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**THE IMPLEMENTATION OF PASSIVE SUFFRAGE AT THE STAGE OF
NOMINATION AND REGISTRATION OF CANDIDATES FOR
ELECTIONS TO STATE AUTHORITIES OF THE RUSSIAN
FEDERATION**

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5.1.2 – Public Law (State Law) Sciences

Actuality. The Constitution of the Russian Federation proclaimed Russia as a democratic rule-of-law state with a republican form of government, the source of power in which is a multinational people exercising it directly or through legally elected and formed state and local government bodies.

According to part 3 of Article 3 of the Constitution of the Russian Federation, the highest expression of direct democracy is a referendum and free elections. The latter are a way of forming authorities and local self-government, which ensures the stable functioning of all state institutions and determines the special place of electoral procedures in the legal system.

The institutional basis of elections is the electoral process, which is one of the main elements of the functioning of the mechanism of a democratic state¹. The electoral process is a multidimensional phenomenon and, in this regard, its individual stages, in turn, are of great importance in the process of direct realization of the electoral rights of citizens of the Russian Federation².

There is no consensus on the list of stages of the electoral process in legal science at the moment, however, according to most scientists, the following eight main ones are distinguished: 1) appointment of elections; 2) accounting (registration) of voters, formation of electoral districts and polling stations; 3) nomination and registration of candidates; 4) financing of the election campaign; 5) information support of elections and election campaigning; 6) voting day; 7) establishment of voting results; 8) determination of election results³.

It should be noted that the order of these stages may vary depending on the point of view from which the electoral process is viewed. For example, the

¹ Krasinsky V.V. Organized crime in the elections and in the Russian authorities: monograph. M.: Yurlitinform, 2014. P. 4.

² Ibid.

³ See, for example: Knyazev S.D. A course of lectures on electoral law and the electoral process of the Russian Federation. Vladivostok, 2000. P. 111; Vedenev Yu.A. Introduction electoral law. Textbook. M.: RCOIT, 2003. pp. 113-114; Electoral law the electoral process of the Russian Federation: Textbook for universities / Ed. A. A. Veshnyakov. M.: Publishing House NORM, 2003. P. 297; Postnikov A.E. Electoral law as a sub-branch of Russian constitutional law // Journal of Foreign Legislation and Comparative Jurisprudence. 2012. No. 4 (35). P. 5; Puchnin A.S., Sergienko A.M. Electoral process: textbook [Electronic resource] / A.S. Puchnin, A.M. Sergienko. St. Petersburg: St. Petersburg Institute (branch) VGUYU (RPA of the Ministry of Justice of Russia), 2015. P. 14; Vinogradov V.A., Maslennikova S.V., Mazaev V.D. Constitutional Law of Russia: textbook. Moscow: Eksmo, 2022. P. 435.

nomination and registration of new voters may follow up to the stage of calling elections, since these procedures are carried out on January 1 and July 1 of each year, while elections may be scheduled later than the corresponding date.

In the electoral process, a fundamentally important stage is the nomination and registration of candidates, during which candidates are actually admitted to participate in elections and given a special legal status with a special functional purpose¹. Moreover, in many ways, it is at this stage of the electoral process that citizens' trust in the elections and in the electoral system as a whole is being formed².

The electoral rights of citizens in the Russian Federation are one of the types of political rights and belong to the first generation of human rights. Despite the more than two hundred-year history of the development of the doctrine of this category of rights, the problems of their actual implementation still remain the subject of discussion and the search for optimal mechanisms to ensure them in legal science, as evidenced by a large number of scientific papers on this topic³.

In the Russian legal system, subjective electoral rights, which are the practical basis for the implementation of the principle of democracy, are enshrined in part 2 of Article 32 of the Constitution of the Russian Federation in the form of the right to elect (active) and to be elected (passive) to state authorities and local self-government bodies, as well as the right to participate in a referendum. The text of the Constitution also establishes the categories of citizens who are deprived of voting rights: those recognized by the court as incompetent, as well as those held in places of deprivation of liberty by a court verdict.

At the same time, at the moment there is an extensive array of federal legislation regulating in detail the conduct and organization of elections, one of the main properties of which is instability⁴.

¹ Pligin V.N., Avilov Ya.D. Guarantees of the right to be elected as a factor of legitimacy of power // State and law. 2020. No. 1. pp. 62-63.

² Ibid.

³ See, for example: Library of Legal Sciences - abstracts and dissertations on law and jurisprudence. URL: <https://clck.ru/NHPu3> (accessed 04.05.2020).

⁴ See: Vinogradov V.A., Komarova V.V., Kostyukov A.N., Larichev A.A., Liverovsky A.A., Mosin S.A., Salikov M.S., Fomichenko M.P. Democracy as a constitutional value: legal regulation and guarantees of implementation / Ed.: V.A. Vinogradov, A.A. Larichev. M.: Publishing House HSE, 2021. P. 39.

