

INFORMATION AND CAMPAIGNMENT IN THE CONTEXT OF DIGITAL TRANSFORMATION OF THE ELECTORAL PROCESS

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The subject. The article examines the basic approaches to the regulatory framework for informing and campaigning in the context of the growing influence of global digitalization on electoral law, the use of previously unknown digital technologies and the transfer of electoral legal relations to the Internet space.

The aim of the article is to identify the specific features of legal regulation of informing and campaigning in digital era.

The study of informing and campaigning was conducted with the methodology of a systems approach, formal legal interpretation of legislative acts and comparative legal analysis.

Main results. The search for an optimal mechanism for information support for elections in the context of changes in the content of the subjective rights of participants in the electoral process actualizes the need to improve the traditionally understood procedure for observing, implementing and using the law. The increasing complexity of the process of interaction between participants in legal relations and the expanding list of legal liability measures emphasize the importance of resolving law enforcement issues. The establishment of an expanded list of entities entitled to campaign in social networks, the inclusion of various information resources on the Internet (including the so-called "new media") in the list of sources of information dissemination, the possibility of recognizing the informational nature of materials distributed in the media by those entities that, by law, are subjects of campaigning activities – all this leads to the erasure of the boundaries between informing and campaigning and, in fact, to the creation of a new information electoral space for the preparation and holding of elections, requiring the establishment of new requirements and principles for its organization.

Conclusions The dissemination of campaigning in the field of the Internet space (digital services) transforms the rules for conducting campaigning. They become more unified, strictly ranked, which brings campaigning closer to informing and transfers the freedom of use of the right to the plane of compliance with the specified rules.

1. Introduction.

The domestic legislator has outlined a direct and close connection between information and election campaigning, combining them into a common integrated concept of "information support for elections." However, the legal nature of the two components of this concept, as well as the methods of their implementation, continue to be debated in legal literature, finding various reflections in judicial practice and decisions of election commissions.

These issues become particularly relevant in the context of the increasing volumes of information posted on various Internet resources. Despite the past 30 years of the domestic electoral system, the search for answers to these questions continues to be a focus for electoral lawyers.

In a well-known ruling by the Constitutional Court of the Russian Federation, which distinguished between the concepts of information and campaigning, the presence of an agitation goal was cited as the main criterion for distinguishing between the two components of information.

However, this line is often so thin that it leads to different interpretations of the content of these concepts. At the same time, despite the obvious differences in the principles underlying their implementation, information and agitation demonstrate a tendency towards convergence in legal regulation, which is particularly evident in the shift of significant amounts of information to the internet.

Information as a duty to provide voters with the necessary information about the participants in the electoral process represents the implementation of the powers vested in election commissions, while campaigning reflects the use of the rights belonging to candidates and parties to disseminate information about themselves, their political views, and their programs.

The search for an optimal mechanism for information support of elections in the context of changing the content of the subjective rights of participants in the electoral process highlights the need to optimize the traditionally understood order of compliance, enforcement, and use of the right in the framework of information and campaigning. The complexity of the interaction between participants in legal relations and the expanding list of legal liability

measures emphasize the importance of addressing issues of law enforcement. The search for an optimal mechanism for information support of elections in the context of changing the content of the subjective rights of participants in the electoral process highlights the need to optimize the traditionally understood order of compliance, enforcement, and use of the right in the framework of information and campaigning.

2. Digital transformation of the electoral process.

The active processes of global informatization and digital transformation of electoral law inherent in today's electoral reality, the widespread development of public communications on the Internet, call for the solution of relevant scientific tasks, since it is the law that plays a crucial role in mediating significant public relations in the sphere of ensuring voter information. According to A.E. Postnikov, the new information realities associated with the widespread use of highly efficient electronic communications provide a basis for applying such definitions as "digital society" and "information society" to modern society, which aim to reflect its new qualitative characteristics [1, p. 40].

The use of previously unknown digital technologies and machine-readable forms of documents necessitates the consideration of electoral social relations that involve the use of new legal instruments and modern communications [2, p. 59]. The increasing influence of digitalization on electoral law is changing its content and forms of implementation. These issues are particularly relevant in light of the development of digital services in the electoral process, the widespread use of remote electronic voting, and the overall shift of electoral legal relations to the online realm.

As noted in studies on the digital prospects for the development of law, one of its general patterns will be the change in the essence of law as a result of convergence with technological innovations and practices. In this case, it is assumed that legal norms and information units, legal norms and algorithms will become interchangeable [3, p. 96].

