

Problems of the formation of public authorities of the constituent entities of the Russian Federation: regional aspect

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Abstract. The article examines the current problems of improving the legal norms governing elections of the highest officials of Russian Federal entities, considers the problematic issues of the implementation of electoral mechanisms in the context of the subjects of the nomination of candidates, the features of the legal regulation of the institution of self-nomination in the elections of the highest official of Russian Federal entities. The authors analyze the legal norms that regulate the procedure for collecting signatures in support of candidates nominated by various subjects, consider the organizational and legal norms that regulate the procedure for recalling the highest official of the Russian Federation, and suggest ways to improve the regulatory and legal regulation of the election of the highest official of the Russian Federal entity.

Keywords: elections, the highest official of the territorial entity of the Russian Federation, voter support, recall, power stability, self-nomination

1 Introduction

The institution of governorship, as one of the main institutions of regional state power, plays an important role in the political system. It determines the stability of public administration of subnational level administrative-territorial units. The problem of optimal consideration of interests when creating the institution of governorship is urgent since the preservation of the balance of voters' interests depends on the approaches to the creation of the governor's corps.

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2 Methods

The research was based on a dialectical approach to the disclosure of legal phenomena and processes using general scientific (systematic, logical, analysis, and synthesis) and specific scientific methods. Among the specific scientific methods, authors used formal-legal and comparative-legal methods to study texts of constitutional and electoral norms regulating the creation and activity of the highest official position of Russian Federal entities in order to identify how this institution is reflected in the context of state reforms and democratic transition, its place, and role in the system of public authorities.

3 Discussions and results

Public relations on electoral rights are regulated by several Federal Laws [1-3]. Convention [4], which is an integral part of the legal system of the Russian Federation, defines that every citizen must have equal legal opportunities to run for the office (Article 3, paragraph 4); candidates may be nominated by the voters of the relevant electoral district and/or by self-nomination (Article 10, paragraph 3).

The Federal Law establishes that candidates for the highest official position in Russian Federal Entities (the head of the highest executive body of state power of Federal Entities) are nominated by political parties [1].

This normative position is debatable from several points of view.

First, the legislative regulation of the right to vote and be elected, the order of elections (electoral systems), as well as restrictions on electoral rights and freedoms should not restrict or cancel the generally recognized rights and freedoms of a person and citizen and constitutional and/or legislative guarantees of their implementation, or be discriminatory [4].

Secondly, our country's Constitution (Article 55) contains a provision according to which no laws should be issued that cancels or diminishes the rights and freedoms of a person and citizen. In addition, the possibility of restricting the rights and freedoms of an individual and a citizen is regulated exclusively by federal laws and only for the purpose of protecting the foundations of the constitutional system, morality, health, rights, and legitimate interests of other individuals, ensuring the defense of the country and the security of the state [5].

Third, the Provision on the Legal Regulation of the Political Party Activities adopted by the Venice Commission also contains the rule that, despite the fact that one of the main functions of political parties is to nominate candidates for elections in order to gain and exercise political power, nevertheless, the participation of a person in elections as a candidate of a political party is an expression of his personal right to be elected, as a result of which laws must secure the personal right of a citizen to run for office (Article 126) [6].

The potential for all citizens with the passive right to vote to run for office is designed to ensure that every citizen, on the basis of the equality principle, without any discrimination and unjustified restrictions, has the ability to become a public wielder of power and to exercise this power with other Russian citizens. Such conclusions are contained in the decisions of the Russian Federal Constitutional Court [7-9].

In a separate opinion, the judge of the Russian Federal Constitutional Court, S. Knyazev, noted that "despite the importance of political parties as collective participants in the electoral process, they still cannot claim a monopoly in matters related to the selection and nomination of candidates for elected positions". He believes that the corresponding right to nominate "independent" candidates can be recognized directly by the voters, groups of voters, meetings, committees, etc. [9].

The CSCE Conference on the Human Dimension (Copenhagen, 29 June 1990), (Article 7.2 of the Copenhagen Document) notes that the will of the people will serve as the basis of government authority only when States respect the right of their citizens to run for political

or public office in their personal capacity or as representatives of political parties or organizations without discrimination [10]. Public dialogue on this matter, participation in this dialogue of citizens, representatives of public organizations, political parties, their leaders, representatives of science and state authorities, and as a result – the improvement of electoral mechanisms by introducing changes to the current legislation, is more promising.