In 2002-2023, there were serious changes in the electoral legislation and the practice of holding elections, which were expressed, firstly, in the adoption of the currently fundamental legislative act regulating the electoral process - Federal Law No. 67–FZ of June 12, 2002 "On Basic Guarantees of Electoral Rights and the Right of Citizens of the Russian Federation to Participate in a Referendum" ¹ (hereinafter – Federal Law No. 67-FZ, Federal Law of June 12, 2002 No. 67- FZ). Secondly, this period was characterized by a significant adjustment of the regulatory framework governing the elections of the President of the Russian Federation, deputies of the State Duma of the Federal Assembly of the Russian Federation (hereinafter also the State Duma), elections to state authorities of the constituent entities of the Russian Federation and local self-government bodies. All these events have predetermined the characteristics of the procedure and mechanism for the implementation of passive suffrage and trends in the regulation of the electoral process, which require research.

Conceptually, these changes were characterized by two contradictory trends: from 2003 to 2011, the electoral system for the elections of deputies of the State Duma changed from mixed to proportional², direct elections of heads of the constituent entities of the Russian Federation were canceled, the rules for participation in the elections of presidential candidates of the Russian Federation became stricter, the procedure for registration of political parties became more complicated³.

However, in 2012, there were introduced the opposite changes in the electoral legislation, which are of fundamental importance for the development of the electoral process: the rules for the creation of political parties have been significantly simplified, direct elections of the heads of the constituent entities of the federation

¹ Federal Law No. 67–FZ of June 12, 2002 "On Basic Guarantees of Electoral Rights and the Right of Citizens of the Russian Federation to Participate in a Referendum" // Collection of the Russian Legislation. 17.06.2002. No.24. Article 2253.

² See: Dmitriev Yu.A. Electoral law. Textbook: textbook / Yu. A. Dmitriev, V. B. Israelian. Moscow: Justicinform, 2008. P. 130.

³ See: Shablinsky I. G. Evolution of the electoral system in Russia: preliminary results // Civil society in Russia and abroad. 2011. No. 1. pp. 37-43.

have been returned, the transition to a mixed majority-proportional electoral system for the elections of deputies of the State Duma has been carried out, the conditions for participation in presidential elections have been facilitated.

The significance of these changes is very great, since the institution of self-nomination of candidates has been developed in the electoral legislation, the party system has changed and, most importantly, according to the author, the ways and conditions for the implementation of passive suffrage have changed.

Since the end of 2014, the regulation of the electoral process has begun to change towards the emergence of new legislative restrictions on passive suffrage. At the same time, the current state of the implementation of passive suffrage cannot be called satisfactory, due to the next round of its legislative restrictions¹.

The key stage of the electoral process, at which these changes are crucial for the realization of the electoral rights of citizens of the Russian Federation, is the stage of nomination and registration of candidates, when a list of candidates is actually formed, which will then appear on the ballot papers².

Passive suffrage, in turn, is the most important element of the legal status of an individual and legal guarantees of its implementation allow us to assess how effectively one of the basic principles of the Constitution of the Russian Federation is being implemented – the principle of democracy, which determines the democratic character of the state.

A characteristic feature of the legal regulation of the implementation of passive suffrage is the unsynchronized regular changes in the regulations of the federal and regional levels against the background of the stability of constitutional regulation, which remained virtually unchanged until 2020, when the Constitution of the Russian Federation was amended, including those related to issues of passive suffrage.

¹ Alekseeva T.A., Varlamova N.V., Kryazhkov V.A. Constitutionalism: universal and National dimensions: monograph. Moscow: Publishing House of IGP RAS, 2022. P. 130.

² See: Avakian S.A. Constitutional lexicon: A state-legal terminological dictionary. Moscow: Justicinform, 2015 // SPS "ConsultantPlus", 2023.

At the same time, the norms of the Constitution of the Russian Federation, which are of the most fundamental nature and are contained in its chapters 1 and 2, have remained the same. In this regard, taking into account the subordination of the electoral legislation to these constitutional provisions, its study for compliance with them is of high scientific and practical importance and determines the relevance of the topic of this study.

The logic of the legislator, which underlies these changes, also requires scientific understanding, since its analysis makes it possible to predict the development of the electoral system and the electoral process.

Along with the above aspects, it should be noted that there is a tendency in the modern world to form international electoral standards that establish the basic principles of regulating the electoral process, including the principles of implementing passive suffrage at the stage of nomination and registration of candidates. At the same time, such standards are quite dialectical in nature, since they are both sources of law, including constitutional law, and at the same time they themselves are created under the influence of the norms of national legislation.

Since international electoral standards can have a different impact on the national electoral system in the broad sense of the word and the electoral process, it seems that the study of the relevant standards within the framework of the proposed thesis topic will allow us to assess their impact on the legal regulation of elections in the Russian Federation and draw conclusions about the mutual correlation of international and national norms in this area.

The study consists of an introduction, two chapters, including seven paragraphs, a conclusion and a bibliographic list.

The object of the study is a set of social relations that develop in the process of exercising the right to be elected (passive suffrage) at the stage of nomination and registration of candidates for elections to federal public authorities as well as to public authorities of constituent entities (regions) in the Russian Federation.

The subject of the study is the norms of Russian legislation, acts of international law, judicial practice, legal acts and decisions of election commissions

regulating the conditions and procedure for the implementation of passive suffrage at the stage of nomination and registration of candidates for elections, restrictions and qualifications for candidates, as well as the role of political parties, candidates, election commissions in the implementation of these actions and doctrinal sources.

