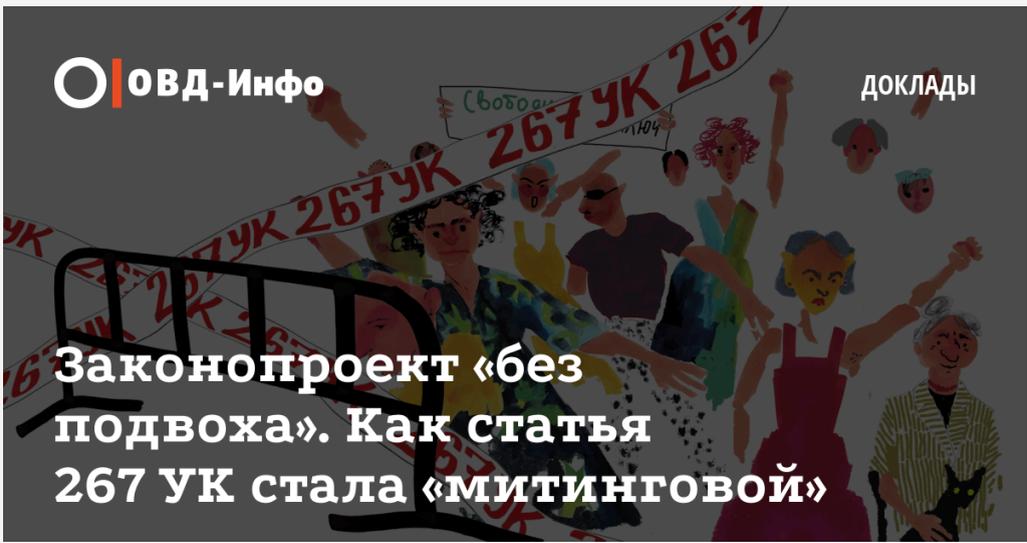
EVOLUTION OF THE ARTICLE 236 OF THE CRIMINAL CODE

Since the spring of 2020, Article 236 of the Criminal Code has changed from an ordinary article about poisoning in canteens due to violations of SanPiNs to an instrument of political repression.

This transformation was ensured by a number of normative and law enforcement techniques: the inclusion of an unintentional threat in the text of the article in combination with ambiguous concepts such as «mass disease» and «sanitary and epidemiological rules», as well as the use of accusations of «incitement».

Punishment for creating a «threat» of negative consequences in one form or another was found in some criminal articles

before, but it was not widespread — until 2020, there were only seven such articles in the Criminal Code. In recent years, the inclusion of «threats» of negative consequences in the text of criminal and administrative articles has become a new way of creating potential instruments of political pressure. Since 2019, administrative charges can be brought for the dissemination of «unreliable» information that creates a «threat of mass violation of public order» (part 9 of Article 13.15 of the Administrative Code). At the end of 2020, six months after the amendments to the «sanitary» article, the «threat» was added to Article 267 of the Criminal Code related to the blocking of transport communications. A month later, it started **to be used** in connection with the protests: this is one of the most «massive» articles in the framework of the «**palace case**», which was initiated after the protests in the beginning of 2021.



Законопроект «без подвоха». Как статья 267 УК стала «МИТИНГОВОЙ»

Законопроект «без подвоха»

ОВД-Инфо

At the same time, the Criminal Code has the concept of «attempt», which refers to those cases where the crime was not completed and the negative consequences did not occur. That means that this criminal construction partially avoids the use of such broad concepts as «threat» in the laws and is balanced by the provision that the punishment for

an attempt cannot exceed three-quarters of the maximum punishment stated in the article.

The first part of Article 236 of the Criminal Code in the new edition assumes that the violation of sanitary and epidemiological norms itself must be intentional, and the subsequent mass illness or poisoning of people or the creation of such a threat must occur through negligence. Such a regulation existed before the amendments of the spring 2020, when the article stipulated the responsibility only for real consequences, and not for creating a threat. During the discussion of amendments on the «threat» in the State Duma, it was proposed to introduce punishment only for deliberately creating a threat of negative consequences as a result of violation of sanitary and epidemiological rules. In this case, the article according to internal logic would be similar to the already existing part of the Criminal Code related to an illegal entry into a protected object, involving the deliberate creation of a threat to the dissemination of information constituting a state secret (paragraph «b» of part 2 of Article 215.4 of the Criminal Code). Then a wide range of cases in which one can see a threat would be a little narrower and would be limited only to those situations where the rules were violated specifically to lead to a mass infection. However, the provision on «intentionality» was not included in the end.

