ELECTION AS A PRINCIPLE OF ORGANIZATION AND ACTIVITY OF EXECUTIVE AUTHORITIES IN RUSSIA

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ABSTRACT
This article analyzes the problems of implementing such a principle of organization and activity of executive authorities in the Russian Federation as election. This principle of the formation and functioning of government in Russia is shown on the basis of a comprehensive analysis of the electoral mechanism in the country with the development of proposals to improve the electoral process, the electoral rights of citizens, the exclusion of frequent violations of its principles for the real realization of popular sovereignty.

Keywords: Election. Executive power. Russian Federation. Principle.

LA ELECCIÓN COMO PRINCIPIO DE ORGANIZACIÓN Y ACTIVIDAD DE LAS AUTORIDADES EXECUTIVAS EN RÚSIA

RESUMEN
Este artículo analiza los problemas de implementar tal principio de organización y actividad de las autoridades ejecutivas en la Federación Rusa como elección. Este principio de formación y funcionamiento del gobierno en Rusia se muestra en el marco del análisis del mecanismo electoral en el país con el desarrollo de propuestas para mejorar el proceso electoral, los derechos electorales de los ciudadanos, la exclusión de las frecuentes violaciones de sus principios para la realización real de la soberanía popular.


INTRODUCTION
The problems of the formation and functioning of the executive power system in the Russian Federation are widely analyzed in the scientific works of S.A. Avakyan, N.Yu. Khamaneva, O.E. Kutafin, V.V. Grib, L.Yu. Grudtsyna, V.E. Chirkin and several other authors. These works provide the basis for the analysis of the theoretical content of the public administration system in Russia in relation to its social essence. However, the share of research that highlight the problems of the implementation of the principle of election in the organization and activities of executive authorities in the Russian Federation is extremely small. In this regard, the main purpose of this research is a comprehensive study of electivity as a principle of organization and activity of executive authorities in the Russian Federation, in order to expand and clarify the conceptual and categorical apparatus of the science of constitutional law in the sphere of public administration, forming an integral concept of optimal organization and the exercise of executive power in Russia, and the subject of the study is the regulatory framework securing the above principle of organization and activity of bodies of executive power in the Russian Federation, as well as scientific views on the resolution of problems associated with its implementation.

METHODOLOGY
This article in the process of cognition of state-legal phenomena were used: a) General scientific methods (formal-logical, systemic, structural-functional, concrete-historical); b) General logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling, etc.); c) private scientific methods (technical and legal analysis, specification, interpretation, etc.) (ZALESNY, GONCHAROV, 2019: 129-142; ZALESNY, GONCHAROV, 2020: 1-6).
RESULTS

The highest direct expression of the power of the people as the bearer of sovereignty and the only source of power in the country in accordance with Article 3 of the Constitution of Russia is a referendum and free elections. Electivity is the subject of scrutiny in the scientific and educational literature. It should be noted that through elections the people transfer to the elected authorities and officials not sovereignty, as is sometimes written in the literature, but only the right to exercise it within the limits established by the constitution, which they exercise within the legally established limits during the term of office for which they are elected. Elections at all levels are extremely important, representing a legalized form of direct popular will, the most important manifestation of democracy. Through elections, the population can influence the procedures for the formation of government bodies, exercising their constitutional right to democracy. As noted by M.V. Baglay, «a civil society based on pluralism of opinions and interests of people is not able to ensure voluntary law-abiding citizens, to avoid sharp social explosions, and perhaps bloody clashes, if public authorities are not formed on an equitable electoral basis with the participation of citizens themselves» (BAGLAY, 2013: 358).

Government bodies are formed either by election or by appointment. Unfortunately, the formation of executive bodies of power in Russia is carried out mainly through the appointment (for example, federal ministers) or the election of collegial legislative (representative) authorities (Government of Russia). Election is a backbone of the organization of power in Russia. Firstly, the people, on the basis of universal equal and direct suffrage, by secret ballot, elect the President of the country, the State Duma, regional parliaments, and senior officials of the constituent entities of the Russian Federation (heads of regional executive authorities). Secondly, they, in turn, independently (or jointly) elect various officials of the Federation and its subjects (the Prosecutor General of Russia, the Chairman of the Central Bank, the composition of the Accounts Chamber, judges of the highest judicial bodies of the Russian Federation, statutory judges, etc.). Thirdly, officials elected through such indirect elections elect leaders from these government bodies from among their number.