The extent of scientific development of the topic

The following Russian authors have devoted their scientific works to electoral process in general within the framework of constitutional and legal science: S.A. Avak'yan, L.G. Alekhicheva, L.V. Andrichenko, R.T. Biktagirov, YU.A. Vedeneev, A.A. Veshnyakov, V.A. Vinogradov, V.V. Viskulova, S.E. Zaslavskij, A.I. Ivanchenko, I.P. Kenenova, S.D. Knyazev, E.I. Kolyushin, V.V. Komarova, M.A. Krasnov, V.A. Kryazhkov, A.S. Kuchin, V.V. Lapaeva, A.A. Larichev, V.I. Lysenko, V.D. Mazaev, S.V. Maslennikova, A.E. Postnikov, G.D. Sadovnikova, N.M. Sizikova, E.I. Starovojtova, T.YA. Habrieva, D.M. Hudolej, I.G. Shablinskij, B.S. Ebzeev, S.V. Yusov.

The concept of passive suffrage has been analyzed in detail in the works of S.D. Knyazev, N.M. Kolosova, L.A. Nudnenko, M.A. Smirnova, I.V. Sovetnikov, I.A. Starodubceva, L.A. Thabisimova, A.O. Filatova, S.V. Sheverdyayev, A.V. Shemelin, B.S. Ebzeev.

The stage of nomination and registration of candidates for elections at various levels has been studied in the works of A.E. Akunchenko, V.A. Ahlyustin, N.S. Bondar, I.B. Borisov, N.V. Varlamova, D.G. Demidov, A.A. Dzhagaryan, E.P. Dubrovina, S.N. Egorov, S.V. Kabyshev, I.V. Leksin, M.A. Lipchanskaya, A.A. Makarcev, T.A. Ospanov, I.A. Starodubceva, N.E. Taeva, D.M. Hudoley, V.A. Cherepanov, S.A. Yanzhinov.

International standards of electoral law have been reflected in the works of Russian researchers as A.S. Avtonomov, I.B. Borisov, A.A. Veshnyakov, H.I. Gadzhiev, S.A. Golubok, A.I. Kovler, V.V. Krasinskiy, O.V. Kuznecova, O.N. Luc', V.I. Lysenko, S.V. Narutto.

A large block of research in the field of international electoral standards developed by the European Court of Human Rights and the United Nations is

represented by the works of foreign scientists, such as R. Alexy, J. Austin, M. Castan, M. Gallagher, H. Hart, S. Joseph, S. Josso, W. Mastor, P. Mitchell, C. Morris, J. Rawls, D. Tuccinardi, M. Wally, Milena Tripkovic and others.

The role of political parties in the implementation of passive suffrage has been studied in the works of Yu.S. Gambarov, M. Duverger, A.S. Koshel, L.A. Nudnenko, B.A. Chicherin.

The analysis of the above works shows that in Russian legal science the concepts of "electoral process", "passive electoral law", "stages of the electoral process", "nomination and registration of candidates" have been worked out in general, conceptual scientific approaches to them have been developed.

Despite the large number of studies devoted to electoral law and electoral process, a comprehensive study of the problems of the implementation of passive suffrage at the stage of nomination and registration of candidates within the framework of significant changes in electoral legislation that occurred in 2012-2023 has not yet been conducted.

In particular, a comparative analysis of foreign theoretical approaches to the concept of passive suffrage remains outside the framework of Russian legal science. The issues of assessing the role of political parties and the institution of self-nomination of candidates in the implementation of passive suffrage at the stage of nomination and registration of a candidate remain beyond the limits of scientific analysis. As before, the doctrine does not define approaches to the differentiation of the concepts of "restrictions on passive suffrage" and "electoral qualifications".

The practical features of restrictions on passive suffrage, including the methodology of legal regulation of these restrictions, which prevent the effective implementation of the right to be elected provided for in part 2 of Article 32 of the Constitution of the Russian Federation, have not actually been studied in science.

The purpose of the study is to determine, based on a theoretical understanding of the constitutional and legal foundations and regulatory regulation, the essence of the implementation of passive suffrage in the nomination and registration of candidates in the Russian Federation, its mechanism and elements, as

well as trends in legislative regulation and law enforcement practice in this area, including new institutions and technologies in the field of the electoral process.

To achieve this goal, the following tasks are formulated in the work:

- to comprehend the place and role of the stage of nomination and registration of candidates in the process of the implementation of passive suffrage;
- to investigate the concept of passive suffrage as an element of the structure of the constitutional-legal status of a candidate;
- to define the concept of the implementation of passive suffrage at the stage of nomination and registration of candidates, as well as to identify the mechanism of its implementation;
- to formulate a definition of the concept of restrictions on passive suffrage and to establish the types of such restrictions;
- to study international and foreign electoral standards for the implementation of passive suffrage at the stage of nomination and registration of candidates and to determine their impact on domestic legal regulation;
- to determine the influence of political parties on the implementation of the right to be elected at the stage of nomination and registration of candidates;
- to analyze self-nomination of a candidate, its condition and prospects in the framework of the implementation of passive suffrage at the stage of nomination and registration of candidates;
- to investigate the features of legislative restrictions on passive suffrage and their practical application at the stage of nomination and registration of candidates;
- to develop proposals for improving the legal regulation of passive suffrage at the stage of nomination and registration of candidates in the Russian Federation.

