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**THE PRINCIPLE OF VOLUNTARY PARTICIPATION OF CITIZENS OF THE RUSSIAN  
FEDERATION IN ELECTIONS: FOR AND AGAINST**

**Dr. Gyulnaz Eldarovna Adygezalova**

Kuban State University, Russia  
ORCID: 0000-0003-3682-2121  
gyulnaz\_2000@mail.ru

**Ph. D. (c) Olga Andreevna Kovtun**

Kuban State University, Russia  
ORCID: 0000-0002-7557-5656  
olga.a.kovtun@bk.ru

**Ph. D. (c) Natalia Dmitrievna Tereshchenko**

Kuban State University, Russia  
ORCID: 0000-0002-7009-9136  
nataliya.d.tereshchenko@mail.ru

**Dr. Ruslan Mukharbekovich Dzidzoev**

Kuban State University, Russia  
ORCID: 0000-0002-1627-4511  
rdzidzoyev@list.ru

**Ph. D. (c) Irina Valerievna Shapiro**

Kuban State University, Russia  
ORCID: 0000-0001-7750-0140  
irina.v.shapiro@mail.ru

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**Abstract**

The purpose of this work is to study the principle of voluntary participation of citizens of the Russian Federation in elections. General scientific methods were used in the course of the study, among which historical, comparative, and logical. Sociological methods contributed to the collection of information: the method of analyzing legal documents, which allowed concluding the legal consolidation of the principle of voluntary participation of citizens in elections in the conditions of building a legal state and securing the constitutional rights and freedoms of citizens; as well as the observation method, which, using statistical data, helped to identify the attitude of Russian citizens to forced voting. In modern conditions of improving democratic institutions and developing the political system of Russian society, the process of forming political and legal consciousness of citizens and their attitude to the expediency of participating in election campaigns continues. Having studied the theoretical and legal aspects of the right of citizens to participate in the management of state affairs, the authors note the constitutional significance of the principle of voluntary participation in elections.

**Keywords**

Principle of voluntary – Participation in elections – Freedom – Electoral rights – Civic duty

DR. GYULNAZ EL DAROVNA ADYGEZALOVA / PH. D. (C) OLGA ANDREEVNA KOYTUN

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## Introduction

The relevance of the research topic is due to the tendencies of the constitutional development of the Russian state in the 21st century, in conditions when the state and society seek to strengthen the guarantees of constitutional rights and freedoms of citizens to implement the principles of the rule of law and civil society. Law of the Russian Federation on amendments to the Constitution of the Russian Federation of March 14, 2020, No. 1-Federal Law "On improving the regulation of certain issues of the organization and functioning of public authorities" has become a new stage in the constitutional and legal development of Russia, but the principle of voluntary participation of citizens in elections has not been consolidated.

Many Russian legal scholars have dealt with the problems of voluntary (as well as mandatory) participation of citizens in elections. Such authors as S.A. Avakian, N.S. Bondar, E.I. Kolyushin, L.A. Nudnenko, I.A. Starostina, and many others do not leave without attention the questions of the forms of democracy and the principle of voluntary participation of citizens in elections.

The issue of citizen participation in elections and the implementation of active electoral rights is becoming even more relevant in connection with the legal reforms in Russia, which are designed to optimize the existing system of law, the state apparatus, as well as to promote the real implementation of human and civil rights and freedoms.

## Methods

This study was conducted mainly using methods that are traditionally referred to as general scientific. First of all, these are logical methods of analysis, synthesis, induction, and deduction. Also, a comparative method was used, which made it possible to identify a comparison of scientists' points of view on the problem, as well as a list of reasons that lead to absenteeism. Sociological methods were also used: the method of analyzing legal documents (including decisions of the Constitutional Court of the Russian Federation), which made it possible to conclude the normative consolidation of the principle of voluntary participation of citizens in elections in the context of building a rule-of-law state and consolidating the constitutional rights of citizens' freedoms; as well as an observation method that, when using statistical data, helped to reveal the attitude of Russian citizens towards forced voting.

## Results

The results of the study included the following:

- 1) The main points of view of scholars on the causes of absenteeism of Russian citizens were analyzed.
- 2) The experience of countries where participation in elections was mandatory and was fixed as a civic duty was outlined. However, such an experience contradicts the content and spirit of Russian legislation, so it cannot be accepted by the Russian legal system.

3) The principle of voluntary participation of citizens in elections is based on the right to elect and be elected already enshrined in the Constitution of the Russian Federation (there is no obligation to participate in elections), as well as the norms of federal legislation and the resolution of the Constitutional Court of the Russian Federation, according to which, elections are free and voluntary, and those participating in elections should be able to vote "against all", indicating their position.