For example, the President of Russia (an elected official) appoints, with the consent of the State Duma, the Chairman of the Government of Russia (paragraph «a» of Article 83 of the Constitution of the country). In its turn, the Federation Council appoints judges of the Constitutional and Supreme Court of the Russian Federation, appoints and dismisses the General Prosecutor of Russia (clauses «g» and «h» of Part 1 of Article 102 of the Constitution). Thus, the election acts as a form of creation and internal organization of the state apparatus, consisting in the election by the people of deputies, and other officials - by the population, or by Federal, regional or local parliaments. As M.V. Baglay notes, elections give the highest primordial legitimacy to the entire structure of government bodies (BAGLAY, 2013: 347). Election implies that the people exercise their power through the functioning of elective institutions that represent the population and are vested with the right to create law (representative democracy).

Indeed, unlike the immediate one, the representative form of democracy is used to fulfill the functions of state power, therefore, by all its signs, it is considered to be more organized and priority. In Russia, at the Federal level, the head of state and one of the chambers of the Federal Assembly, the State Duma, are directly elected, and local governments are formed on an elected basis. The problems of ensuring election as a principle of the formation of executive bodies are currently the object of close attention and study in the domestic educational and scientific literature (VEDENEEV, 2006: 47-57; MELVILLE, 2003: 161-164; KNYAZEV, 1999).

This is due, firstly, to the fact that, according to several scientists, the right of a citizen to elect and be elected to the executive branch is the main element of the constitutional status of an individual (LYSENKÖ, 1996: 84).

Secondly, building the foundations of a democratic state and society is impossible without the formation of executive bodies directly by the people as the source and bearer of state sovereignty.

Thirdly, this principle is inextricably linked with the principle of constitutional responsibility, which reflects the subject’s participation in relations taking place in the sphere of organization, implementation, ownership of the executive branch and in the sphere of relations between the state and the individual and reflects the subjects ‘desire for power and the influence on determining the general will of the state, a leading role in it (VINOGRAĐOV, 2000: 23). Thus, elections legitimize power, through them the people determine their representatives of the executive branch and give them a mandate to exercise their sovereign rights.

Indeed, through the implementation of the principle of electivity, one of the most important human and civil rights is realized. Thus, the Universal Declaration of Human Rights, endorsed by the United Nations General Assembly in 1948 in Part 3 of Article 21, established that the will of the people should be the basis of government power; this will must be expressed in periodic and unrigged elections, which must be held with universal and equal
suffrage by secret ballot or through other equivalent forms that ensure freedom of vote (BAGLAY, 2013: 357).

The Russian Federation, as the successor to the USSR, having acceded to the 1952 European Convention for the Protection of Human Rights and Fundamental Freedoms, has undertaken to organize, at reasonable intervals, free elections by secret ballot, subject to conditions allowing for free expression of the people’s opinion in legislative elections (CONSTITUTIONAL, 1995: 319). The election mechanism in Russia is highly democratic due to the fact that the election of the head of state, deputies of the State Duma and regional parliaments (their lower chambers), as well as heads of the executive authorities of the regions, is carried out by direct election directly by voters. In accordance with Articles 21 and 23 of the Federal Constitutional Law «On the Constitutional Court of the Russian Federation» dated 06.06.1994 № 1-FCL, the President, Vice-President and judge-secretary of the Constitutional Court of Russia are elected exclusively in plenary sessions of the Court for a term of three years by secret ballot by a majority of the total number of judges from its composition individually.

A similar procedure is provided for the election of the leadership of the Supreme Court of Russia. Important indicators of the electoral system’s democracy are guarantees of freedom of elections and the perfection of their mechanism, enshrined in the Federal Law "On Basic Guarantees of Electoral Rights and the Right to Participate in the Referendum of Citizens of the Russian Federation" dated 12.07. 2002 № 67-FL (On, 2002).

The formation of the principle of electivity in the formation and functioning of executive bodies in Russia is due to a number of problems. In this connection, proposals are made in the modern domestic scientific literature to improve the electoral law and process. So, the participants of the «round table» on the topic «Decisions of the Constitutional Court of the Russian Federation in the Enforcement Activities of Election Commissions», which took place on 25.02.1998, made suggestions on strengthening the influence of the Constitutional Court on the legislative process in the field of electoral law at the Federal and regional levels (SHVED, 2002:13-17).