The methodological basis of the study includes general scientific methods and special legal methods of cognition. The general scientific methods include, first of all, methods of analysis and synthesis, which makes it possible to generalize

concepts and approaches to the concept of the electoral process and passive suffrage, the mechanism of its implementation, as well as to develop an author's view of its interpretation. The historical method has been used to study the experience of the development of the electoral legislation of the Russian Federation and international electoral standards in terms of the procedure for the implementation of passive suffrage and its subjects, as well as the construction of a chronological chain of trends in legal regulation in this area. The analogy method has been used to compare the legal regulation of passive suffrage and other subjective constitutional human rights. Methods of induction and deduction have been used to work with normative material and doctrinal sources.

The group of special-legal methods in the dissertation consists of formal-legal, comparative-legal, system-structural methods and method of legal statistics.

The formal legal method has been used in analyzing the provisions of normative acts and their reflection in law enforcement, mainly judicial practice, by assessing the content of legal norms, identifying their meaning and the standards of behavior embedded in them.

The use of the comparative legal method has resulted in analyzing the norms of Russian, foreign and international law, as well as domestic and foreign doctrinal sources in order to find common and distinct features in them.

The method of legal statistics has been applied in studying statistical data on the nomination and registration of candidates in various types of elections, in particular, in order to identify the main trends related to the most common forms of nomination and grounds for refusal to register candidates.

The system-structural method has been used to understand the place of the stage of nomination and registration of candidates in the process of exercising the right to be elected, as well as the concept of passive suffrage as part of the structure of human electoral rights in its relationship with other legal phenomena.

The empirical ground of the study includes international legal acts, regulatory acts of the federal level and the level of the constituent entities of the Russian Federation, which regulate the electoral process, as well as establish

guarantees, conditions and features of the implementation of passive suffrage at the stage of nomination and registration of candidates. In addition, the study contains the analysis of resolutions and rulings of the Constitutional Court of the Russian Federation, resolutions of the Plenum and reviews of the practice of the Supreme Court of the Russian Federation, decisions of courts of constituent entities of the Russian Federation concerning the implementation of passive suffrage at the stage of nomination and registration of candidates in the Russian Federation.

Scientific originality of the dissertation research

On the basis of a comprehensive theoretical and legal analysis, the essence and content of passive suffrage at the stage of nomination and registration of candidates are determined, as well as the mechanism of its implementation, including the establishment of the composition, the allocation of essential elements and patterns of functioning.

Within the framework of the existing discussion on the relationship between the concepts of "restrictions on passive suffrage" and "electoral qualifications", a dualistic concept of distinguishing these concepts is proposed.

The most fundamental changes in electoral legislation in the field of regulating the nomination and registration of candidates and their impact on the stabilization of the political system in the Russian Federation are considered, as well as the main legal problems in this area are formulated and ways to solve them are proposed.

The main results of the study and the provisions submitted for defense:

1. The stage of nomination and registration of candidates for elections to public authorities of the Russian Federation is of key importance not only for the implementation of passive suffrage, but also for ensuring public confidence in the elections. It is at this stage that citizens, becoming candidates and acquiring the appropriate constitutional and legal status of subjects of the electoral process, gain access to getting on the ballot, that is, access to the opportunity to be elected to state or local government bodies. In case of conflicts and shortcomings in the legal provision of guarantees of passive suffrage at this stage, guarantees of the exercise

of active suffrage may significantly suffer or even be leveled, since the lack of guarantees of the right to be elected and, as a result, a limited list of candidates and political parties in elections may be perceived by voters as evidence of the absence and guarantees of active electoral rights.

2. Passive suffrage as a subjective right includes the following powers:

- to be nominated as a candidate;
- to be a registered candidate;
- to collect funds for the conduct (financing) of the election campaign;
- to conduct election canvassing;
- to appeal to election commission or court in order to restore a violated right;
- to be recognized as an elected candidate;
- to take a position to be filled through elections or to receive a mandate.

3. The implementation of passive suffrage at the stage of nomination and registration of candidates is a consistent process of its practical implementation in law enforcement within the framework of appropriate forms of participating in elections – the nomination of candidates individually, as well as the nomination of candidates by electoral associations as part of candidate lists.

4. The mechanism of implementation of the right to be elected at the stage of nomination and registration of candidates is a set of legal norms, restrictions of this right, as well as legally significant and organizational and managerial actions carried out by the subjects of the electoral process – voters, candidates, electoral associations, election commissions, public authorities and courts aimed at forming a list of candidates and their lists, allowed to participate in the elections¹.