Today, the ability and willingness to use the capabilities and tools of the digital world, along with the ability to interact with it digitally [4, p. 182],

clearly demonstrate how computational thinking is replacing many other types of knowledge [5, p. 184].

As noted by T. Ya. Khabrieva and N. N. Chernogor, with the change in the sphere of legal regulation, "new phenomena in law appear, such as atypical subjects of law, objects of legal relations, norms governing relations that arise, change and cease not between people and their associations, but between digital entities" [6, pp. 85-87]. At the same time, objective problems arise related to changes in the mechanism of implementation of the law, making it more difficult to monitor the process of compliance (execution) of relevant legal regulations.

According to the established opinion in legal literature, the traditional understanding of law has always been associated with relations between legal entities. However, with the development of digital technologies, non-subjective law has emerged for the first time [7, p. 25]. The transition to future technologies, with artificial intelligence at the forefront, has the potential to change the perception of law as such.

According to G. D. Sadovnikova, information support for elections is an integral part of the electoral process and, along with financing, is one of its essential components [8, p. 56].

What is changing in the field of information support for elections in connection with the growing digitalization of the electoral process? What are the main criteria for information provision today, and how are they changing?

The modern Russian electoral system is based on the alternative choice of candidates and parties, providing for the right of real choice, while the legislator establishes alternativeness as a mandatory and necessary element of voting. Any choice made from candidates nominated by parties or self-nominated and registered by the relevant election commission is legitimate. Information support for elections is necessary due to the growing public demand for comprehensive information about the participants in the electoral process. Digital transformation is expanding the agenda of information support for elections.

3. Informing.

Electoral commissions act as the most significant subjects endowed with competence in the sphere of informing. It has become a tradition within the

framework of a specific election campaign to adopt a regulatory document on information and explanatory activities, establishing a list of information materials to be conveyed to voters, types of commissions endowed with the relevant powers to produce and place information materials, as well as sources used as an object of placing information (television and radio companies, print media, Internet resources, places for placing printed materials, etc.).

Voters are provided with a variety of information about the type of election, the candidates, and the methods of voting, including the procedure for voting using various modern technologies, such as mobile voting, remote electronic voting, and the use of internet services, video surveillance, and more. Informing is characterized by a specific subject composition, requirements for objectivity and reliability regarding the subject matter, which is the information being disseminated [9, p. 87], as well as specific procedural requirements for ensuring the equality of rights for participants in the electoral process and the standards of free elections [10, p. 28].

The impact of technological progress on the exercise of electoral rights is evident [11, p. 144]. At the same time, legal scholars emphasize that society's fatigue from traditional forms of electoral campaigns requires new approaches to organizing electoral procedures based on technological and emotional proximity between voters and candidates [12, p. 47].

A strategy that meets these requirements is the widespread dissemination of information to voters on the official websites of election commissions on the Internet. Another innovation was the InformUIK project, which was implemented as part of the 2024 Presidential Election campaign. The main idea of the project was to provide extensive information based on personal communication with voters, including information about candidates and parties, distribution of invitations, and targeted information about possible voting methods, among other things.

Today, the policy of information support for elections is increasingly focused on expanding the methods of informing voters and clarifying the requirements for the content of campaign materials. In recent election campaigns, there has been a

greater emphasis on the freedom of the media to participate in informing voters by disseminating relevant information about elections, campaign events organized by candidates, and the candidates' campaign activities [13, p. 17].

4. Evaluation of the content of information (campaign) materials.

The legislator has delegated the right to assess the content of relevant information (campaigning) materials to election commissions and the court.

The resolutions of the Plenum of the Supreme Court of the Russian Federation, which explain the procedure for applying the norms of electoral legislation in specific situations, are of particular importance. For example, the resolution of the Plenum of the Supreme Court of the Russian Federation dated June 25, 2024, No. 17, clarifies the content of the concepts of information and campaign materials, the procedure for their publication, defines the concept of media representatives, including online publications, and specifies the responsibility of individuals who are required by law to publish (make public) information and campaign materials, among other issues. Increased attention is being paid to the dissemination of information on the Internet, including social networks.

The significant number of information disputes under consideration allows the Central Election Commission of the Russian Federation, relying on the legal positions developed by judicial practice, to use them in its resolutions as an "information and explanatory context." For example, based on the assessment of various materials published during election campaigns, the CEC of Russia concluded that the mere mention of a candidate's name does not constitute campaigning by the media outlet and, therefore, does not violate the law. In addition, the Commission noted that the media coverage of a candidate's professional activities is not considered a sign of election campaigning under the law.