4. The problem of ensuring the stability of this institution, its responsibility for the quality of the political system's functioning, is legally solved by the need to support from 5 to 10 % of the deputies of the representative bodies of municipalities and (or) the heads of municipalities elected in municipal elections of Russian Federation entities (the so-called "municipal filter"), as well as the support of the voters of the self-nominated candidate, in terms of getting the right number of signatures, which cannot be less than 0.5% and more than 2% of the number of voters registered in the territory of the electoral district [1]. At the same time, the establishment of a specific number is attributed to the powers of the federal legislative body of the constituent entity of the Russian Federation.

It seems that a better rule would be to prescribe the publication of information about subscription lists in support of candidates on the website of the electoral commission of the entity, sent by the municipal deputies themselves. The mechanism is transparent, well understood by voters, excludes any manipulation or use of unverified information about them, does not allow the influence of an administrative resource, and, therefore, will be perceived by voters as ensuring fair elections.

3. The institution of internal recall of the highest official of the Russian Federal entity by voters registered in the territory of the relevant federal entity is provided for by the Federal Law [1], which regulates the grounds, terms, and procedure for recall, as well as a number of guarantees that ensure the use of the recall mechanism only for the implementation of the principles of democracy and prevent abuse.

At the same time, the existing norm, according to which, when voting for someone who runs for the highest official position during the election in the federal entity, there is no quantitative qualification for recognizing the elections as valid, depending on the number of voters who took part in the vote, does not contain requirements for the necessary number of voters who supported the candidate to recognize him as elected, and raises questions about the legitimacy of the elected top official.

To improve the administrative management efficiency, regional legislation should clearly regulate the procedures for applying the institute of responsibility of the executive regional authorities and, in particular, the mechanism for bringing to justice the head of the supreme executive body of Russian Federal Entities.

Russian scientists state the need to optimize the mechanism of recall of the highest executive officials of Russian Federal Entities. This optimization should be aimed at increasing direct communication with citizens and local community organizations as the main tool to influence the highest executive officials Russian Federal Entities, provided to the residents of the region, and offer as an additional reason for initiating the procedure of recall by voters and to establish in the legislation, for example, the inefficiency of managerial decisions and political activities of the elected official in general [11-15].

4 Conclusion

Based on the research, the following can be concluded:

1. The constitutional characterization of the Russian Federation as a democratic state governed by the rule of law requires elections held in Russia to be true elections and not to be accompanied by unjustified restrictions on the right of citizens to participate in them, including through self-nomination.

In this regard, it seems:

a) it is advisable to consolidate the right of citizens to self-nomination in federal legislation, removing the possibility of nomination from the powers of the Federal Entity. Such a provision would be in accordance with the constitutional norm, which prescribes that any restriction of the right must meet the established goals and be regulated exclusively by federal law.

b) to provide, as suggested by S. Knyazev, the voters, voter groups, and assemblies the right to nominate “independent” candidates directly, as a form of the individual – not associated with party support – citizens’ right to vote and to be elected to state authorities.

2. To increase the responsibility of candidates, political parties, the level of legitimacy of the authorities, stability in the system of authorities, it seems appropriate to introduce a quantitative qualification for recognizing the elections as valid and the number of votes necessary to determine the winner, correlated with the quantitative qualification of votes required for recognizing the recall as held.

In this regard, it seems appropriate to assign to the President of the Russian Federation the authority to approve candidates for the highest official positions of federal entities nominated by political parties and self-nominated candidates, giving the right to voters to independently decide by voting which of the candidates they will grant a mandate.

3. As for the support by municipal deputies of candidates who run for the office in a federal entity, a decrease in the percentage to 5% (instead of the existing percentage from 5 to 10) will make it a really working support for a candidate. It has to lose the role of a political filter and a factor holding back competition.

In conclusion, researchers can state that to improve administrative management efficiency, regional legislation should clearly regulate the procedures for applying the institute of responsibility of the executive regional authorities and, in particular, the mechanism for bringing the head of the supreme executive body of Russian Federal Entities to justice. The ability to implement the relevant standards should stimulate the work efficiency of the top officials and the entire system of regional executive authorities headed by these officials, to ensure a high degree of manageability and control.

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