

## CONSTITUTIONAL LEGAL RESPONSIBILITY FOR CRIMES AGAINST STATE UNITY AND TERRITORIAL INTEGRITY OF RUSSIA

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### **Keywords**

Responsibility, crime, state unity, territorial integrity, constitutional value

The subject. The article is devoted to the issues of constitutional legal responsibility for crimes against the state unity and territorial integrity of the Russian Federation.

The purpose of the article is to reveal the actual problems of constitutional legal responsibility for crimes against the state unity and territorial integrity of the Russian Federation.

The methodology of the study includes general scientific methods (analysis, synthesis, comparative method, description) as well as particular academic methods (formal-legal method, interpretation of legal acts).

Results, scope. The article contains the analysis of the position of the state unity and territorial integrity of the Russian Federation among the objects of constitutional legal and criminal legal support. The specific features of constitutional legal responsibility for crimes against the state unity and territorial integrity of Russia are determined. Actual problems of constitutional legal responsibility of the President of the Russian Federation, Russian citizens, refugees, electoral candidates for crimes against its state unity and territorial integrity are revealed.

Conclusions. It is necessary to improve the current constitutional legislation in order to eliminate the existing problems of constitutional legal responsibility for crimes against the state unity and territorial integrity of the Russian Federation. For this purpose it is necessary to add the grounds for impeachment of the President of the Russian Federation by the fact of commission of crime against its state unity and territorial integrity. It is also necessary to eliminate the legal inequality of citizens formed as a result of the introduction of constitutional and legal responsibility of naturalized citizens for committing crimes defined by law.

### **1. Introduction .**

The institution of constitutional and legal responsibility is a rapidly developing, but insufficiently researched, structural component of the domestic constitutional law. In practice, the provision of constitutional values by sectoral means (in particular, criminal law) becomes insufficiently effective without proper application of measures of constitutional and legal coercion, of which constitutional and legal responsibility is of key importance. One of the topical issues in modern constitutional and legal science is the problem of constitutional and legal responsibility for committing crimes against state unity and territorial integrity of the Russian Federation.

## **2. State unity and territorial integrity of the Russian Federation as objects of constitutional and legal provision.**

Under the state unity of the Russian Federation refers to its intrinsic e inherent quality, which manifests itself in the constitutional indivisibility of state power in Russia, and represents the sum of the following characteristics: the presence of the media, the sole and exclusive source of all political public authorities in the country - the multinational people of the Russian Federation; unity of state power as a property of sovereignty; the unity of state power in its functional division into the legislative, executive and judicial branches; unity of presidential power; unity of the federal legislature; the unity of the executive power of the Russian Federation and its subjects within the conduct of Russia and its powers in areas of joint jurisdiction of Russia and the Russian Federation subjects; judicial unity power of the Russian Federation; the unity of the Russian prosecutors and supervisors [1, p. 75].

In turn, the territorial integrity of Russia manifests itself in the inviolability of its state borders, the inalienability of the state territory - the spatial limit of the operation of the state sovereignty of the Russian Federation within its state borders, which includes land, water, subsoil and air space (Article 1 of the RF Law "On State Border of the Russian Federation").

In this capacity, the state unity of Russia and its territorial integrity are closely interconnected constitutional values - moreover, priority, that is, having the leading meaning in securing the highest constitutional value - human rights and freedoms. This value was established in the legal position of the Constitutional Court of the Russian Federation: "state integrity is an important condition for the equal legal status of all citizens regardless of their place of residence, one of the guarantees of their constitutional rights and freedoms". This means a priority position of the state unity and territorial integrity of Russia among the domestic constitutional values.

