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ON THE QUESTION OF THE CONCEPT OF ELECTORAL RIGHT

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Abstract. *In this article, the author reveals the character and content of the concepts: “electoral law”, “electoral right of citizens”, “objective electoral rights,” and “subjective electoral right”. The electoral law is a branch of law that regulates the rules and procedures of elections in a democratic society. This right guarantees every citizen the opportunity to participate in elections and influence the political life of the country. It determines the rights and duties of voters and candidates, as well as establishes the procedure for conducting elections, the system of electoral bodies, and norms on the inadmissibility of interference in elections. Electoral law also includes norms related to referendums and other forms of expressing the will of the people. It contributes to ensuring political stability, legitimacy of power, and the strengthening of democratic institutions.*

Keywords: *concept of electoral law, concept of citizens’ electoral rights, concept of objective electoral right and subjective electoral right.*

Electoral rights are a kind of political rights and one of the main components of the more general political right of citizens to participate in the management of state affairs. In the opinion of V.S. Khizhnyak, the system of political rights and freedoms includes the right to citizenship, the right to power, the right to participate in the realization of supreme (legislative, judicial, prosecutorial, and supervisory) power, the right to make power decisions in referendums, the right to elect and be elected, the right to freedom of thought, speech, expression, the right to information, etc¹.

¹ *Khizhnyak V.S. Konstitutsionnoe pravo cheloveka i grazhdanina na informatsiyu v Rossiyskoy Federatsii: dissertatsiya kandidata yuridicheskikh nauk [The Constitutional right of a human being and citizen to information in the Russian Federation: Dissertation of Candidate of Legal Sciences]: 12.00.02. Saratov, 1998. 222 p.*

In the view of Bikmurzina N.S. and Syulaeva N.S., the electoral right is an important component of the political system of any state. It determines the procedures, rules and norms that regulate the peculiarities of elections and the realization of electoral rights of citizens¹.

According to Paragraph 28 of Article 2 of the Federal Law dated 12.06.2002 No. 67-Φ3 (ed. of 25.12.2023) "On basic guarantees of electoral rights and the right to participate in the referendum of citizens of the Russian Federation", citizens' electoral right is the constitutional right of citizens of the Russian Federation to elect and be elected to bodies of state power and bodies of local self-government, as well as the right to participate in the nomination of candidates, lists of candidates, in pre-election agitation, in the observation of elections, the work of election commissions, including the establishment of voting results and the determination of election results, and in other electoral actions in the order, established by the Constitution of the Russian Federation, this Federal Law, other Federal Laws, Constitutions (Charters), and laws of the constituent entities of the Russian Federation.

Electoral law is essentially a complex of legal norms regulating relations related to the right of citizens to elect and be elected to representative bodies of state power, local self-government and to elected executive posts, as well as regulating relations related to the procedure for exercising this right².

Most researchers consider electoral law in objective and subjective form according to the totality of legal norms. Objective electoral law and subjective are closely interrelated. Also, sometimes the electoral law in the objective sense is called the electoral law in the "broad" sense, and the electoral law in the subjective sense, respectively, in the "narrow" sense³. Let us further consider them separately.

Subjective electoral right. A lot of modern authors define subjective electoral rights as an opportunity to participate in elections. There are other forms of expressing the meaning of the concept of subjective electoral right. Thus, for example, A. V. Zinoviev and I. S. Polyashova believed that the subjective nature of electoral rights finds expression in belonging to an individual and acts as a type and measure of its possible

¹ *Bikmurzina N.S., Syulaeva N.S. Ponyatie izbiratel'nogo prava i ego printsipov [The concept of electoral rights and its principles] // Teoreticheskie aspekty yurisprudentsii i voprosy pravoprimereniya: Sbornik nauch. trudov po materialam Mezhdunarodnoy nauchno-prakticheskoy konferentsii [Theoretical aspects of jurisprudence and issues of law enforcement: Collection of scientific materials on the materials of the International Scientific and Practical Conference]. Izd-vo: Mordovskiy gosudarstvennyy pedagogicheskiy institut imeni M.E. Evseyeva. Saransk, 2019. Pp. 23–27.*

² *Belonovskiy V.N. Izbiratel'noe pravo: obshchaya chast: Uchebno-metodicheskiy kompleks [The electoral law: general part: Training and methodical complex]. M.: Izd. tsentr EAOI. 2008. 266 p.*

³ *Izбирatel'noe pravo i izбирatel'nyy protsess v Rossiyskoy Federatsii: uchebnik [The electoral law and electoral process in the Russian Federation: textbook] / S.A. Kuemzhieva, M.S. Savchenko, A.V. Krasnitskaya [i dr.]; pod obshch. red. M.S. Savchenko. Krasnodar: KubGAU, 2018. 199 p.*

legal behavior¹; V. V. Maklakov wrote that subjective electoral rights are the rights of a citizen to elect and be elected²; in the view of S. A. Glotov and M. P. Fomichenko, it is a state-guaranteed opportunity of citizens to participate in elections to public authorities and/or a complex of legal rights of citizens in elections, etc.³

Therefore, subjective electoral rights should be understood as the right of a particular citizen to elect and be elected to state and local self-government bodies.

Citizens acquire their specific subjective electoral rights upon reaching a certain age, as well as in the presence of certain other circumstances specified in normative legal acts. A citizen of the Russian Federation has the right to elect and be elected regardless of sex, race, nationality, language, origin, property and official status, place of residence, attitude toward religion, beliefs, membership in public associations, as well as other circumstances⁴.

There is no unified point of view in the definition of objective electoral right in domestic jurisprudence. Most Russian scientists associate subjective electoral right with its main function — legal provision of realization of subjective electoral right of a particular citizen⁵. In the view of V. V. Maklakov, objective electoral law is a complex of legal norms regulating the electoral process⁶. Glotov S. A. and Fomichenko M. P. believe that it is a system of constitutional-legal norms regulating social relations related to the election of state and local self-government bodies⁷.

The complexity of this issue is also manifested in the fact that some legal scholars consider electoral law as a legal institute, a sub-branch of constitutional law or an autonomous branch of law.

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¹ Zinovyev A. V., Polyashova I. S. Izbiratelnaya sistema Rossii [The electoral system of Russia]. SPb., 2003. P. 44.

² Zarubezhnoe izbiratelnoe pravo: Uchebnoe posobie [International electoral law: Textbook]. Izdatelstvo NORMA, 2003. 288 p.

³ Izbiratelnoe pravo i izbiratelnyy protsess. Rossiyskiy gosudarstvennyy sotsialnyy universitet [The electoral law and the electoral process]. M.: NITs "Inzhener", 2005. 104 p.

⁴ Izbiratelnoe pravo i izbiratelnyy protsess v Rossiyskoy Federatsii: Uchebnik dlya vuzov [The electoral law and electoral process in the Russian Federation: Textbook for universities] / Otв. red. k.yu.n. A. A. Veshnyakov. M.: Izdatelstvo NORMA, 2003. 816 p.

⁵ Postnikov A. E. Izbiratelnoe pravo Rossii [The electoral law of Russia]. M., 1996. P. 13.

⁶ Zarubezhnoe izbiratelnoe pravo: Uchebnoe posobie [International electoral law: Textbook]. Izdatelstvo NORMA, 2003. 288 p.

⁷ Izbiratelnoe pravo i izbiratelnyy protsess. Rossiyskiy gosudarstvennyy sotsialnyy universitet [The electoral law and the electoral process]. M.: NITs "Inzhener", 2005. 104 p.

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