As the result, after the 2020 amendments, we have an article that is applicable in almost all cases of violation of sanitary and epidemiological rules: it is almost always possible to assume the presence of an unintentional threat, especially in combination with such a streamlined concept as «mass infection», and this issue is completely entrusted to the law enforcement forces — the police, the Investigation Committee and the courts.

The boundaries of the «sanitary and epidemiological rules», for violation of which punishment is provided under Article

236 of the Criminal Code, have also blurred since 2020.

Before the pandemic, violations under this article were attributed to violations of specific SanPiNs — regulations adopted by Rospotrebnadzor and registered by the Ministry of Justice. In this case, the regulatory logic seems transparent and consistent: there are entities that carry out some activities that must comply with formally defined rules (SanPiNs). If these rules are violated and as a result there are negative consequences for others, there will be responsibility for the accused.

The pandemic has significantly expanded the concept of sanitary and epidemiological rules, which can now include any norms that somehow affect the sanitary and epidemiological well-being of citizens. In the context of quarantine rulemaking, rules and regulations on countering the pandemic began to appear in various documents issued by the authorities at different levels. As the result, **regulation** has become complex, unpredictable and contradictory.

For example, to justify the charges against the defendants in the Moscow «sanitary case», references to the sanitary rules are used. Some of them are established by the decree of the mayor of Moscow, who is not a SanPiN. The existing SanPiN «Prevention of the new coronavirus infection» is addressed more to the authorities, than to the citizens. The requirements of wearing masks, gloves, observing social distance and restrictions on mass events are formulated as recommendations for government entities.

Such confusion and careless use of legal terminology in criminal cases, where the accused face up to two years in prison, entails a number of problems:

- the border separating the powers of different authorities to create certain rules is being erased;
- the criminal law becomes unpredictable: it is not clear what exactly is prohibited and to who;
- law enforcement officers are given the opportunity to arbitrarily apply the norms of criminal law.

The poor quality of article 236 of the Criminal Code after the amendments is clearly illustrated by the fact that the Supreme Court had **to return to it twice — on April 30, 2020 and February 17, 2021** — in order to smooth out the consequences of the activities of the legislators. The Supreme Court announced its interpretation of the new laws in the form of a review of judicial practice, although by the end of April, a month after the amendments, the practice according to the newly introduced norms obviously could not have emerged. In particular, the Supreme Court answered questions about how responsibility is differentiated between Article 236 of the Criminal Code and similar administrative articles, what is considered a «threat» of a mass disease and how to prove the reality of this threat. Nevertheless, these explanations were not enough: the courts continued to pass sentences in cases where the reality of the threat was not proven, and the concept of «sanitary and epidemiological norms» was completely ignored by the Supreme Court.

Article 236 of the Criminal Code underwent the final transformation in the course of the «sanitary case». This time it was not a regulatory change, but a law enforcement invention: the accusation was not of the violation of the rules itself, but of incitement to violation. This discovery turned the «sanitary» article into a tool for restricting freedom of expression: almost all the defendants in the «sanitary case» are accused of spreading information about uncoordinated actions.

In its **February review** The Supreme Court did not explain what can be considered incitement to a violation of sanitary and epidemiological norms and how appropriate its application is in the context of spreading information about protest actions.

Meanwhile, when using «incitement», Article 236 of the Criminal Code begins to compete with not only administrative articles (for example, Part 2 of Article 20.2 and Article 20.2.2 of the Administrative Code), but also with criminal ones used to combat the dissemination of information about protest actions. These are, for example, calls for mass riots (part 3 of Article 212 of the Criminal Code), involvement of a minor in committing a crime (Article 150 of the Criminal Code), involvement of a minor in committing actions that endanger their life (Article 151.2 of the Criminal Code). All these articles were used after the winter protests of 2021 in the so-called «**palace case**». As a result, similar actions can be qualified under several administrative and criminal articles with a wide range of penalties at once, and it is impossible to say with certainty what consequences they may face.

The closest thing to the «sanitary case» is **the case** of the editors of the student magazine DOXA, initiated under Article 151.2 of the Criminal Code and also related to the dissemination of information about protests during the pandemic: during the winter actions, the editors of DOXA published a video where they stated that it is illegal to expel students for participating in rallies. «From the plot, we saw, what they are trying to conduct on coronavirus infection. Let me remind you that the article assumes a threat to life. But the investigators are talking about the «high-alert state» that operates in the country, and that this «created a threat to the lives» of minors, «**said** the lawyer of the» Pravozaščita Postcard» Anastasia Burakova. Thus, the difference lies only in the intended audience — in the "sanitary case» the

«appeals» were allegedly addressed to patients with coronavirus, and in the DOXA case — to minors.