5. The actions that make up the content of the mechanism for the implementation of passive suffrage at the stage of nomination and registration of candidates, according to the dissertation, include:

¹ See: Belyanskaya A.B. Commentary on Federal Law No. 67-FZ of June 12, 2002 "On basic guarantees of electoral rights and the right to participate in a Referendum of citizens of the Russian Federation" / Belyanskaya A.B., Vorobyov N.I., Grigorieva E.A. Saratov: AI Air Media, 2019 // SPS "GARANT", 2023.

a) the main ones: adoption by the nominating entity of a decision on the nomination of a candidate/list of candidates; collection and submission of documents on the nomination of a candidate/list of candidates to the election commission; opening of a special election bank account; collection and submission of documents for registration of a candidate/list of candidates; adoption of a decision by the election commission on registration or refusal to register a candidate/list of candidates, and in case of challenging the decision of the election commission - a court decision on registration or refusal to register a candidate;

b) additional: 1) while candidates are being nominated by a political party – holding a preliminary vote (for example, primaries – may be provided for by the party's charter), collecting candidates for nomination, making a decision by the election commission to certify the list of candidates¹; 2) applied to both parties and self-nominees – collecting signatures of voters, and at the elections of senior officials of the constituent entities of the Russian Federation - also collecting signatures of deputies of representative bodies of local self-government and (or) heads of municipalities elected at municipal elections; clarification of the information and (or) documents received by the election commission about the candidate/list of candidates.

Almost all of these actions are both legally significant and organizational and managerial. Only organizational and managerial ones can be called the conduct of preliminary voting and the collection of candidates for nomination, as well as the collection of documents on the nomination and registration of a candidate or a list of candidates².

6. Restrictions of passive suffrage, including electoral qualifications, play a special role in the mechanism of implementation of passive suffrage³. The researcher

¹ See: Pyatkina T.Y. Realization of the electoral right of citizens: the role and place of political parties // SARANSK.RUC.SU. URL: <https://saransk.ruc.su/upload/medialibrary/c84/+%D0%9F%D1%8F%D1%82%D0%BA%D0%B8%D0%BD%D0%B01.pdf> (date of access: 29.12.2023).

² See: Slobodchikova S.N. The contents of the constitutional and legal model of free elections in Russia. *Pravoprimenenie = Law Enforcement Review*. 2019. Vol. 3. No. 3. P. 68.

³ See: Avakian S.A. The right to vote and be elected in Russian political realities: the main constitutional and legal problems. Educational and methodological complex / Author's manual. Col. and ed. prof. Avakian S.A. M.: Justicinform, 2015. P. 343.

has proposed to consider the terms "restrictions of passive suffrage" and "electoral qualifications", respectively, as generic (restriction of rights) and specific (qualification).

Based on this thesis, the generic concept of "limitations of passive suffrage" is the legal conditions and requirements that narrow the opportunities of citizens to participate in elections as candidates until the complete loss of the right to be elected. In the system of restrictions on passive suffrage, conditional (optional) restrictions and electoral qualifications are distinguished.

7. Conditional (optional) restrictions are conditions arising from the norms of electoral legislation for the implementation of passive suffrage (for example, the need to support the nomination of a candidate by collecting signatures, the correct formal registration of documents for registration, etc.), arising from the behavior of the candidate. In fact, these restrictions are indirect, and may be expressed in non-compliance with the requirements and conditions necessary for registration as a candidate, in assessing which the law enforcement officer has a high degree of discretion.

The qualifications represent the conditions of possession immanent to the passive electoral right, in assessing which the discretion of the law enforcement officer is not so significant. These are: age, settlement, proficiency in the state language, citizenship, place of residence (registration), legal capacity, non-eligibility (for example, as a result of the removal of the president from office following impeachment), criminal record, bringing to administrative responsibility for certain offenses, membership in political parties, availability of bank accounts and storage of funds, financial instruments abroad.

8. The researcher has revealed a trend of convergence of international electoral standards for the implementation of passive suffrage, developed by a number of international organizations, including the UN Human Rights Committee, the Commonwealth of Independent States and the Council of Europe, and national legal regulation of these standards at the constitutional level in the form of guarantees for the implementation of this right. It manifests itself in the following

results: 1) the existence of guarantees for the participation of independent candidates in the elections, while increasing the role of political parties as the main subject of nominating candidates; 2) unification of procedures for verifying signatures of voters; 3) the use of a mixed assessment model in assessing restrictions on the right to be elected by constitutional control bodies, including the method of "weighing" interests and the "proportionality test", which are actively used in the practice of both the Constitutional Court of the Russian Federation and the European Court of Human Rights.

At the same time, there is a tendency of divergence of international and national electoral standards in the form of expansion of direct and indirect restrictions of passive suffrage, abolition of the institution of electoral pledge, as well as instability of legal regulation of the conditions for the implementation of passive suffrage both in the short and long term.

9. The analysis has showed the existence of two stages in the development of the legal regulation of passive suffrage: 1) 2012-2014 – strengthening guarantees of electoral rights when nominating candidates (simplification of the rules for the establishment of political parties, development of a multi-stage model for the admission of political parties to elections without collecting signatures, expansion of opportunities for using such a method of participation in elections through which the right to be elected is implemented, such as self-nomination¹ of a candidate); 2) 2015-2023 – excessive expansion of the interpretation of constitutional principles in the laws of the federal and regional levels, allowing to restrict passive suffrage. At the same time, not only specific grounds for refusal to register as a candidate become restrictive, but also the model of regulation of the electoral process chosen by the legislator itself, which is expressed in the constant expansion of the grounds for the application of constitutional responsibility in the form of refusal to register a candidate and complication of the procedure for conducting an election campaign.