4) Forcing citizens to participate in elections does not comply with the principles of civil society and the rule of law. The state and public authorities should help to establish and maintain a level of public legal awareness, law, and order, in which citizens will voluntarily seek to exercise their electoral rights.

## Results

The Constitution of the Russian Federation in Chapter 2 of Part 2 of Article 32 has enshrined one of the important political rights of citizens – the right to elect and be elected to government bodies and local governments, as well as to participate in a referendum.

The fundamental ideas of this right of a citizen were laid down in Article 21 of the Universal Declaration of Human Rights of 1948, which enshrined the human right to rule country directly or through freely chosen representatives.

Federal Law of the Russian Federation of June 12, 2002 No. 67-FL "On the Basic Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation" fixed the basic principles of participation of citizens of the Russian Federation in elections, such as universal, equal, and direct suffrage by secret ballot. The participation of a citizen of the Russian Federation in elections is also free and voluntary. No one may usurp power in the Russian Federation. Seizure of power or usurping state authority shall be prosecuted by federal law (Article 3).

In modern society, the principle of voluntary participation of citizens in elections causes various controversies not only in scientific circles but also among the voters themselves.

According to the encyclopedic dictionary "Constitutional Law of Russia", the principle of voluntariness means that participation (or non-participation) in elections, voting for or against one or another candidate is the exclusive right of the voter. No one has the right to influence a voter to force him/her to participate or not to participate in elections, as well as to his/her free expression of will<sup>1</sup>.

Despite the active work of public authorities to increase the electoral activity of citizens, it should be noted that there is a growing tendency of non-participation in federal, regional, and municipal elections of the majority of the country's population, residents of a particular region.

The election of deputies to the State Duma of the Federal Assembly of the Russian Federation can serve as an example. According to the Central Election Commission of the

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<sup>1</sup> V. I. Chervonyuk; I. V. Kalinsky y G. I. Ivanets, Constitutional Law of Russia: Encyclopedic Dictionary (Moscow: Yuridicheskaya Literatura, 2002).

Russian Federation, the voter turnout in the elections on December 2, 2007 was 63.78%, in the elections on December 4, 2011 – 60.21%, in the elections on September 18, 2016 – 47.88%.

According to several authors, the non-participation of voters in elections is due to various reasons. This may be caused by distrust of state authorities, local self-government bodies and non-participation in the vote, thus expressing a civil position against the government; the futility of elections, the voter believes that everything is already decided and participation in the vote will not give the desired result; citizens are happy with the state of things, material and social status, and, therefore, there is no need to go to the polling station.

L.E. Popova identifies four main reasons that determine the low level of citizens' activity in elections: "distrust in the integrity of elections, disbelief that elections affect the life of the country, region, and city, the opinion that the results of elections are predictable, as well as the fact that Russians are not interested in politics"<sup>2</sup>.

B.A. Strashun notes that the level of absenteeism is influenced by various reasons, but most often by political and economic circumstances. This behavior can be either apolitical or political. In the first case, the voter does not go to the polls either because something prevented him/her (illness, departure, the remoteness of the polling station, etc.) or because he/she is simply not interested in it. In the second case, the voters use their non-participation in the elections as a political demonstration, when they are not satisfied with the nominated candidates, their positions when they believe that the elections cannot be fair in the current situation, etc.<sup>3</sup>.

According to S.A. Avakian, one of the factors of non-participation of voters in the elections was multiparty, since "participation in the election battles of many parties does not allow voters to understand the features of programs that often differ little"<sup>4</sup>.

As a result of the insufficient level of citizens' activity in elections, people who do not seek to represent the interests of their people come to power but mostly try to satisfy their personal needs, thereby causing even greater distrust of the authorities.

Despite the democratic nature of the principle of voluntary participation of citizens in elections, more than 30 countries define participation in elections as a civic duty and establish the obligation to participate in elections<sup>5</sup>. The relevant legislation has been adopted in Argentina, Australia, Peru, Ecuador, Cyprus, etc. For example, in Australia, a lazy voter faces a fine; in Argentina, a voter who does not show up for elections is not only fined, but also deprived of the opportunity to hold public office for three years. In Greece, a fine is imposed for failure to attend elections, as well as possible arrest and imprisonment for a period of 1 month to 1 year, as well as the deprivation of titles and positions.

<sup>2</sup> L. E. Popova, "Uchastie v vyborakh – pravo, dolg, obyazannost kazhdogo grazhdanina", Nauchno – metodicheskii elektronnyi zhurnal "Kontsept" Vol: 30 (2015).