With the use of accusations of «incitement», Article 236 of the Criminal Code has become an instrument of pressure on public figures, including potential candidates for elections to the State Duma. In the «sanitary case», it became the basis for serious restrictions even at the investigation phase, which made their professional and political activities as difficult as possible.

At the same time, its use made it possible to build a full-fledged system of political persecution. During the pandemic, the new version of the article began to be used for preventive intimidation of potential protesters. The «sanitary case» legitimized hundreds of interrogations and mass searches, planted a feeling of threat looming over a wide range of people, contributed to a negative image of the protesters and even became a political argument in other criminal trials. In June in the case of recognizing organizations associated with Navalny as extremist, the Prosecutor **insisted** that the extremism include «actions under article 236 of the criminal code» (by that time the courts had not even made a single sentence for the «sanitary case»).

The tendency to selectively apply the new version of Article 236 of the Criminal Code has been realized fully: we see that the preventive measures and the sentences already passed in the framework of the «sanitary case» were much stricter than in cases not related to protests. No cases were initiated under the same article in connection with pro-government events or against representatives of the authorities responsible for keeping protesters in unsanitary conditions after their detention.

The application of Article 236 of the Criminal Code in the «coronavirus» context is becoming more and more familiar and simple for law enforcement agencies and, as a result, more widespread: during the year after of the amendments,

in April 2021, The Ministry of Internal Affairs reported that 82 cases were opened under Article 236 of the Criminal Code. And the head of the Investigative Committee, Alexander Bastrykin, said in May 2021 that a department had been created a department to combat crime related to the coronavirus. «It is gradually gaining momentum. 58 criminal cases are already being considered by this department, » Bastrykin said. As long as the conditions of the pandemic persist, the «sanitary» article will also remain a convenient tool for fighting political opponents. It is already used outside of the «sanitary case» — in relation to the candidate for deputy in the Murmansk City Council Violetta Grudina. The weak points of this article (vague concepts, broad formulations), which were clearly manifested in the cases after the winter actions, will negatively affect other cases of its application outside the protest context.

The «sanitary case» itself clearly illustrates the inconsistency of the accusations of the protesters in the malice and irresponsibility. Taking into account all the resources used by the authorities — the use of social monitoring technologies, mass interrogations and searches — the prosecution managed to find only one protest participant who was obliged to observe self-isolation and at the time of the action did not have a negative PCR test, although there was a negative rapid test. It is around this circumstance that the prosecution case in the Moscow «sanitary case» is being built, while the investigation could not find such cases in Nizhny Novgorod and Saratov by the end of the summer 2021. All this testifies not only to the responsible attitude of the participants of these actions to the health of others, but also in general to the possibility of holding protests in a pandemic.

NECESSARY CHANGES

The application of Article 236 of the Criminal Code in the «sanitary case» demonstrates a number of problems, the solution to which requires an adoption of comprehensive measures: changes in legislation and by-laws, the publication of acts of judicial interpretation, changes in practice at the level of the Ministry of Internal Affairs and the Investigative Committee, as well as organizational and educational actions on the part of Rospotrebnadzor and the prosecutor's office are necessary.

Rulemaking

To improve the situation with the law-enforcement practice of Article 236 of the Criminal Code, it is necessary to make a number of changes in the text of the article itself, as well as to several related federal laws and by-laws of executive authorities.

- Exclude from the text of part 1 of Article 236 of the Criminal Code the mention of the threat of mass illness or poisoning of people, leaving the punishment only in case of real negative consequences. The article was such before the amendments in the spring of 2020. Responsibility for a formal violation of legislation in the field of ensuring the sanitary and epidemiological well-being of the population without subsequent negative consequences already provided for in Article 6.3 of the Administrative Code and criminal prosecution measures presented in this case as duplicative and excessively cruel.

In addition, the original criminal legislation contains the concept of «attempt», which covers intentional actions directly aimed at committing a crime, if the crime was not completed due to circumstances beyond the control of the accused (Article 30 of the Criminal Code). At the same time, the punishment for an attempt cannot be more than three-

quarters of the maximum punishment that is provided for by a specific article (Article 66 of the Criminal Code).