These constitutional values are provided to the system of special legal guarantees. Among them, it is necessary to allocate, first of all, constitutional and legal guarantees of state unity of the Russian Federation:

- 1) constitutional and legal guarantees of the highest legal force of the Constitution of the Russian Federation and the supremacy of federal legislation;
- 2) constitutional consolidation of the status of the multinational people of the Russian Federation as a carrier and the only source of power in Russia;
- 3) constitutional and legal regime of the state language of the Russian Federation;
- 4) constitutional and legal foundations of the national ideology of the Russian Federation;
- 5) constitutional and legal guarantees of the real will of the multinational people of the Russian Federation;
- 6) the optimal delimitation of the subjects of jurisdiction and authority between the Russian Federation and its subjects;
- 7) independent exercise by the subjects of the Russian Federation of their powers;
- 8) take into account the views of the constituent entities of the Russian Federation in the process of constitutional lawmaking and federal rulemaking on issues of joint jurisdiction;
- 9) constitutional and legal guarantees of the principle of separation of state power and the principle of unity of state power as a property of sovereignty;
- 10) conciliation proceedings;
- 11) constitutional and legal guarantees of the unity of the economic space;
- 12) leveling the level of social and economic development of the subjects of the Russian Federation;

13) federal intervention.

Among the constitutional and legal guarantees of the territorial integrity of the Russian Federation, the following:

1) the constitutional consolidation of the subject composition of the Russian Federation and the prohibition of secession;

2) territorial integrity of the subjects of the Russian Federation;

3) the prohibition of the creation and activities of public associations whose goals or actions are aimed at violating the territorial integrity of the Russian Federation [1, p. 77-78].

At the same time, the commission of crimes aimed at violating the state unity and territorial integrity of the Russian Federation entails responsibility established by criminal law. Thus, these constitutional values are subject not only to constitutional and legal, but also to criminal law, security (protection) [2].

### **3. State unity and territorial integrity of the Russian Federation as objects of criminal-legal protection.**

The Criminal Code of the Russian Federation does not explicitly mention the concept of "unity" in its content. At the same time, it establishes the composition of crimes aimed at violating territorial integrity: this is an armed insurrection (Article 279), since the objectives of this socially dangerous act directly state violation of territorial integrity (along with the overthrow or violent change of the constitutional system, which is directly related to threat to state unity); as well as public calls for the implementation of actions aimed at violating the territorial integrity of the Russian Federation (Article 280.1).

Violation of territorial integrity should be distinguished from encroachment on the inviolability of the State Border of the Russian Federation, which is an object of the illegal alteration of the State Border of the Russian Federation (Article 323) [3, p. 46].

Meanwhile, proceeding from the official definition of the State Border of the Russian Federation, it represents a line and a vertical surface passing along it, defining the limits of the state territory of Russia (Article 1 of the Law "On the State Border of the Russian Federation"). This allows us to come to the conclusion that an encroachment on the inviolability of the State Border of the Russian Federation can be considered as one of the forms of violation of the territorial inviolability (but not the territorial integrity) of the Russian Federation [3, p. 46].

However, it would be fundamentally incorrect on the basis of the absence in the domestic criminal law of a literal reference to state unity to assert that the Criminal Code of the Russian Federation did not find a place for the composition of crimes whose object is public relations in the sphere of ensuring this constitutional value. Proceeding from the definition of state unity formulated above Russian Federation to the number of crimes against the related provision of the value of public relations include all socially dangerous acts, offenses against such unshakable foundations of the constitutional system, like democracy (Art. 3 of the Constitution of the Russian Federation), the exclusive sovereignty and the Russian Federation (having it as one of its properties state unity of Russia [4, p. 11]) (part 1 Art. 4 of the Constitution of the Russian Federation), state integrity, unity of the system of state power (part 3 of Article 5 of the Constitution of the Russian Federation), separation of state power into branches (Articles 10, 11), inadmissibility of the creation and operation of public associations whose aims or actions which are extremist, thereby undermining guides unity of the multinational people of the Russian Federation and other components of national unity, integrity of Russia (Art. 5, Art. 13).

It should be stipulated that the Constitution of the Russian Federation in Art. 13 does not contain references to extremist activity, however, in Part 5 it refers specifically to extremist organizations based on a systemic interpretation of this constitutional provision and the official definition of extremist activity formulated in Cl. 1 part 1 of Art. 1 of the Federal Law "On Counteracting Extremist Activity" (hereinafter - the Federal Law "On Countering Extremist Activity").