In law enforcement practice, the issue of the possibility of informing voters by parties and candidates is often ambiguous. A significant number of candidates' appeals to election commissions contain demands for their political opponents to be punished for posting information on social media, blogs, etc. However, not all information related to elections that comes from candidates and parties is considered

campaigning, and these entities may also distribute information materials during the election campaign.

For example, the Slavyanskaya Territorial Election Commission, which has the authority of a district election commission, received a statement from Candidate P. about violations of electoral legislation during the elections for deputies of the State Duma of the eighth convocation.

In his statement, P. pointed out the violations committed, in his opinion, when posting the article "New people named a candidate for a seat in the State Duma from Anapa" in the issue of the newspaper "Evening Anapa" dated July 8, 2021, and asked to bring the newspaper's editorial office to administrative responsibility under Article 5.5 for violating the procedure for media participation in 5.8 of the Administrative Code of the Russian Federation for violating the procedure and conditions for conducting election campaigning in periodicals provided for by the legislation on elections and referendums, and in case of illegality of the use of financial and material resources for the placement of said material, prohibit its distribution.

The Slavyansk Territorial Election Commission established that the disputed article contained information submitted by the party about the nomination of a federal list of candidates and candidates for single-mandate constituencies at the congress of the New People political party for the elections of deputies to the State Duma of the eighth convocation, the number of candidates in the federal part of the list, the number of regional groups formed, and the nomination of candidates for each of the eight single-mandate constituencies formed in the Krasnodar Territory. The information presented was not accompanied by positive or negative comments from the journalist (the author of the article) or the editorial staff of the newspaper "Evening Anapa".

Due to the fact that the information about the New People Party was published only once, and given that the publication did not contain direct calls to vote for the party and its candidates, the material under review was not considered to be campaign material. The Commission concluded that the information was in accordance with the principles of objectivity and reliability of information materials published in the media.

5. The convergence of legal regulation of information and campaigning.

It can be stated that the analysis of legislation and the practice of recent election campaigns demonstrates the convergence of legal regulation of information and campaigning.

This is most clearly manifested in the legislator's requirement that the election program of a party that has nominated not only a proportional list but also a candidate in a single-member constituency be published. The fact that this publication can also be made available online further unifies the process. It should be noted that foreign electoral laws also traditionally include such requirements. For example, the publication of party programs in the UK, where politicians and political parties publish a manifesto as part of their campaign for the general election. In the global practice of holding elections, this mechanism allows for the preservation of party identity, ensuring order in the political process. At the same time, parties rely on their electorate, and they use their leader's programmatic differences and charisma as a tool to attract new voters.

The publication of a party's election program effectively transforms this material from an advocacy piece, which is required to be published within the media space allocated to the party or candidate, into an information piece that informs voters about the program's requirements, publication deadlines, source of publication, and reporting to the election commission about compliance with these legal requirements. The candidate or party acts as the disseminator of this information. Does this mean that they can act as subjects of information?

The use of digital services further emphasizes the convergence of information and campaigning. In particular, the use of machine-readable forms for recording campaign materials provided by candidates and parties when entering their samples into the "Campaigning" task of the GAS "Elections" leads to the unification and standardization of this mechanism, expanding the possibilities for monitoring campaign materials. Digital services reflect a new level of interaction between participants in the electoral process and the electoral commission system as a whole. When a candidate (party) accesses the State Services platform, there is no direct interaction between the candidate and the election commission;

instead, the candidate interacts with a computer program, eliminating the possibility of subjective evaluation of the information and documents provided.

Information disseminated by election commissions on the Internet takes on the character of a public service. By acquiring mandatory forms and parameters provided for by law (machine-readable forms) for disseminating information in the field of the Internet space (digital services), the rules for conducting agitation and informing become more unified [14, p. 397], strictly ranked, which brings agitation closer to informing and translates the freedom of using the right into the plane of compliance with the set rules [15, p. 1836].

In the field of electoral rights, it is particularly relevant to note that the success of digital transformation of public administration in general depends on the attitude towards respect for human rights [16, pp. 140-141]. The use of digital forms of exercising the rights of participants in the electoral process takes the information support of elections to a new level and increases the efficiency of management processes [17, p. 751]. Modern technologies allow for the automation of a number of processes and the real-time receipt of information about their results. This highlights the impact of the nature of public electronic services on their quality indicators [18, p. 651].