- The State Duma Committee on State Building and Legislation should pay attention to all nine compositions in the Criminal Code that contain a similar concept of threat, in order to study and possibly change them.
- For example, in article 39 of the Federal Law on Sanitary and Epidemiological Welfare of the Population, the Committee should give a clear definition of sanitary and epidemiological rules, noting that they are adopted only by the authorized body (Rospotrebnadzor) in a certain form, and are supported by special normative acts, thus, excluding the possibility of a broad interpretation of the concept used in Article 236 of the Criminal Code.
- Article 6, Paragraph 4(1) of the Federal Law «On assemblies, meetings, demonstrations, marches and pickets» should be formulated taking into account the position of the Constitutional Court (the decision on the complaint of citizens Anokhina Anastasia Vladimirovna, Badov Denis Vladimirovich and others of July 7, 2016) that participants of the rallies can hide their faces, for example, to wear medical masks. The lack of a clear wording in the law misleads both the participants of the rallies and law enforcement officers.

The history of amendments to Article 236 of the Criminal Code revealed serious problems with the legislative process, which could be solved by providing the following changes both in the regulations and in the practice of the parliament:

- Do not conduct the discussion of the laws behind closed doors. Otherwise, the arguments voiced during the discussions are not available to the public, and law enforcement officers and lawyers will not be able to use the transcripts for interpreting legislative norms later;
- Exclude the possibility of major changes to draft laws in the second reading, bypassing the receipt of feedback from authorized entities, such as the Supreme Court. Provide the possibility of receiving all the necessary feedback in the second reading, if the text of the draft law has been significantly changed.

Serious changes are also needed in the by-laws of executive authorities at both the federal and regional levels:

- The heads of the constituent entities of the Russian Federation and regional governments need to relax the «coronavirus» restrictions on public events.
- Rospotrebnadzor in the texts of the Sanitary Regulations should clearly indicate the set of subjects to whom certain rules are applied.

Judicial interpretation

In addition to changing laws and by-laws, acts of judicial interpretation issued by the Supreme Court would help solve some problems. This would also improve the situation before legislative changes. Based on the law enforcement practice that has already appeared, the Supreme Court could issue a new review or a plenary ruling, which should:

- Clearly explain what the sanitary and epidemiological rules mentioned in Article 236 of the Criminal Code are, excluding a broad interpretation of this concept;
- Using the example of cases already considered by the courts under Article 236 of the Criminal Code from the «sanitary case», once again explain what is a convincing proof of the reality of a threat and its prevention;
- Continue to explain with examples the difference between the composition of Article 236 of the Criminal Code and the composition of a number of articles of the Administrative Code, in particular Article 20.2.2 of the Administrative Code and Part 2 of Article 20.2 of the Administrative Code, which provide for the responsibility for organizing a simultaneous mass presence or movement of people that caused a violation of sanitary standards, or organizing a public event without approval. Such an explanation is especially relevant in the light of the prosecution under Article 236 of the Criminal Code for disseminating information about a public event. It is important to pay special attention to the problem of double punishment under criminal and administrative articles for the same actions, for example, for publishing information about a rally.
- Pay attention to the problem of proportionality of punishments in cases where the defendants are charged with creating a threat, and not the onset of real consequences. The emerging practice demonstrates that courts tend to impose more severe penalties for creating a «threat» than in the case of real negative consequences. Meanwhile, it seems that cases of creating a threat without real consequences, by analogy with an attempt, should be followed on the contrary by a milder punishment.

- Also, the Supreme Court should pay attention to the necessity and proportionality of the preventive measures chosen by the courts in cases initiated under Article 236 of the Criminal Code. It is important to note the inadmissibility of the discriminatory use of a preventive measure in order to restrict the professional, for example, journalistic, or political activities of suspects and defendants. Known cases of the application of Article 236 of the Criminal Code indicate that outside of the «sanitary case» they often manage either without a preventive measure, or by taking a subscription not to leave.
- The Supreme Court should remind the lower courts of the need to take into account the balance of rights and interests when considering cases under Article 236 of the Criminal Code related to the exercise of the right to freedom of assembly or expression: the context of the implementation of constitutional rights and freedoms should not actually become an aggravating circumstance that entails more severe preventive measures and penalties.

The practice of initiating and investigating cases under Article 236 of the Criminal Code

The Investigative Committee and the Ministry of Internal Affairs should take the following actions:

- Stop the discriminatory application of Article 236 of the Criminal Code against participants of public events.