<sup>3</sup> B. A. Strashuna, Constitutional (state) law of foreign countries (Moscow: Prospect, 2010).

<sup>4</sup> S. A. Avakian, Constitutional law of Russia. Training course: study guide: in 2 volumes (Moscow: Norma, 2014).

<sup>5</sup> S. N. Slobodchikova, "Realizatsiya printsipa svobodnykh vyborov v Rossii i v mire: sravnitelno – pravovoi analiz", Zhurnal zarubezhnogo zakonodatelstva i sravnitel'nogo pravovedeniya num 3 (2018).

A penalty is imposed for failure to appear at the polls in Luxembourg. Temporary disenfranchisement by court order is allowed, in which case such a person cannot be accepted for state and municipal service. In Pakistan, those who do not vote are punished with hard labor for up to five years and a fine<sup>6</sup>. Mandatory voting ensures a high voter turnout in elections, which eliminates the non-successful outcome of the voting results.

According to L.E. Popova, the obligation to take part in elections at all levels must be introduced into the Constitution of the Russian Federation for all citizens of Russia who have reached the age of 18, who are not deprived of voting rights. That will reduce election fraud and all elected bodies of state power will be elected by popular vote and not by a separate part of citizens<sup>7</sup>.

We can hardly agree with this proposal. The Constitution of the Russian Federation enshrines in the foundations of the constitutional system a referendum and free elections as the highest direct expression of the power of the people (Part 3 of Article 3), the right of every citizen of the Russian Federation to participate in the management of state affairs both directly and through their representatives (Part 1 of Article 32), elect and be elected to state and local government bodies, as well as participate in a referendum (Part 2 of Article 32).

If the Constitution of the Russian Federation establishes the duty of citizens to participate in elections, it will require changing the content of Articles 3 and 32 of the Constitution of the Russian Federation. Also, these norms are contained in Chapter 2 of the Constitution of the Russian Federation, which cannot be amended or supplemented, but according to Article 135, requires a complex procedure – the adoption of a new Constitution of the Russian Federation. In today's conditions, this is not possible, since there is no legal mechanism for the formation and operation of the Constitutional Assembly, which is the leading subject of the revision procedure and in fact, should decide the fate of the Constitution of the Russian Federation.

The Constitution of the Russian Federation is the foundation for all electoral legislation. The principle of voluntary participation in elections serves as the basis for the legal regulation of electoral relations in a legal state. Effective measures are required for legal education and education of all segments of the population and, above all, young people to increase the level of active participation of citizens in elections and their conscious choice. The indicator of electorate activity determines the level of legitimacy of the state authorities being formed and is an indicator of the assessment of political and economic programs offered to voters<sup>8</sup>.

Another way to ensure the principle of voluntary participation of voters in elections is to expand the forms of expression of citizens' will regarding candidates for deputies and lists of candidates.

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<sup>6</sup> S. N. Belyasov, "Absenteeism v izbiratelnom prave: Sravnitelnyi analiz", Nauchnyi poisk num 4.1 (2017).

<sup>7</sup> L. E. Popova, "Uchastie v vyborakh..."

<sup>8</sup> V. P. Volkov; O. V. Domaskin y R. R. Sechenov, Ensuring the constitutional legality of the electoral process in the interests of the security of state construction (Moscow: Krona, 2007).

It seems that free and voluntary participation of citizens in elections means the right of a voter to participate in elections, the right to refuse to participate in elections, and the right to free expression of will in the voting process. Freedom of choice means, first of all, the right to vote "for" and the right to vote "against" candidates, lists of candidates. The exclusion from the electoral law of the "against all" column at the federal and regional levels of elections preserves the question of whether it is appropriate to grant a citizen the right to express their attitude to all candidates, lists of candidates, and, accordingly, to elections to the relevant state authority. The absence of the corresponding "against all" column forces the voter to either cross out candidates or lists of candidates on the ballot, or to ignore participation in the election process altogether. It seems that the ability of voters to vote directly against all candidates (against all lists of candidates) established in local government elections should be extended to all levels of elections.

The issue of the possibility of voting "against all" has been repeatedly raised in decisions of the Constitutional Court of the Russian Federation.