According to V. Shved, such an influence should be expressed by: a) repealing the provisions of the law that violate the Constitution and the legislation of the Russian Federation; b) definitions and clarifications in their decisions of the basic principles of organization of public authorities; c) a direct reference in their decisions to the need for a regulatory settlement of the issue (2002: 13). It seems that in order to implement the principle of electivity in the organization and activities of executive authorities in the Russian Federation, it is necessary to solve a number of problems and to carry out certain measures.

Firstly, not all bodies included in the unified system of executive power in the country are directly elected by the people, which partially delegitimizes the system of executive power itself. True, the Government of the Russian Federation and its head are formed (appointed) by elected officials (the federal parliament and the head of state). However, both in Russia and abroad there is a tendency to lower the threshold for voter turnout to recognize the election as legitimate. Thus, the Federal law «On the Election of Deputies of the State Duma of the Federal Assembly of the Russian Federation» dated 18.05.2005 № 51-FL sets the minimum threshold for voter turnout at which they are deemed to be valid at 25% of the number registered in the voters list (Article 82) (ON, 2005). It turns out a paradoxical situation when an absolute minority elects the authorities that form the executive branch in the country and regions, which has enormous powers of government in the state.

The transition to elections in many regional parliaments on the basis of a mixed electoral system has led to a change in the socio-political composition of regional government bodies. Only very wealthy people can afford the luxury of becoming a deputy or governor (SHASHKOVA, 2006: 7-13). Thus, both passive and active suffrage are consistently taken away from the population in the formation of state executive bodies. In this regard, in order to implement the principles of electivity and democracy, it is necessary to establish in federal and regional legislation the minimum mandatory percentage of registered voters in regional elections in the amount of 50%, below which the elections will be invalidated.

This will allow the formation of executive bodies taking into account the views of the real majority of voters and will ensure the real realization of the right of the people living in the country and region to exercise their power and exercise sovereignty. In addition, the norms of current legislation should be reviewed in order to either expand the list of structures that have the right to nominate candidates for deputies of the State Duma (except for political parties, this right must be granted, for example, to public associations, movements, and trade unions).

Secondly, any restrictions on passive suffrage (for example, by residency qualifications) should be excluded from regional legislation. In some subjects, the provision on the deadlines for compulsory residence of citizens in the territory of the subject as a condition for the acquisition of passive suffrage by them, which contradicts the current legislation, has spread (ABOUT, 1996).
Thirdly, violations of the principle of equality of suffrage in regional law should be eliminated. Attempts that have taken place in a number of regions to introduce for citizen’s qualifications of a subject of Russia are unacceptable [IN, 2002: 627].

In connection with possible changes in the regional election legislation (local constitutions and charters), it seems unacceptable to change the conditions of elections in the process of holding 1 and 2 rounds of voting that took place in a number of elections. This was confirmed by the Constitutional Court of the country, considering a request to verify the constitutionality of one of the articles of the Law of the Chuvash Republic «On the election of deputies of the State Council of the Chuvash Republic», he noted that «changing the rules for counting votes in the process of repeated voting violates the principle of equal suffrage, and that such a violation may cast doubt on the legitimacy of the decisions of the legislature» [IN, 2020]. In countries of legal democracy with a high level of legal culture and self-organization of the population, there can be no uniformity in voting at the elections, because their meaning is precisely so that everyone can express their opinion, and the state power can be connected and act in accordance with this will. This achieves stability.

Elections relieve tension and dissatisfaction with the authorities that prevail in society, realizing the principle of responsibility of the authorities to the people, open the way to a legal democratic resolution of differences based on the principle of legality, excluding the imposition of minority opinions on the majority. So, according to a representative express survey of 1,600 Russians conducted from January 23 to 28, 2015, 85% of respondents believed that the head of state V.V. Putin met their expectations related to his coming to power, 15% of respondents were of the opposite opinion (REPRESENTATIVE, 2020). Thus, elections are the desire of people to gain fair rule, improve their lives and form government bodies that can protect and defend their interests.

CONCLUSIONS

Thus, in order to return to the citizens of the Russian Federation real passive and active suffrage, the principle of the election of executive bodies should be improved by: a) establishing in Federal legislation the minimum mandatory percentage of registered voters in federal and regional elections in the amount of 50%, below which the elections will be recognized as invalid; b) the exclusion in regional legislation of any restrictions on passive suffrage (for example, by residency qualifications); c) preventing any violation of the principle of equality of suffrage.

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