- Stop politically driven criminal prosecution and contribute to the restitution of the rights and the rehabilitation of the victims of persecution.
- Publicly report the progress and the results of the investigation in the «Sanitary case» in Moscow, Nizhny Novgorod and Saratov. Since the investigative actions, searches and interrogations have affected hundreds of people, this is socially significant information.
- Publicly report the number of searches and interrogations conducted under the «Sanitary case» in each region, as well as the justification of such large-scale measures.
- Publicly report how many statements covered by Article 236 of the Criminal Code have been received over the past year, what measures have been taken during their consideration and why certain decisions have been taken (see Appendix). At least, the responsible departments should explain what the difference is between the rally on January 23, 2021 and other, non-protest public events, in terms of sanitary and epidemiological rules, (see Appendix).
- Publicly report which cases are covered by Article 236 of the Criminal Code and under which circumstances was recognizance on non-disclosure of information about the case taken from the lawyers and the defendants.

Organizational and awareness-raising activities

The following activities from Rospotrebnadzor could contribute to improving the situation of compliance with sanitary and epidemiological rules and reducing the likelihood of arbitrary application of Article 236 of the Criminal Code:

- Publish in one accessible place, for example, on the website of Rospotrebnadzor, and keep up-to-date all SanPiNs that do not concern special subjects, but are mandatory for all residents of the Russian Federation.
- Conduct training of its own employees and check their knowledge of sanitary and epidemiological rules in order to exclude contradictory public statements.
- Bring to the attention of a wide range of officials information about the content of mandatory sanitary and epidemiological rules for citizens in order to exclude misinformation.

In addition, the Prosecutor's office should check the statements of officials on compliance with certain sanitary and epidemiological norms, for example, regarding wearing a medical mask during a rally ([see Appendix](#)).

SUMMARY

After the rally on January 23, 2021, criminal proceedings in the case of violations of sanitary rules which entailed the threat of mass infection had been instigated in several Russian cities — Moscow, Nizhny Novgorod and Saratov (Article 236 of the Criminal Code). Then the cases were transferred from the Ministry of Internal Affairs to the central office of the Investigative Committee.

We are aware of 11 defendants in Moscow and 2 defendants in Nizhny Novgorod. No suspects in Saratov were reported. One case in Moscow was terminated, and in eight other cases the accused were sentenced in August.

Only one person was directly accused of participating in the rally with a violation of self-isolation because he did not have a negative PCR test. The other cases are connected exclusively to the publication of information about the upcoming rally — in most cases, the investigation saw this

as «incitement» to a violation which entailed a threat of mass infection.

The possibility of prosecution for violations of sanitary and epidemiological rules without specific negative consequences, but only for creating a «threat» of their occurrence appeared in the article with the beginning of the COVID-19 pandemic in the spring of 2020. The legislative changes were adopted at a record short term and without public discussion in the State Duma: a total of 10 minutes have been devoted to this issue at the plenary sessions. At the same time, the sanctions have been tightened — the maximum fine has been increased and the punishment in the form of imprisonment has been added.

The report of OVD-Info analyzes the practice of application of Article 236 of the Criminal Code before and after the amendments. We rely on the materials of the Moscow «Sanitary case», as well as the data from the Judicial Department of the Supreme Court, decisions from court websites and publications in the media. The data are available in a tabular [in the Appendix](#).

From 2010 to 2019, 107 people had been convicted in violating sanitary and epidemiological rules. Generally, the cases were related to mass poisoning in the schools', kindergartens' and other institutions' canteens. Since 2020, the first cases of violations that created a «threat» of mass coronavirus infection have been appearing. In 2020, the article did not become widespread: the courts had convicted 16 people. However, the number of cases may increase in 2021: The Ministry of Internal Affairs and the Investigative Committee have already reported about dozens of initiated proceedings.

Coronavirus cases are more likely to result in a conviction and harsher penalties than actual adverse impact cases. Nevertheless, the sentences for them are noticeably milder

than in cases where the same article is applied to protest participants.

The preventive measures for those involved in the «sanitation case» were noticeably stricter as well. For them, the courts in most cases have chosen a ban on certain activities or house arrest. As a rule, a preventive measure was not chosen for «non-titling» cases, or a requirement not to leave was appointed.

