

The concept, principles and international standards of electoral law and processes

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Abstract: This article is devoted to reforming the electoral system of the Republic of Uzbekistan. The author considers the electoral legislation and identifies the main stages of its development, as well as the factors that contributed to its development.

Key words: international standards, electoral law, electoral process, electoral system, reforms, democracy, law, principles.

According to the Constitution (Article 117), all citizens have the right to elect and be elected to representative bodies of state power. Elections are one of the fundamental institutions of a democratic state governed by the rule of law. Article 7 of the basic law of the Republic of Uzbekistan enshrines the principle of people's power, which cannot be realized without elections [1].

The electoral legislation is a set of state-sanctioned norms that regulate electoral processes in the Republic of Uzbekistan. Over the years of independence, the electoral legislation of the Republic of Uzbekistan has been continuously improved, which is reflected in the adoption of a modern and in line with international standards Electoral Code of the Republic of Uzbekistan.

The formation of state bodies by voting of the people was not always considered an attribute of democracy in the history of state and law. Thus, Aristotle already noted that the replacement of positions by lot serves as one of the foundations of a democratic system, while the replacement of positions by election serves as an oligarchic system [2]. This conclusion belonged to the historical conditions of Greek polis (where representatives of the clannish nobility had long enjoyed authority; as a result they had a serious advantage in elections over less prominent and wealthy fellow citizens), but even back then the supporters of democracy believed that persons should be appointed to positions requiring special personal qualities and special knowledge not by chance, as in a drawing of lots, but by the conscious expression of the will of citizens, as in elections. It is known that in ancient Athens strategists were elected, but most positions in the sixth and fifth centuries B.C. were filled by lot. It is noteworthy that even in many modern Tropical African countries it is possible to determine in advance what the balance of political power will be after the election [3]. The vast majority of voters in these countries vote for the leaders of their ethnic groups, who are usually either representatives of the clan nobility, or people who were nominated as a result of their own efforts, but are perceived by the population as being included in the clan nobility because of their special qualities and merits. No matter how conservative and closed the grouping of the nobility was, at all times it had to admit the addition to its ranks of aliens from outside with outstanding abilities. The electability of bodies even under such conditions is obvious, and it plays a certain role in the existence of a democratic regime.

So, a characteristic feature of democracy is always the use of elections to form the organs of power. However, for elections to be truly democratic, there must be, firstly, an electoral law enshrining norms ensuring the full implementation of free and fair elections; secondly, really autonomous and independent electoral bodies; thirdly, an electorate sufficiently aware of its rights and obligations; fourthly, administrative

procedures that guarantee all voters the free expression of their will. For administrative procedures to be effective, it is necessary for the relevant state bodies, including electoral bodies, to work smoothly.

In democracies, electoral bodies play, in fact, a very significant role in the formation of institutions of state power and local self-government. As a result of elections, the power belonging to the people is transferred to its representatives. Election commissions are in charge of organizing the process of people's expression of will, counting votes, summarizing and announcing the results of voting. Therefore, on the one hand, the efficiency of the work of election commissions, the coordinated functioning of all parts of the system of electoral bodies largely depends on the normal organization and conduct of elections, and on the other hand, their honesty is largely determined by the integrity of electoral officials, transparency of the procedural side of the electoral process, openness of electoral bodies to interaction with non-governmental and non-municipal organizations and the media[4].

Electoral legislation is a complex of legal norms regulating social relations related to the organization and execution of elections to state and local authorities: the principles of electoral law, the requirements for voters and candidates for elected office, the formation and activities of bodies responsible for organizing and holding elections, the formation of electoral districts, voter registration, ways of nominating candidates, election campaign and voting procedures [5].

In many countries the legislative regulation of elections is specially stipulated (Article 31 of the Danish Constitution, Article 26 of the Austrian Constitution, Article 10 of the Bulgarian Constitution).

In a number of countries (France, Belgium, Argentina, Costa Rica) there are electoral codes - complex acts that contain the majority of norms of electoral law[6].

The main actors in elections are the voters, who directly determine the outcome of the vote, and the candidates for elected office, whose further fate depends on the

support of the electorate. The legislation of all countries regulates in detail the requirements necessary for the exercise of active and passive suffrage (electoral qualifications). In most countries legal requirements for voting are age, mental capacity, citizenship and inclusion in voter lists.

The norms of electoral legislation define, regulate, and establish:

- the basic principles of the state's electoral system;
- the conditions for granting citizens electoral rights;
- the procedure of elections:
- nomination of candidates,
- election campaigning,
- financing of election campaigns,
- voting procedures,
- the procedure for determining the results of voting;
- norms of representation;
- status and powers of election commissions

The following sources of electoral law can be distinguished:

- Constitutions
- Special laws:
- Electoral Codes.
- Laws on elections and voting procedures
- Acts of heads of state on matters of electoral law
- Rules of Procedure of the Houses of Parliament
- Resolutions of executive bodies
- Including acts of electoral commissions
- Resolutions of judicial bodies
- Acts of local self-government bodies [7].