¹ See: Belyanskaya A.B. Commentary on Federal Law No. 67-FZ of June 12, 2002 "On basic guarantees of electoral rights and the right to participate in a Referendum of citizens of the Russian Federation" / Belyanskaya A.B., Vorobyov N.I., Grigorieva E.A. Saratov: AI Air Media, 2019 // SPS "GARANT", 2023.

10. In order to strengthen legislative guarantees for the implementation of passive suffrage at the stage of nomination and registration of candidates, there are following propositions:

- currently, political parties in their charters also have the right to establish the procedure for nominating candidates and lists of candidates, failure to comply with which entails refusal to register a candidate or list of candidates¹. Considering that both within the framework of the proportional electoral system and within the framework of the mixed majority-proportional electoral system, as this study showed, most of the candidates are nominated by political parties, their influence on the implementation of passive suffrage is very significant. The absence of restrictions in the legislation regarding the withdrawal of candidates already nominated by them without explanation, as well as the freedom of discretion in the selection of candidates for nomination in elections and the low transparency of such procedures reduces the guarantees of the exercise of passive suffrage.

In order to overcome the imbalance in the regulation of guarantees of passive suffrage and the right to unite in political parties, which is due to the broad powers of parties to establish in the charters the grounds for withdrawing nominated candidates from elections², it is proposed to legislate the obligation of political parties to submit written reasons for the withdrawal of a candidate (list of candidates) to the election commission organizing the relevant elections;

- to fix the principle of candidates' conscientiousness in Federal Law No. 67-FZ of June 12, 2002. This principle means that doubts about the correctness of filling in the documents submitted by the candidate that affect the registration of the candidate, for example, subscription lists, should be interpreted in favor of the candidate;

- to exclude from the electoral legislation the restrictions of passive suffrage related to the commission of crimes of moderate gravity (with the exception of

¹ Krasinsky V.V. Organized crime in the elections and in the Russian authorities: monograph. M.: Yurlitinform, 2014. P. 92.

² Russia and International Electoral Standards. Collection of Documents // Ed. By Alexander A. Veshnyakov (General editor), Vladimir I. Lysenko (Volume editor). Moscow: Izdatelstvo VES MIR, 2006. P. 185.

crimes related to encroachment on the exercise of citizens' electoral rights: Sections 2 and 3 of Article 141, Section 1 of Article 142, Article 142¹, Sections 1 and 3 of Article 142²), as well as to shorten the validity of restrictions, related to the commission of grave and significantly grave crimes;

- to exclude from the legislation such direct grounds for refusal to register a candidate or a list of candidates as the fact of using agitation that violates the legislation of the Russian Federation on intellectual property (subparagraph "k" of paragraph 24, subparagraph "i" of paragraph 25, subparagraph "b" of paragraph 26 of Article 38 of Federal Law No. 67-FZ¹);

- to establish that refusal to register a candidate, a list of candidates is possible if 25 or more percent (instead of 5 percent according to the current version of the law) of unreliable and (or) invalid signatures of voters from the total number of signatures selected by the election commission for verification are identified (subparagraph "G.1" of paragraph 24, subparagraph "B.1" paragraph 25 of Article 38 of Federal Law No. 67-FZ);

- in order to prevent violations of the rights of candidates nominated by electoral associations in a single electoral district, it is proposed to increase from two to three the minimum number of candidates or lists of candidates registered and, accordingly, included in the ballot as of the voting day to recognize the elections as held². Failure to comply with this rule will entail the need to postpone the election date and conduct additional nomination of candidates (paragraph 33 of Article 38 of Federal Law No. 67-FZ), the costs of which may be borne by a political party that has withdrawn a candidate, a list of candidates without a valid reason, which will become a deterrent to the recall of candidates;

- in order to simplify the procedure for registering a candidate for the election of deputies of the State Duma, it is proposed to return to the legislation the institution

¹ See: Kulikova S.A. The constitutional prohibition of censorship in Russia: a monograph / Kulikova S.A.; ed. Komkova G.N. M.: Prospect, 2016, p. 171.

² Krasinsky V.V. Organized crime in the elections and in the Russian authorities: monograph. M.: Yurlitinform, 2014. P. 86.

of electoral deposit¹, the amount of which is calculated according to the formula proposed by the author of this study: 1) for the registration of federal lists of candidates – the product of the arithmetic mean of the sum of the electoral funds of electoral associations that registered federal lists of candidates at the last elections of deputies of the State Duma², and 15 percent; 2) for candidates in single–mandate constituencies - in the amount of 3 percent of the maximum amount of expenses of the candidate's election fund.

The dissertation contains a number of other proposals for optimizing electoral legislation.

The theoretical significance of the dissertation research lies in the fact that the dissertation has expanded the range of scientific concepts in the theory and practice of electoral law. The work contains the author's definitions, provisions and conclusions that can be used for further scientific development of problems related to guarantees of electoral rights and electoral disputes.

The practical significance of the dissertation research lies in the fact that it formulates proposals aimed at improving election legislation, including legislation on political parties.