Proceeding from this, it is possible with a logical sequence come to the conclusion that all crimes that have their object of social relations in the sphere of providing the foundations of the

constitutional order in general, can be attributed to the number of crimes aimed at violating the state unity and territorial integrity of the Russian Federation. In this regard, the question should be asked: Are all socially dangerous acts that are included in chapter 29 of the Criminal Code of the Russian Federation "Crimes against the fundamentals of the constitutional order and state security" refer to crimes against state unity and territorial integrity? The answer to this question cannot be obtained without the correlation of the concepts "state unity", "territorial integrity" and "state (national) security".

In particular, it is well known that public relations in the sphere of ensuring the security of the Russian Federation are the direct object of high treason (Article 275 of the Criminal Code of the Russian Federation). Is it possible to consider social relations related to guaranteeing state unity and territorial integrity of Russia among the objects of this crime?

According to the current National Security Strategy of the Russian Federation the latter refers to the state of security of the individual, society and state from internal and external threats, which provides a number of legal and socio-economic values, among which mentioned "state and territorial integrity". To the main threats to state and public security The strategy includes, in particular, the activities of radical associations and groups, directed at violating the unity of the Russian Federation's territorial integrity, weakening the unity of the Russian Federation, the multinational people of (para. 4, p. 43, n. 79), and to prevent the Russian Federation these threats pursues a policy of strengthening the internal unity of Russian society, including the historical and cultural unity of the peoples of Russia (paragraphs 26, 78, 82). Consequently, the deep interdependence of state (national) security, state unity and territorial integrity is officially recognized, while national security is viewed as a broader concept.

It seems that in this connection it is necessary to support the position of S.N. Baburin, including territorial integrity in the number of elements of the security of the territory [5, p. 65]. Proceeding from the foregoing, an attempt on state (national) security in general can extend to its individual aspects, including the unity of the multinational people of the Russian Federation, other elements of state unity, territorial integrity.

In this regard, the commission of any crime that threatens state security, which can serve to create conditions that could lead to "destabilization of the situation in the state and its further disintegration" [6, p. 6], should be seen as an attack on the unity of the state of the Russian Federation and its territorial integrity as the most important constitutional values. Therefore we adhere to the position of N.V. Ostroukhov, considering the territorial integrity among the main objects of crimes that encroach on the security of the state [6].

It also seems that since the ideology and practice of terrorism presupposes an impact on decision-making by public authorities (Clause 1, Article 3 of the Federal Law "On Counteracting Terrorism", hereinafter - the Federal Law "On Counteracting Terrorism"), crimes of a terrorist nature are also aimed at undermining not only public and national security, but also state sovereignty, which has one of its inalienable properties the unity of state power, and in some cases - territorial integrity. For this reason, crimes against state unity should include terrorist acts and other contributing to the spread of the ideology and practice of terrorism socially dangerous acts in the understanding revealed in Art. 24 of the Federal Law "On Countering Terrorism" and Resolution of the Plenum of the Supreme Court of the Russian Federation of February 9, 2012 No. 1 "On some issues of judicial practice in criminal cases on crimes of a terrorist nature". These are crimes under Art. 205-206, 208, part 4 of Art. 211, 277-280, 282.1-282.3 of the Criminal Code of the Russian Federation. The legislator also classifies as crimes of a terrorist nature the acts provided for in Art. 220, 221, 360 and 361 of the Criminal Code of the Russian Federation, however, state unity and territorial integrity cannot be considered among their objects, but only, respectively, public security in the sphere of circulation of nuclear materials or radioactive substances (Article 220, 221), the interests of peace (art. 360, 361) and some additional objects - life, citizens' health, personality, property relations [7, p. 114, 117, 690].

In this regard, it should be noted that the absence of a direct mention of state unity and territorial integrity among the objects of the crime in the relevant compositions of socially

dangerous acts of a terrorist nature did not prevent the Supreme Court of the Russian Federation from formulating a legal position stating that among the aims of the illegal armed formation, 208 of the Criminal Code may be the commission of terrorist acts, forcible change of the foundations of the constitutional order or violation of the territorial integrity of the Russian Federation (para 2 of paragraph 23 of the above Resolution) .

