

**DIGITALIZATION OF ELECTORAL LEGISLATION AS A FORM OF
PREVENTION OF THE OCCURRENCE OF CONSTITUTIONAL
CONFLICTS RELATED TO THE IMPLEMENTATION OF THE
STANDARDS OF THE ELECTORAL LAW OF THE RUSSIAN
FEDERATION**

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Abstract. *The electoral legislation and the practical aspect of the functioning of the constitutional and legal mechanism of its implementation are constant sources of constitutional conflicts of various levels, the participants of which can be both the state as a whole and political parties, voters, observers and other subjects of the electoral process, whose rights and freedoms can be violated in the framework of electoral procedures. Accordingly, the creation of an effective mechanism for preventing the emergence of conflicts in this area is an essential element in the formation of a democratic political system in Russia. Taking into account the modern realities associated with the expansion of the scope of application of digital technologies, including within the framework of the electoral system of the Russian Federation, this area should be updated when carrying out scientific research in this area. Digital technologies have abruptly moved from the format of everyday everyday communication to the format, including the implementation of public administration, which is consistently reflected in the current Russian legislation, while having not a temporary nature associated with a pandemic, but acquiring the features of permanent and detailed constitutional and legal institutions.*

Key words: *constitutional conflict, constitutional conflict resolution, prevention of constitutional conflict, digitalization, digital technologies, remote voting, electoral dispute, electoral conflict, public control.*

Introduction.

Constitutional conflicts in the field of electoral law, which may be called "electoral disputes" or "electoral conflicts", may arise in the sphere of the implementation of the norms of electoral law at all stages of the electoral process, which significantly increases the relevance of the theoretical justification for the formation of an effective constitutional and legal mechanism for their prevention or prevention, which currently involves the expansion of the scope of application of digital or remote technologies.

Main text.

The need for legislative regulation of the achievements of science and technology, which can and should be applied in various spheres of social relations, is beyond doubt and needs theoretical substantiation and development. We should agree with the opinion of E.Yu. Dogadailo, M.L.Davydova, E.A.Mamay, R.P. Kushniruk, who believe that in modern Russia insufficient attention is paid to the effective use of e-democracy institutions as the most important prerequisite for the development of e-government, focused on citizens [6, C.55]. The development of digitalization and the expansion of the scope of its application is due to the current situation related to the widespread introduction of information technologies not only in the Russian Federation, but also in all foreign countries. At the same time, not only the functioning of public authorities, but also the procedure for their formation, should be actively formalized in digital format by means of adjusting the relevant legal norms.

Federal Law of May 23, 2020 No. 154-FZ "On Amendments to Certain Legislative Acts of the Russian Federation" in the text of the Federal Law "On Basic Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation" of June 12, 2002 No. 67- Federal Law introduced amendments that legislatively regulated the new institution of electoral law and process, namely "remote electronic voting", the definition of which is now included in the structure of Art. 2, containing the basic terms and concepts of the constitutional and legal institution of elections in Russia. Remote electronic voting is considered to be voting without using a paper ballot, using special software. In accordance with these changes, when holding elections to bodies of state power, bodies of local self-government, a referendum of a constituent entity of the Russian Federation, a local referendum in the cases and procedure established by the Central Election Commission of the Russian Federation, the possibility of voting by voters, referendum participants by mail, and also through remote electronic voting.

The amendments to the electoral law that we analyzed in this scientific article are quite significant and at the same time contradictory, primarily due to the fact that the mechanism for their implementation, especially for remote voting, is not regulated in detail. At the same time, the observance of the constitutional principles of voting,

which are established in Art. 81 of the Constitution of the Russian Federation, which determines that the head of state is elected "on the basis of universal, equal and direct suffrage by secret ballot" [1]. Federal Law "On Basic Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation" dated June 12, 2002. No. 67-FZ (hereinafter FZ "On Basic Guarantees ...") supplements this list - "Participation of a citizen of the Russian Federation in elections and referendums is free and voluntary. No one has the right to influence a citizen of the Russian Federation in order to force him to participate or not to participate in elections and referendums, or to prevent his free expression of will. Elections and referendums are organized and conducted by commissions. Interference in the activities of commissions by the legislative (representative) and executive bodies of state power, local government bodies, organizations, officials, other citizens is not allowed "[2]. Thus, modern electoral legislation has enshrined such principles of electoral law as universal, equal and direct suffrage by secret ballot, free, voluntary, as well as the principle of independence of election commissions. Their observance is the most obvious indicator of the democratic nature of the elections, which determines the study of electoral innovations precisely from the point of view of monitoring possible violations in the process of preparing and holding elections, respectively, preventing the emergence of electoral disputes and conflicts, which are a kind of constitutional conflicts as an object of a new trend in the science of constitutional law - constitutional conflict resolution. Carrying out work on the prevention of constitutional conflicts is the most important function of the entire system of public authorities, as well as an urgent area of theoretical research.

The main achievement of this reform of electoral legislation from the point of view of the science of constitutional law is the legislative consolidation of the term "remote voting", the need for which has long been ripe and has been the subject of discussion in many scientific articles. So, A.V. Pavlushin and A.E. Postnikov defined remote electronic as "a kind of electronic voting" [9, C.8]. N.N. Teleshina believed that the following types of electronic voting are distinguished in the literature: means of electronic counting of votes (complexes for processing ballots); electronic voting

means; voting using terminals installed at polling stations (complex for electronic voting); remote voting: using the Internet (using disks and social cards) and mobile communications, which can be summarized under the name "electronic voting means", which includes three main elements: the voter's computer, a communication channel and an official site for voting "[10, C .439].

Russia has experience in testing remote voting. On September 8, 2019, at the elections of deputies of the Moscow City Duma, remote electronic voting of voters at three polling stations took place, the results of which were legally binding by virtue of the Federal Law of May 29, 2019 No. 103 FZ "On conducting an experiment to organize and implement remote electronic voting at the elections of deputies of the Moscow City Duma of the seventh convocation "[3] and the Law of the same name of the city of Moscow dated May 22, 2019 [5]. To participate in the experiment, a voter eligible to vote in the respective constituency must submit an application through the city portal of state and municipal services. The absence of such a statement does not deprive the voter of the possibility of traditional voting.

Remote electronic voting is a possible prospective method of voting in the elections of deputies of the State Duma of the Federal Assembly - the parliament of the Russian Federation in 2021, which suggests the expediency of further improving the constitutional and legal mechanism for its implementation in order to comply with the principles of electoral law established by Russian legislation, including determining the procedure for identifying the identity of the voter in order to ensure the principle of personal voting, to strengthen and expand the protection of information technologies, with the help of which remote voting will be carried out.

Conclusion

The scientific article analyzed the foundations of legal regulation and practice of using remote electronic voting in Russia.

As a conclusion, it should be noted that remote voting is a new form of citizens exercising their will, and contains, in its essence, both positive and possible negative aspects that can lead to constitutional conflicts in the electoral and legal sphere. The undoubted advantages include simplifying the voting procedure, increasing

accessibility, reducing the time and financial costs of both voters and the state that finances the organization and conduct of elections in Russia.

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