The preventive measures have significantly limited the activities of the defendants in the «sanitary case», many of whom planned to participate in the elections in the fall of 2021. And the very existence of the «sanitary case» allowed the construction of a full-fledged system of political persecution and legitimized hundreds of interrogations, mass searches and seizures of equipment from a wide range of individuals. The new wording of the article was used both preventively — to intimidate and reduce the number of protesters, and subsequently to create a negative image of the protesters.

The transformation of Article 236 of the Criminal Code from an ordinary article about poisoning into an instrument of political pressure was ensured by a number of rule-making and law-enforcement inventions. The emergence of punishment for an unintentional threat — all the more so when combined with such a streamlined concept as «mass disease» and the definition of «sanitary-epidemiological rules, » which has expanded even further in the face of the pandemic — has pushed the limits of the «sanitary» article as far as possible. A special invention of the investigators was the accusation of «incitement»: this made it possible to use the article as a tool for combating statements — after all, it does not contain a part in itself that would allow punishing calls to a violation.

There is evidence of the selective and discriminatory application of Article 236 of the Criminal Code: despite the

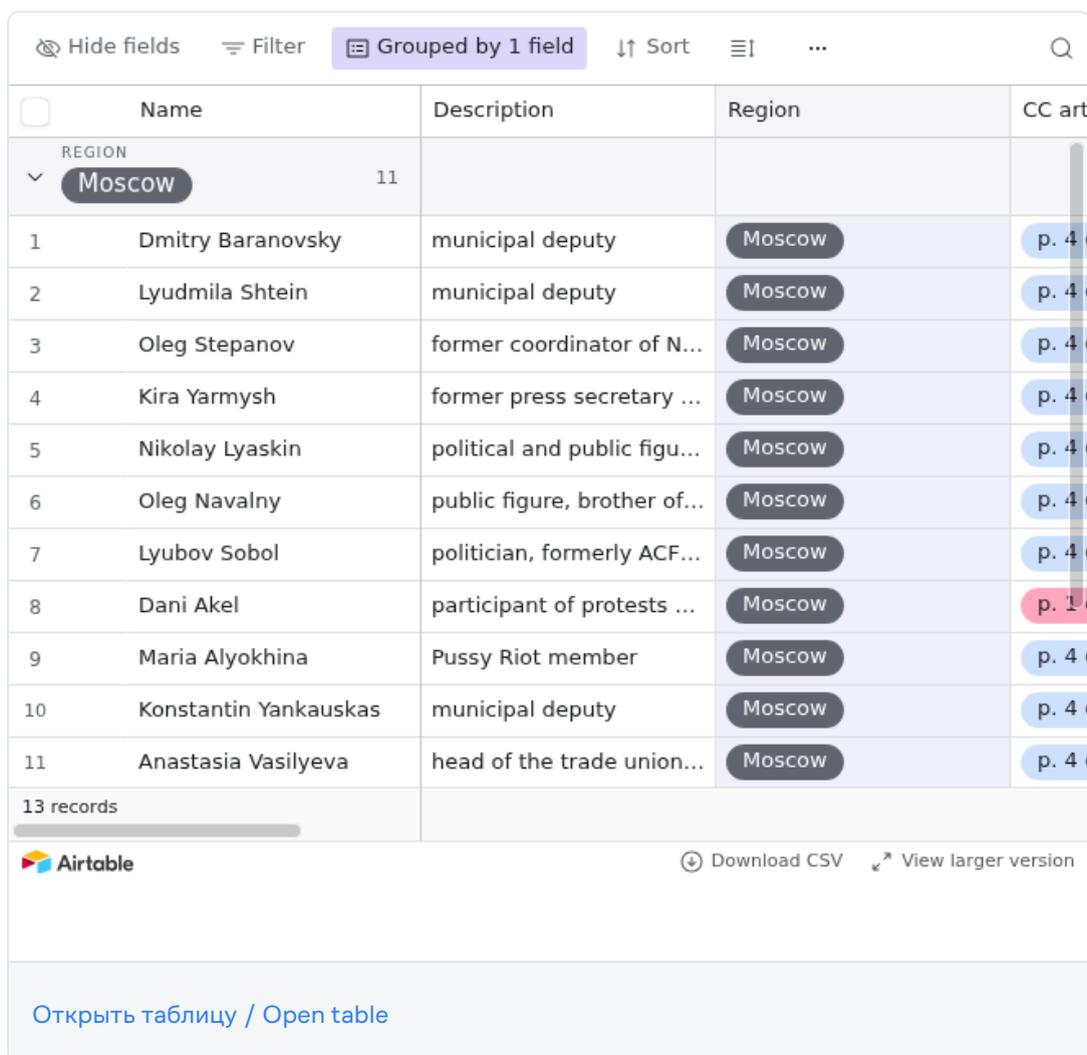
appeals, no cases were brought in connection with pro-government actions or because of violations of sanitary conditions during the detention of protesters.