Based on the above, it is possible to classify crimes that encroach on state unity and territorial integrity, for the following reasons:

I. Depending on the object of the crime:

1) crimes against state unity of the Russian Federation: the violent seizure of power or the forcible retention of power (Article 278 of the Criminal Code of the Russian Federation) ; the incitement of hatred or enmity, as well as the humiliation of human dignity (Article 282 of the Criminal Code of the Russian Federation).

2) crimes against the territorial integrity of the Russian Federation - public appeals for the implementation of actions aimed at violating the territorial integrity of the Russian Federation (Article 280.1 of the Criminal Code of the Russian Federation) .

3 ) crimes that encroach both on the state unity and territorial integrity of Russia as the basis of the constitutional system and components of national security . These are crimes against the national security of the Russian Federation, the commission of which serves to create conditions for the violation of its state unity and territorial integrity : a terrorist act (Article 205 of the Criminal Code); assistance to terrorist activities (Article 205.1 of the Criminal Code of the Russian Federation); public appeals to carry out terrorist activities, public justification of terrorism or the propaganda of terrorism (Article 205.2 of the Criminal Code of the Russian Federation); the passage of training for the purpose of carrying out terrorist activities (Article 205.3 of the Criminal Code of the Russian Federation); organization of a terrorist community or participation in it (Article 205.4 of the Criminal Code of the Russian Federation); organization of activities of a terrorist organization and participation in its activities (Article 205.5 of the Criminal Code of the Russian Federation); non-reporting of a crime (Article 205.6 of the Criminal Code of the Russian Federation); seizure of hostages (Article 206 of the Criminal Code of the Russian Federation); organization of illegal armament e nnogo formation or participation in it (Article 208 of the Criminal Code.) ; hijacking of a ship of air or water transport or railway rolling stock, associated with the commission of a terrorist act or other terrorist activity (part 4, article 211 of the Criminal Code); high treason (Article 275 of the Criminal Code of the Russian Federation) ; espionage (Article 276 of the Criminal Code of the Russian Federation) ; encroachment on the life of a public or public figure (Article 277 of the Criminal Code of the Russian Federation) ; armed rebellion ( Article 279 of the Criminal Code of the Russian Federation) ; public appeals for the implementation of extremist activities (Article 280 of the Criminal Code of the Russian Federation) ; diversion (Article 281 of the Criminal Code of the Russian Federation) ; organization of an extremist community (Article 282.1 of the Criminal Code of the Russian Federation) ; the organization of activity of an extremist organization (Article 282.2 of the Criminal Code of the Russian Federation) ; financing of extremist activity (Article 282.3 of the Criminal Code of the Russian Federation ) ; disclosure of state secrets (Article 283 of the Criminal Code of the Russian Federation ) ; illegal receipt of information constituting a state secret (Article 283.1 of the Criminal Code of the Russian Federation ) ; Loss of documents containing state secrets (Article 284 of the Criminal Code of the Russian Federation ) ; and the activities in the territory of the Russian Federation of a foreign or international non-governmental organization in respect of which a decision was made to recognize its activities as undesirable in the Russian Federation (Article 284.1 of the Criminal Code of the Russian Federation).

II . Depending on the nature and degree of public danger:

1) particularly serious crimes (Art. 205 , 205.1, 205.3 , ch. 1, v. 205.4, Art. 205.5, h. 2-4 v. 206 v. 208 h. 4 v. 211 , p. 275 279 , Article 281 , part 3 of Article 282.1 , part 3 of Article 282.2 of the Criminal Code of the Russian Federation);

2) grave crimes ( part 2 of article 205.2, part 2 of article 205.4, part 1 of article 206, part 2 of article 282 , part 1 - 2 of article 282.1 , part 1 - 2 of article 282 . 2 , p. 282.3 , part 2, 283.. , h 2 tbsp 283.1, Art 284.1. Criminal Code) ;

3) crimes of medium gravity ( part 1 of article 205.2, article 280, 280.1 , part 1 of article 282, part 1 of article 283 , part 1 of article 283.1 of the Criminal Code of the Russian Federation) ;

4) crimes of small gravity (item 205.6, 284 of the Criminal code of the Russian Federation) .