It should also be noted that peculiarities of holding elections in the subjects of federation (for federations) and municipal formations are determined, besides the general regulations, by the provisions of regulatory legal acts of the corresponding subjects of federation and municipal formations. In addition, in a number of countries with the Anglo-Saxon system of law, certain electoral relations are regulated by customs.

Principles of electoral law are generally recognized, basic, universal principles (standards) reflecting the democratic nature of elections as the constitutional basis of democracy, determining the foundation of legal regulation of electoral rights, a coordinated system of guarantees, procedures ensuring imperative, fair conduct of various types of elections, implementation and protection of electoral rights of citizens[8].

Thus, the principles of electoral law are the fundamental conditions of regulation of electoral legal relations.

It should be noted that the diversity of political systems in the world implies a difference in the legal regulation of the institution of elections. As a consequence, from this follows the fixation of different principles of electoral law.

For example, for the Soviet electoral law it was typical to "identify the principles of electoral law in relation to the conditions of implementation by the citizens of the subjective right to elect and to be elected to the bodies of state power.

Only participation of citizens in elections on the basis of general direct equal suffrage by secret ballot was considered as principles. Such a narrow approach is predominantly retained in our time. A.G. Orlov points out the existence of the following basic principles:

- Universality,
- Equality,

- Direct Voting,
- Confidential Voting[9].

However, such a concept artificially narrows the system of electoral law principles, reducing them essentially to the principles of active suffrage.

When studying the subject of legal regulation of electoral norms, it is necessary to reveal its essential side, which is characterized by functions. These functions can be considered as methods of impact on public relations arising during elections.

The functions of electoral norms include: regulatory; preventive; protective; educational. The regulatory function is the impact of electoral norms on social relations by enshrining certain rules of elections in the law. The preventive function of electoral norms is manifested in the fact that it is primarily aimed at preventing violations of election rules enshrined in the Electoral Code of the Republic of Uzbekistan. The protective function of electoral norms is a type of legal impact that provides protection of social relations regulated by these norms[9]. The educational function of electoral norms is manifested primarily in the fact that it is aimed at convincing the population in the fairness of election rules enshrined in the Electoral Code of the Republic of Uzbekistan. The educational function is aimed at forming the legal culture of the population and implementation of the electoral system.

Taking into account the way traversed during the years of independence and the experience accumulated, as well as proceeding from the requirements of modern times the electoral legislation was also reformed.

One of the important conditions for building a democratic state governed by the rule of law and a free civil society is the active participation of citizens in political processes, including in the management of the affairs of the state and society. The efficiency of this activity directly depends on democratic elections.

Since the first years of independence in the Republic of Uzbekistan serious attention was paid to the issues of formation of the main institutions of state power - the President, the Oliy Majlis and representative bodies of power - through elections.

In the past period a great practical experience in the sphere of creating and developing the legislative basis of free and fair elections was accumulated. About ten legal documents regulating the electoral process were adopted - the Constitution of the Republic of Uzbekistan, the laws "On guarantees of electoral rights of citizens", "On elections to the President of the Republic of Uzbekistan", "On elections to the Oliy Majlis", "On elections to regional, district and city Councils of deputies", "On the Central Electoral Commission of the Republic of Uzbekistan", "On political parties", subsequently in 2019 Electoral Code of the Republic of Uzbekistan substituted 5 main laws regulating elections of the Republic of Uzbekistan. This Electoral Code defines norms on legal regulation of such issues as the structure of the electoral system, its essence, the right to elect and be elected, organization and conduct of elections, openness and publicity in elections, rights and powers of electoral commissions, the voting procedure and determination of its results, participation of citizens in elections, guarantee of electoral rights, financing of elections.

During the years of independence our country has carried out large-scale reforms and implemented comprehensive measures aimed at building a democratic state governed by the rule of law and a strong civil society.

Thus, a solid foundation of the rule of law, human rights and freedoms has been laid. The national electoral legislation is gradually being improved on the basis of rich practical experience accumulated during some ten elections, as well as in accordance with international standards, growth of political consciousness and legal culture of citizens and ongoing democratic reforms.

Literature List

1. "The Constitution of the Republic of Uzbekistan". LexUZ-online. 8 December 1992.
2. Vedeneev Y. A. Electoral power: historical context, political and legal essence and implementation mechanism // Bulletin of the Central Election Commission of the Russian Federation. 1995. № 2 (28).
3. Foreign Electoral Law: Textbook. - NORMA Publishers, 2003, p. 8.
4. Veshnyakov A. A. Electoral standards in international law and their implementation. M., 1997.
5. The Electoral Law // Big Law Dictionary / Edited by Prof. A.Y. Sukharev. - 3rd ed., updated and revised. - M.: INFRA-M, 2007. - VI, 858 p.
6. Avdeenkova M., Dmitriev Yu. Modern electoral systems // Elections. Legislation and technologies. 2000. № 7-8. 54-59 p.
7. Avtonomov A. S. Main categories and institutions of electoral law // Electoral campaign. M., 1995.
8. Vedeneev Y. A. Political democracy and electoral-legal culture of citizens // State and law. 1997. №2.
- ⁹. Nolem D. Electoral systems // Technology and organization of election campaigns: Foreign and domestic experience / Ed. V. S. Komarovsky and G. I. Ivanov. M., 1993.