6. Campaigning.

It should be noted that the legislator's default setting is the absence of a requirement for the authenticity of campaign materials and the absence of a requirement for mandatory participation in campaigning [19, p. 106]. Campaigning by a candidate or party, unlike informing, does not have the characteristics of obligation, and is based on the voluntary decision (choice) of the subject of its dissemination. The legislator has given special attention to the possibility of disseminating negative campaigning, which does not necessarily mean that it is unreliable. Information about candidates that is distributed during the election campaign is evaluated by voters in terms of its content, as the first and most important purpose of such information is to create a certain image of a candidate or a party, which can be achieved, among other things, by using manipulative technologies [20, pp. 43-47].

The Internet is a high-risk area [21, p. 80]. Even once-spread information that carries a certain negative message already achieves its goal; further refutations and prohibitions of distribution do not have a fundamental impact on the assessment of its content, as the overall negative direction of the information remains the same. However, this provision of the law has been criticized as reflecting the difference in legal approaches to regulating the right to campaigning, on the one hand, and the right to freedom of speech and dissemination of information, on the other [22, pp. 43-44].

7. Should campaigning be reliable?

Unlike information materials, campaign materials are not subject to verification for accuracy, and there are no requirements for documentary evidence of the facts presented. The candidate is not responsible for the accuracy of the information posted in their campaign materials, and the commissions do not have the authority to verify the accuracy of the materials posted by the candidate. As V.V. Ignatenko rightly notes, while the electoral commissions have control powers over compliance with the procedure for conducting election campaigning, as enshrined in the Law, they do not have the authority to recognize the accuracy or inaccuracy of information contained in campaign materials that have been placed in accordance with the legal procedure [23, p. 24].

Given the increased importance of the content of campaigning information disseminated by parties and candidates during the election campaign, the Plenum of the Supreme Court of the Russian Federation, in its resolution of June 25, 2024, No. 17, formulated a legal position on the inadmissibility of creating (preparing) campaigning materials using misleading and false images, audio, and audiovisual information, including those created using computer technologies, that are presented as accurate. This was the first time that the requirement for the accuracy of campaigning was formulated.

It seems appropriate to include in the law a provision stating that in cases where a candidate uses the image of a person with a special status (a military officer, a representative of law enforcement agencies, a person with the right to wear military uniforms, state awards, etc.) in their campaign materials, they must provide the necessary documents to the election commission organizing the election to confirm the

legitimacy of using the corresponding visual image.

8. Conclusion.

The symbiosis of informing and campaigning envisaged by the federal legislator is aimed at creating a full volume of the most important, diverse and maximally saturated information, which allows voters to make an objective choice. The movement of information support for elections to the Internet space emphasizes the blurring of the boundaries between the two components of information support for elections.

The establishment of an expanded list of entities authorized to conduct campaigning on social media, the inclusion of various information resources on the Internet (including the so-called "new media") in the list of sources of information dissemination, and the possibility of recognizing the informational nature of materials disseminated by media entities that are legally authorized to conduct campaigning all contribute to blurring the boundaries between information dissemination and campaigning, effectively creating a new information-based electoral space for the preparation and conduct of elections that requires new requirements and principles for its organization.

In order to exclude violations during the campaigning on the Internet, it is possible to create pages on the State Services portal for posting campaign materials of parties and candidates, which should be accessible to voters of the relevant electoral district. At the same time, new types of liability should be provided – administrative and constitutional-legal – for violations during the campaigning on such resources.

As practice shows, information disseminated during the election campaign on behalf of candidates and parties is not necessarily campaigning in nature. It is proposed to include in the text of the Federal Law "On Basic Guarantees of Electoral Rights and the Right to Participate in a Referendum" the provision that, along with other authorized entities, information can also be provided by candidates and electoral associations.

The information support for elections in the Internet space requires further improvement and the creation of a system of holistic sustainable management within the framework of public services [24, p. 1778], which can lead to a restructuring of

relations between election commissions and participants in the electoral process.

The responsibility for the inaccuracy and distortion of information about candidates and parties should be expanded. The right to receive objective and reliable information about all candidates should be accompanied by responsibility for its violation [25, pp. 44-45], which can be achieved by introducing administrative penalties, including for the inaccuracy of information. Information and campaigning are two components of the information support for elections, designed to ensure that voters can make informed choices. The convergence of the legal regulation of information and campaigning, which is characteristic of the digital transformation of the electoral process, leads to increased control over the information support for elections. In an era of expanding sources of information dissemination and blurring the boundaries between reliable and fake information, this seems reasonable and logical.

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