#### **4 . The current state of the institution of constitutional and legal responsibility .**

The institution of constitutional and legal responsibility is at the stage of development and is, perhaps, one of the less developed institutions of the domestic science of constitutional law. Its presence in the system of constitutional law was proved only in the late XX - early XXI centuries. [ 8, p. 27].

At the same time, modern researchers still not only place on the pages of their works very controversial positions on "positive" constitutional and legal responsibility [ 9 , p. 105-110], but also classify as negative constitutional-legal responsibility measures that do not have a de facto basis for the commission of a constitutional tort.

Thus, S.A. Avakyan refers to constitutional and legal responsibility the dissolution of the State Duma by the President of the Russian Federation [ 9 , p. 120]. Meanwhile, a closed list of grounds for such dissolution is established exclusively by the Constitution of the Russian Federation (Part 1, Article 109, Part 4, Article 111, Parts 3, 4, Article 117). None of these grounds is connected with the commission of a constitutional and legal violation. The first case is connected with a repeated (for the third time) rejection by the State Duma of the candidatures of the RF Prime Minister, submitted by the President of the Russian Federation, the second with repeated expression of distrust of the Government of the Russian Federation, the third with refusal to trust him. All this - the usual parliamentary procedures, which can not be regarded as delicts, but only as ordinary powers of the federal parliament.

Meanwhile, legal liability as a special kind of legal relationship has among its participants, on the one hand, obliged to undergo negative legal measures of the offender (subject of legal responsibility) , and on the other hand - state authority or official authorized to apply such measures to the first instance of legal responsibility ), that is, the actual basis for the emergence of legal liability is always the commission of an offense [ 10 , p. 235 ].

For this reason, it is necessary to distinguish constitutional and legal responsibility from other forms of constitutional and legal coercion. This means that it is necessary to correctly identify the place of constitutional and legal responsibility in the system of constitutional and legal coercion, which is a generic concept in relation to the former.

In other words, according to A.I. Kazannik, "the basis for attracting to constitutional and legal responsibility is the presence in the act of a delict-capable subject of constitutional legal relations of objective and subjective features forming the composition of a constitutional offense" [ 11 , p. 130]. If the guiltyly committed act of the subject of constitutional and legal relations, which threatens public relations in the sphere of regulating the constitutional foundations of society and the state, fixing the foundations of the legal status of the individual, establishing the system of state power and its political and territorial organization, requires the adoption of measures of constitutional and legal responsibility.

Among the measures of constitutional and legal responsibility, therefore, are: 1) the deprivation and annulment of citizenship, 2) the deprivation and cancellation of political asylum, 3) the dissolution of the election commission, 4) the deprivation of the accreditation of foreign observers in elections, 5) the liquidation of political parties , religious and public associations, 6) early termination of powers of the body (official) of state power or local self-government [ 11 , p. 132-140]. All other measures of constitutional and legal coercion are precautionary, suppressive, restorative [ 8 ] . It is easy to see that not all the measures of constitutional and legal responsibility come for committing a socially dangerous act.

#### **5 . Specific features of the constitutional and legal responsibility for the commission of a crime against state unity and territorial integrity of Russia .**

The object of socially dangerous acts, which serve as grounds for bringing to constitutional and legal responsibility, within the framework of this article, are social relations related to the provision of the most important (with the priority position in the constitutional axiological hierarchy) constitutional values - state unity and territorial integrity of the Russian Federation.

At the same time, the grounds for bringing to constitutional and legal responsibility related to the commission of a crime against state unity and territorial integrity of the Russian Federation are by no means limited to the fact of committing an act that contains the signs of a relevant crime. As a rule, in order to involve in some form of constitutional and legal responsibility in such a case, a preliminary conviction of a court of general jurisdiction is required.