The dissertation materials can be used in legislative activities, in law enforcement activities of election commissions and courts of general jurisdiction, as well as in the educational process when studying the discipline “Election Law of the Russian Federation”.

Approbation of research results

The results of the dissertation research were tested within the framework of the School of Young Scientists held on 07.06.2018 by the Institute of Legislation and Comparative Law under the Government of the Russian Federation; the Seventh Eurasian Anti-Corruption Forum "Conflict of Interests: Law and Ethics", held on

¹ See: Anti-corruption: constitutional and legal approaches: a collective monograph / S.A. Avakian, I.P. Kenenova, A.S. Kovler et al.; ed. and the author's hand. Col. S.A. Avakian. M.: Justicinform, 2016. P. 276.

² See: Berezin A.A. Proportional electoral system: should it be abolished or left? / A. A. Berezin // Legal communication of the state and society: domestic and foreign experience: Proceedings of the International Scientific Conference, Voronezh, September 11-12, 2020. Voronezh, 2020. P. 464.

25.04.2018 at the Institute of Legislation and Comparative Law under the Government of the Russian Federation, Moscow; the XVI International Congress "Blishevskiy Readings", held on April 14, 2018 in RUDN, Moscow; scientific Electoral conference held in RUDN, Moscow, October 19-20, 2017; Conference of graduate students and young scientists "National and International Law: problems of overcoming collisions", held in April 2016 at the Institute of Legislation and Comparative Law under the Government of the Russian Federation.

The results and conclusions of the study were applied during the writing of draft federal laws and conclusions on draft laws as part of a research internship in the Department of Constitutional Law of the Institute of Legislation and Comparative Law under the Government of the Russian Federation.

The structure of the thesis is determined by the purpose, objectives and logic of the research. The work consists of an introduction, two chapters, including seven paragraphs, a conclusion, and a list of references.

Dissertation Content

The **Introduction** substantiates the relevance of the study of the legal regulation and law enforcement practice of the implementation of passive suffrage at the stage of nomination and registration of candidates, since the degree of guarantees of this right at this stage affects all subsequent stages of the electoral process, the legitimacy of the state authority. In addition, the seriously changed federal legislation regulating these procedures requires scientific analysis and reflection in order to predict the development of the electoral system and identify problems and gaps in the current legal regulation.

Chapter 1 "The theoretical and legal nature of the implementation of passive suffrage at the stage of nomination and registration of candidates" is devoted to the study of the purpose of the stage of nomination and registration of candidates in the electoral process, the concept of passive suffrage, the mechanism of its implementation, its restrictions and contains four paragraphs.

Paragraph 1 "Purpose of the stage of nomination and registration of candidates in the electoral process" includes a scientific analysis of the main approaches to the concept of the electoral process, its stages. The author substantiates the special place of the stage of nomination and registration of candidates as a stage that acts as the main one in the implementation of passive suffrage and is the most important factor affecting the legitimacy of elections and the power formed through them. The paragraph analyzes the individual features of the candidate nomination stage within the framework of a unified stage of nomination and registration of candidates, and concludes that the legal regulation of this institution includes not only legislative norms, but also the provisions of internal regulations of political parties – their charters.

Paragraph 2 "Passive suffrage as an element of the constitutional-legal status of a candidate at the stage of nomination and registration of candidates" analyzes doctrinal approaches to the interpretation of the concept of "passive suffrage", its place in the system of the constitutional-legal status of a candidate. Thus, the main approaches to the concept of "passive suffrage" can be classified into

the following: 1) passive suffrage in objective and subjective senses; 2) interpretation of it exclusively as a normative category – political right, which is one of the elements of the legal status of an individual, the essence of which is disclosed in part 2 of Article 32 of the Constitution of the Russian Federation; 3) understanding of passive suffrage as a broader term that includes the entire complex of legal regulation of this right in electoral legal relations. The main ways of participating in elections have been identified whereby passive suffrage is implemented at the stage of nomination and registration of candidates, and the author's conclusions have been drawn about the presence of several elements that make up the content of this right.

Paragraph 3 "The concept and the mechanism of implementation of passive suffrage at the stage of nomination and registration of candidates" is aimed at analyzing the concepts of "implementation of passive suffrage at the stage of nomination and registration of candidates" and its mechanism. As part of the study of these concepts, the content of the elements that make them has been revealed. The implementation of passive suffrage at the studied stage of the electoral process is embodied in the forms of nominating candidates individually, as well as nominating candidates by electoral associations as part of candidate lists. Within the framework of the mechanism for the implementation of passive suffrage, the classification of actions carried out by the subjects of the electoral process that make up this mechanism has been identified. Among them there are legally significant, organizational and managerial actions, as well as actions related to both categories at the same time. Also, the actions of subjects in the mechanism of implementation of passive suffrage at the stage of nomination and registration of candidates are divided into basic and additional.