In a Decision dated June 10, 1998, No. 17-P "On business about the check of constitutionality of provisions of Paragraph 6 of Article 4, Subparagraph "a" of Paragraph 3 and Paragraph 4 of Article 13, Paragraph 3 of Article 19 and Paragraph 2 of Article 58 of the Federal Law of September 19, 1997 "On basic guarantees of electoral rights and the right to participate in referendum of citizens of the Russian Federation", the Constitutional Court of the Russian Federation, recognizing the provisions of the Federal Law "On the Basic Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation" that the elections are recognized by the relevant election commission as invalid if the number of votes cast for the candidate , who received the largest number of votes in relation to another candidate (other candidates) less than the number of votes cast against all candidates, actually recognized the right of a citizen to vote against all candidates.

According to the Constitutional Court of the Russian Federation, the will of voters can be expressed by voting not only for or against individual candidates but also in the form of voting against all candidates included in the ballot. Such an expression of will means that, in a free election, voters do not treat all candidates registered and included in the ballot for a given electoral district with indifference, but with a negative attitude. Its constitutional and legal meaning is that such candidates are denied the right to represent the people in elected public authorities. At the same time, elections, as a way to identify the will of the people and form the appropriate legitimate state and local government bodies that exercise public power on their behalf, are based on the priority of the will of the majority of voters who took part in the vote.

By the Resolution of the Constitutional Court of the Russian Federation dated November 14, 2005, No. No. 10-P "In the case of checking the constitutionality of the provisions of Paragraph 5 of Article 48 and Article 58 of the Federal Law "On the Basic Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation", paragraph 7 of Article 63 and Article 66 of the Federal Law "On the election of deputies of the State Duma of the Federal Assembly of the Russian Federation" in connection with the complaint of the Commissioner for Human Rights in the Russian Federation", the voters have the right to express their will in any of the legally possible forms of voting in accordance with the procedures established by the legislator to exclude the possible distortion of the essence of the will of the voters; the will of voters can

be expressed by voting not only for or against individual candidates but also in the form of voting against all candidates included in the ballot.

It is seen from the decisions of the Constitutional Court of the Russian Federation that the right of voters to express their will in any of the legally possible forms of voting, both "for" and "against" individual candidates or all candidates included in the ballot, lists of candidates corresponds to the Constitution of the Russian Federation only if the presence of the appropriate legislative framework. Therefore, the legislator should give voters the right to express their position by voting against all candidates and lists of candidates, which will also contribute to increasing the electoral activity of the population.

It should be noted that even Soviet legal science, noting elections as an important form of participation of workers in the exercise of state power, emphasized that the participation of workers in elections is not limited only to the act of electing representatives, but is also an expression of the will of workers on fundamental issues of social and state life, since, during elections, they summarize the activities of state authorities and deputies over the past period, widely discuss issues of domestic and foreign policy, criticize shortcomings in the practice of the state apparatus, and make proposals for improving its activities<sup>9</sup>.

Thus, the principle of voluntary participation of citizens in elections should be considered as an indicator of the objectivity and legitimacy of the formation of representative bodies of state power, representative bodies of local self-government, and the election of elected officials. At the same time, the legislator, when setting legal limits for the implementation of the principle of voluntary participation of citizens in elections, must proceed not only from political and socio-economic realities and interests but also to provide voters with a variety of forms of their will in the voting process. This will ultimately help to increase electoral activity and guarantee the freedom of elections and the voluntary participation of citizens in the formation of public authorities.

## Conclusion

Modern democratic statehood is experiencing a crisis that is typical not only for the Western States but also for Russia. The problems that come to the fore are not the assertion of rights and freedoms, but their implementation<sup>10</sup>. This is demonstrated by the amendments in the Constitution in 2020 when the society during the national vote spoke clearly about the need to strengthen guarantees of the rights and freedoms of man and citizen. It seems that the rights previously enshrined in the constitutional act should not turn into obligations because of their non-implementation. The state should strive to create conditions for their implementation. Overcoming absenteeism in Russian society should be achieved as a result of achieving a level of law and order, trust in public authorities when every citizen will know and realize that their voice is of real significance for determining the future development of the state.

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<sup>9</sup> V. M. Chkhikvadze, *Problems of the Soviet socialist state and law in the modern period* (Moscow: Nauka, 1969).

<sup>10</sup> G. E. Adygezalova, "Sociological Jurisprudence and Legal Realism as a Basis for the Development of Judicial law-making", *Journal of Advanced Research in Law and Economics* num 5 (2018): 1528-1533.

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DR. GYULNAZ EL DAROVNA ADYGEZALOVA / PH. D. (C) OLGA ANDREEVNA KOYTUN  
PH. D. (C) NATALIA DMITRIEVNA TERESHCHENKO / DR. RUSLAN MUKHARBEKOVICH DZIDZOEV  
PH. D. (C) IRINA VALERIEVNA SHAPIRO