APPLICATION

1. Suspects and defendants in the «sanitary case»

The data is current at the time of publication of the report.

Constantly updated data on criminal cases after the protest actions of the beginning of 2021 are available in [the «Palace Case» dataset](#).



The screenshot shows an Airtable interface with a table of suspects and defendants. The table is filtered by the region of Moscow. The columns are Name, Description, Region, and CC art. The table contains 11 records, with the first 11 rows visible. The records are as follows:

	Name	Description	Region	CC art
1	Dmitry Baranovsky	municipal deputy	Moscow	p. 4
2	Lyudmila Shtein	municipal deputy	Moscow	p. 4
3	Oleg Stepanov	former coordinator of N...	Moscow	p. 4
4	Kira Yarmysh	former press secretary ...	Moscow	p. 4
5	Nikolay Lyaskin	political and public figu...	Moscow	p. 4
6	Oleg Navalny	public figure, brother of...	Moscow	p. 4
7	Lyubov Sobol	politician, formerly ACF...	Moscow	p. 4
8	Dani Akel	participant of protests ...	Moscow	p. 1
9	Maria Alyokhina	Pussy Riot member	Moscow	p. 4
10	Konstantin Yankauskas	municipal deputy	Moscow	p. 4
11	Anastasia Vasilyeva	head of the trade union...	Moscow	p. 4

13 records

Airtable Download CSV View larger version

[Открыть таблицу / Open table](#)

2. Official statistics on the review of cases under Article 236 of the Criminal Code in 2010-2020.

Source: Data of the Judicial Department of the Supreme Court, aggregated within the project dostoevsky.io.

The penalties are listed only for cases on the main body.

	YEAR	ARTICLE	sentenced...	dismissed (total)	acquitted
ARTICLE					
▼	236 p.1	11	▼ Sum 120	▼ Sum 61	
1	2020	236 p.1	16	12	
2	2019	236 p.1	6	8	
3	2018	236 p.1	6	9	
4	2017	236 p.1	12	6	
5	2016	236 p.1	9	1	
6	2015	236 p.1	7	9	
7	2014	236 p.1	9	3	
8	2013	236 p.1	16	5	
9	2012	236 p.1	11	3	
10	2011	236 p.1	17	2	
11	2010	236 p.1	11	3	
23 records	Sum 46350		Sum 123	Sum 63	

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3. Texts of decisions on the first part of Article 236 of the Criminal Code in 2013-2020.

All the texts of the decisions we found are given, where Part 1 of Article 236 of the Criminal Code is the only article.

Source: Official websites of district courts

Hide fields Filter Grouped by 1 field Sort ...			
Case ID	URL	Settlement	Region
YEAR OF TRIAL			
2020	21		
1	1-27/2020(1-733/2019;)	Syktvykar	Komi F
2	1-6/2020 (1-243/2019;)	Bryansk	Bryans
3	1-10/2020 (1-835/2019)	Lyubertsy	Mosco
4	1-10/2020 (1-835/2019)	Lyubertsy	Mosco
5	1-10/2020 (1-835/2019)	Lyubertsy	Mosco
6	1-74/2020(1-438/2019;)	Khasavyurt	Dages
7	1-230/2020	Khabarovsk	Khaba
8	1-153/2020	Kimry	Tver O
9	1-148/2020	Zhukovsky	Mosco
10	1-65/2020	Anadyr	Chuko
11	1-357/2020	Novochera...	Rostov
66 records			
Airtable		Download CSV View larger version	
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4. Examples of mass events held in Russia in 2021 without hindrance

Hide fields			Filter	Grouped by 1 field	Sort	...	Q
<input type="checkbox"/>	Name of event	Date	Who organized				
WHERE	Outdoors	31					
1	Folkloriada-2021	3/7/2021	International Cou				
2	2020 UEFA European Football Championship in St.Petersburg	12/6/2021	UEFA				
3	Ski Track of Russia	13/2/2021	Ministry of Sport of physical cultur				
4	Ski Track of Russia	13/2/2021	Government of tl of Russia				
5	"Let's protect the memory of heroes" action	23/2/2021	United Russia				
6	" White Concert"	8/3/2021	Sevastopol authc				
7	"Champions workout"	13/2/2021	"Primeria for sp				
48 records							
Airtable				Download CSV	View larger version		
Открыть таблицу / Open table							

5. Requirements for checking compliance with sanitary rules

Open-source reports of demands to conduct an inspection for possible health code violations in January-March 2021.