Paragraph 4 "The concept and types of restrictions of passive suffrage" contains an analysis of theoretical approaches to the concept of restrictions of passive suffrage, their relationship with the concept of "electoral qualifications", "diminution of the right", "deprivation of the right". The essence of the constitutional principles allowing restriction of the rights and freedoms of a citizen, the limits of their interpretation have been investigated. The approaches to the interpretation of

the limitations of passive suffrage and electoral qualifications in foreign doctrine have been revealed. Various approaches to the classification of these restrictions have been being investigated (10 grounds for classification are presented: by the range of subjects and categories of elected positions; by the nature of the action; by the time of action; by the form of regulatory legal acts; by industry; by the methods of formulating legal restrictions; by the types of bodies authorized to apply appropriate restrictions; restrictions as a measure of responsibility; restrictions related to the procedure for the exercise of rights and freedoms; general and special restrictions) and the author has concluded about the existence of the concept of "limitations of passive suffrage" in a broad sense, divided into conditional (optional) restrictions and electoral qualifications. The essence of the concept of "non-eligibility" of a candidate, its expression in legislation and doctrinal meaning have been considered.

Chapter 2 "Dynamics of legal regulation and practical implementation of passive suffrage at the stage of nomination and registration of candidates" is devoted to the analysis of the main trends in legislation and law enforcement practice regarding the regulation of passive suffrage at the stage of nomination and registration of candidates. It includes an overview of the main approaches to the regulation of passive suffrage at the stage of nomination and registration of candidates in the acts of the international law and legislation of foreign countries and contains three paragraphs.

Paragraph 1 "The changing role of political parties in the implementation of passive suffrage" discusses general trends and changes in the regulation of the procedure for the implementation of passive suffrage in federal legislation, in particular in Federal Law No. 67-FZ of 12.06.2002, as well as in the sectoral Federal laws "On Elections of Deputies of the State Duma of the Federal Assembly of the Russian Federation" and "On Elections of the President of the Russian Federation". The author concludes about the current trend towards expanding opportunities for participation in elections as candidates. The paragraph also presents an analysis of the legislative regulation of the participation of political parties in the nomination

and registration of candidates and results in the arising tendency to strengthen the role of political parties in the electoral process and their acquisition of the status of the main institution through which citizens exercise their passive electoral right. The researcher formulates recommendations in order to solve legal problems in this area.

In **paragraph 2 "The transformation of self-nomination of a candidate as a form of participating in elections"** the author examines the institute of self-nomination of candidates for elections at various levels in the Russian Federation as one of the most important forms of participating in elections whereby passive suffrage can be implemented, the limits of which have significantly expanded after the beginning of the reform of electoral legislation in 2012. The author considers the practice of using this institution in the elections of deputies of the State Duma of the VII and the VIII convocations, the elections of the President of the Russian Federation in 2012 and 2018, elections to state authorities of the constituent entities of the Russian Federation. Much attention is paid to the analysis of guarantees for self-nomination of a candidate in the legislation of the constituent entities of the Russian Federation. The researcher has concluded about the existence of such a phenomenon as the cyclicity of regulation of passive suffrage, expressed in the alternation of periods characterized by tendencies of weakening and strengthening the guarantees of the exercise of this right.

Paragraph 3 "Features of legislative restrictions on passive suffrage and their enforcement" examines the main features of the entire array of norms governing the nomination and registration of candidates from the point of view of their compliance with constitutional principles, and also assesses their regulatory impact on the implementation of candidates' rights, including from the standpoint of the theory of legislation and legal technology. The author has analyzed norms that directly or indirectly restrict passive suffrage, their validity has been assessed and ways of improvement have been proposed, in particular, on the issue of collecting signatures of voters in support of the nomination of a candidate, the timing of the election campaign, the impossibility of participation in elections of persons

convicted of committing significantly grave, grave and some types of medium-gravity crimes.

The paragraph also examines the institution of the electoral deposit as an alternative way to support the nomination of a candidate and justifies the need for its return to the electoral legislation, and also suggests the author's method of calculating its size for the election of deputies of the State Duma.

In Conclusion, the author formulates conclusions based on the results of the dissertation research, which correspond to the provisions submitted for defense.

According to the results of the dissertation research, the following articles have been published in scientific journals included in the HSE List D:

1. Pligin V.N., Avilov Ya.D. Guarantees of the right to be elected as a factor of legitimacy of power // State and Law. 2020. No. 1. pp. 62-71.

2. Avilov Ya.D. The Charter of a political party as a normative basis for the implementation of passive suffrage // Journal of Russian Law. 2021. Vol. 25. No. 10. pp. 174-185.

3. Avilov Ya.D. Human rights after the Council of Europe: is there a future for the electoral standards of the CIS countries? // Zakon. 2022. No. 9. pp. 191-205.

Also, according to the results of the dissertation research, the following articles have been published in journals included in the List of peer-reviewed scientific publications of the Higher Attestation Commission:

Avilov Ya.D. Nomination and registration of candidates as a central stage in the process of implementation passive suffrage // Legal World. 2018. No. 1. pp. 21-24.

Avilov Ya.D. Evolution of the conditions for the implementation of passive suffrage in the presidential elections of the Russian Federation in 2012-2018 // Legal World. 2018. No. 8. pp. 25-28.

Avilov Ya.D. Standards of the European Court of Human Rights on the implementation of the right to be elected // Electoral legislation and practice. 2019. No. 4. pp. 32-36.