

The Participation of Public Associations in the Electoral Process

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Abstract: A priority of modern Russia's state development agenda is striving for transforming social relations, building a civil society and a democratic rule-of-law state, which can be possible only through relying on partnership with civil society, when its institutes and establishments act as interested partners of the state. There remains a topicality about the issue of engaging non-political public associations for participation in elections and referendums. In this case, non-political public associations act as the subjects of election legislation.

Key words: Civil society • Interrelations between government authorities and public associations • Political party • Democracy • Institutes of immediate democracy

INTRODUCTION

A relatively independent group of public associations' subjective rights is formed by rights and obligations dealing with the possibility of implementing the right to take part in resolving issues that are within the purview of government authorities in the area of the institutes of immediate democracy (elections, referendums, recalls). Within legal relations dealing with the participation of public associations in elections, referendums and deputy and appointed official recall voting, we can single out the rights of public associations, which are related to proposing candidates (lists of candidates), to engage in actions that mediate the participation of electoral associations in elections (creating the electoral fund, conducting pre-election canvassing activities, appointing agents and authorized representatives), as well as participate in the formation of elective bodies and administer control over the legitimacy of holding the elections and ensuring the voting rights of citizens [1-7].

The noted relative insularity of such norms is associated with that public associations act in this case as one of the possible subjects whom electoral legislation, legislation on referendums and legislation on recall of appointed officials entitles to the right to participate in corresponding procedures.

MATERIALS AND METHODS

The author uses a methodology identified and developed by the science of law and tested and endorsed in practice. It is based on the use of general scientific methods of scientific cognition of reality (dialectical-materialistic and systemic) and private scientific methods of study (logical-juridical, comparative-legal and structural-functional).

Main Part: From the late 1990-s to this day, there has been a trend towards a certain narrowing of the range of legal powers of non-political public associations in the electoral process, which is of an objective nature and indicates no derogation from the role of public associations in the system of institutes of immediate democracy. The Constitutional Court of the Russian Federation has voiced a stance whereby "the structurization of political space is directed against the cleavage of political forces, emergence of multiple artificially created (especially during the period of election campaigns) small-numbered parties whose activity is meant to be short-lived and which on account of that are incapable of fulfilling their use as a public association in the political system of society" [8].

Currently, the right to propose a candidate, which all public associations whose bylaws carry provisions on proposing a list of candidates could exercise before, holds

only in respect of proposing a candidate to local self-governing bodies of authority. Concurrently, in denying non-political public associations the opportunity to independently propose lists of candidates at elections to local self-governing bodies of authority, legislators have provided alternative formats for engaging in the political process. Thus, for instance, Article 35 of the Federal Law on “Political Parties” was complemented with Item 2.1, whereby at the elections of deputies of representative bodies of municipal formations public associations are entitled to propose candidacies to be included in lists of candidates proposed by political parties [9].

According to Item 1.1 of Article 26 of the Federal Law “On Political Parties”, a political party and another lawfully registered public association that is not a political party and has formed an association or a union whose purpose (or one of whose purposes) is joint formation of lists of candidates at the elections of deputies of representative bodies of municipal formations enter into an agreement in written form. Such an agreement sets out the political party’s obligation, in proposing lists of candidates at the elections, to include lists of candidacies proposed by the public association, as well as grounds on which the political party is empowered not to include a proposed candidacy in the list. Furthermore, the party must include in the list not more than 15% of the public association’s candidacies from the number of all candidates.

The agreement also sets out a procedure whereby the public association proposes candidacies to be included in the list of candidates and sets forth the duration of the agreement. Thus, public associations have obtained the right to a guaranteed presence in local self-governing bodies of authority.

An important strand of public associations’ activity in the electoral process is work on forming electoral commissions and commissions that oversee referendums. Pursuant to Item 2 of Article 22 of the Federal Law “On Main Guarantees of Electoral Rights and the Right to Participation in a Referendum of Citizens of the Russian Federation”, the electoral commissions of the constituents of the Russian Federation, municipal formations, district, territorial and precinct commissions are formed based on the proposals of political parties and other public associations [10]. That means that public associations, including those not participating in elections, can make their contribution to organizing the elections by sending their representatives to electoral commissions [11, 12].

A key strand that ensures the openness of elections and transparency of election procedures and results tabulation is the participation of public associations in arranging supervision over the course of voting and ensuring public control at all stages of the electoral process. Currently, there are public associations that are engaged in monitoring the electoral process, organizing hotlines for citizens, collecting and consolidating complaints arising from the holding of elections.

Over the last few years, election legislation has been updated with amendments that exclude public associations taking no part in elections from the list of those entitled to sending observers to federal elections. At present-day elections, observers can be representatives of political parties taking part in them, as well as international observers, while the institute of Russian independent public supervision is virtually not there.

Issues of the participation of such public associations in lining up and sending observers on their behalf to regional and municipal elections are resolved through the legislation of the constituents of the Russian Federation and local governments [13, 14].

In relation to what has been said above, we propose inserting in the Federal Law “On Main Guarantees of Electoral Rights and the Right to Participation in a Referendum of Citizens of the Russian Federation” Article 30.1, which enshrines in law the right of public associations to send independent observers to elections for supervision over the course of voting. We propose enshrining in law the following requirements to be met by public associations:

- The public association has to have been registered no later than one year before the date of the elections at a level that matches the level of these elections or surpasses it;
- The bylaws of the registered public association shall contain corresponding provisions envisaging the right of public associations to participate in arranging public supervision;
- The public association shall have no foreign citizens participate in its activity as its members (participants);
- It shall be prohibited to fund the statutory activity of the public association using funds of foreign countries and international and foreign organizations, irrespective of their forms of ownership.

Collectively, the implementation of the above measures becomes a necessity that will help minimize possible risks and threats associated with the manipulation of public opinion.

Inferences: the issue of interrelations between government authorities and public associations remains topical in modern Russia. Engaging non-political public associations for participation in elections and referendums will, on one hand, help revive the institute of public scrutiny and make the electoral process more transparent and, on the other, ensure it is substantive and unbiased.

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