	Reason of appeal	Region	Date of ev
1	Concert "Krymskaya vesna" [the Crimean Spring], Moscow	Moscow	18/3/2021
2	Concert "Krymskaya vesna" [the Crimean Spring], Moscow	Moscow	18/3/2021
3	Concert "Krymskaya vesna" [the Crimean Spring], Moscow	Moscow	18/3/2021
4	Flashmob "PutinNashPresident" [Putin is Our President]	Several regions	8/2/2021
5	Concert "Spasibo vracham!-3" [Thanks to doctors! - 3], Ufa	Republic of Bashkort...	27/3/2021
6	Blocking of public transport because of a protest action	Sverdlovsk Oblast	21/4/2021
7	Detention and escort to a police station of a journalist with symptoms of an acute viral ...	Moscow	31/1/2021
8 records			
		Download CSV View larger version	
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6. Contradictions in official statements and documents on the issue of medical masks

	Source	Quote
1	Deputy of the State Duma of the 7th convocation Dmitry Vyatkin (United Russia)	Should a special regime be introduced, including a high-alert that has been declared in several regions, wearing masks, according to existing practice, is usually mandatory in enclosed spaces but not in the street where most of the public events take place
2	Governor of Saint Petersburg Alexander Beglov	In accordance with Article 5 (4)(11) of the Federal Law "On meetings, rallies, demonstrations, marches and pickets", an organizer of a public event must demand that participants of public event not cover their faces, which includes not using masks
3	The Constitutional Court of the Russian Federation	When accessing Article 6 (4)(1) of Federal Law on meetings, rallies, demonstrations, marches, and pickets, it is important to consider that participants of a public event might cover their faces or use masks for different reasons not necessarily associated with attending a public event
4	Moscow Mayor official website	Wearing masks in the street is not mandatory
5	Chief medical officer in Moscow Elena Andreeva	When people are close to each other, dismissing the social distancing prescribed by all the documents, unmasked (because of the risk of infection)

8 records

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7. Articles of the Criminal Code that contain a threat in the meaning of the unrealized risks of negative consequences (similarly to Article 236 of the Criminal Code)

Data as of August 27, 2021.

<input type="checkbox"/>	Статья УК	Название статьи	Содержание
1	Art. 215.4.	Illegal entry into a protected facility	Illegal entry into an underground or underwater facility protected by the legislation of the Russian Federation, a departmental or State...
2	Art. 225.	Improper Discharge of the Duties of Protecting Arms, Ammunition, Explosives, and Explosive Devices	Improper discharge of the duties of protecting nuclear, chemical, biological, and weapons of mass destruction and equipment which c...
3	Art. 236.	Violation of Sanitary and Epidemiological Rules	Violation of sanitary and epidemiological rules which has resulted in the spread of mass diseases or poisoning which created the threa...
4	Art. 247.	Violation of the Rules for Dealing with Environmentally Hazardous Substances and Waste	Production of illicit dangerous substances, transportation, storage, or any other circulation of bacteriological, or chem...
5	Art. 267.	Putting out of Commission Transport Vehicles or	Destruction, damage, or putting out of commission transport vehicles or
9 records			
Airtable		Download CSV View larger version	
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8. The chronology of the «sanitary case» in Moscow, Nizhny Novgorod and Saratov

Get acquainted with the chronology. Data as of August 30, 2021.



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More to read



According to OVD-Info, since 2015, 623 individuals have been subject to criminal cases related to public actions

Русская версия The freedom of assembly is a right enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms. This right is also affirmed in the Russian Constitution, where Article 31 states: «Citizens of the Russian Federation shall have the right to gather peacefully, without weapons, and to hold meetings, rallies, demonstrations, marches, and pickets». Despite this, people in Russia are prosecuted for peaceful protests. In January 2024, a mass criminal case was initiated regarding a gathering in Baymak (a town in the Republic Of Bashkortostan), involving around 80 people. According to OVD-Info, the total number of people subjected to criminal cases associated with the freedom of assembly has reached 624 since 2015. We have collected all these cases in our dataset. Dataset Methodology