At the same time, according to Yu. Livadnaya, in the case involving special subjects in the person of sole bodies of state power and officials with inviolability, the reverse sequence of "the onset of constitutional and criminal responsibility for the commission of a constitutional and legal tort, simultaneously having signs of a crime, is observed". The researcher correctly noted: often, in addition to the fact of committing a crime, among the grounds for bringing to constitutional and legal responsibility there is a constitutional-legal tort that coincides with the criminal offense. In particular, as will be shown below, a naturalized person is subject to constitutional and legal responsibility in the form of cancellation of the decision to enter into citizenship on the basis of such a tort, as reporting deliberately false information about the obligation to comply with the Constitution of the Russian Federation and current Russian legislation. Wherein to this constitutional and legal infringement by the legislator the fact of fulfillment of crimes provided by the law, established by a guilty verdict entered into legal force is equated.

All crimes against state unity and territorial integrity of Russia, the commission of which is one of the bases of constitutional and legal responsibility, proceeding from the provisions of the current legislation are made with direct intent.

The subject of such constitutional and legal responsibility is always an individual, while the subject is special - the President of the Russian Federation and other sole government bodies and officials, naturalized citizens of the Russian Federation, refugees, sole agents of the electoral process.

The bodies of state power - the Council of Federation of the Federal Assembly of the Russian Federation, the Ministry of Internal Affairs, the courts of general jurisdiction, other bodies of state power - are the bodies of constitutional and legal responsibility for committing crimes against state unity and territorial integrity of the Russian Federation.

## **6 . Constitutional legal responsibility of the President of the Russian Federation for the commission of a crime against its state unity and territorial integrity: actual problems.**

The President of the Russian Federation bears constitutional and legal responsibility in the form of dismissal from office for committing an act that contains signs of treason or other serious crime (Article 93 of the Constitution of the Russian Federation).

This corresponds to the form of government that has developed in Russia, which some researchers describe as a mixed presidential-parliamentary one [11, p. 300], while others - as a super-presidential [13] republic. The head of state does not bear any political responsibility to the legislature, but only legal (constitutional and legal) responsibility for the commission of serious crimes.

The upper house of the federal parliament - the Federation Council of the Federal Assembly of the Russian Federation - is the instance of the constitutional and legal responsibility of the President of the Russian Federation. State Duma only brings charges against the head of state, while the role of the superior courts in this mechanism is to develop encapsulating to the presence of his actions signs of the composition of a serious crime (the Supreme Court), on the observance of the established order of bringing a charge (the Constitutional Court of the Russian Federation). At the same time, the whole procedure should take no more than three months from the date of the accusation, before the decision to remove President of the Russian Federation.

Researchers note a number of flaws in the design of the institution of the President's retirement from his post:

1. Insufficient grounds for bringing him to constitutional and legal responsibility: "The President of the Russian Federation has the right to commit with impunity intentional crimes that punish imprisonment for not more than five years, and reckless crimes for which a more severe penalty is provided, including crimes that caused the death of two or more persons, and remain President" [14, p. 22]. In addition, the head of state does not bear any legal responsibility for the violation of the Constitution of the Russian Federation, the federal laws given to him when taking the oath of office [15, p. 27]. The last position is played with new colors in the context of recent legislative amendments, according to which the naturalized "mere mortals" are constitutional and legal responsibility is actually for the violation of this oath in the form of cancellation of the decision on the adoption of Russian citizenship.

At the same time, one can hardly agree with the researchers who believe the constitutional gap is the absence of grounds for impeachment of particularly serious crimes [16, p. 19], since the further differentiation of the composition of crimes in the current criminal legislation should not automatically lead to new constitutional amendments. This would put the state of stability of the RF Constitution in dependence on volatile ordinary law-making. At the same time, the wording in Part 1 of Art. 93 of the Constitution on the commission of a serious crime or socially dangerous act more severity as the basis for the Russian President's removal from office. The position on the need to involve the head of state for any violation of the current legislation is also vulnerable, since such a scale of the grounds for his constitutional and legal responsibility does not correspond to the current form of government in the country.

2. The plurality of subjects involved in the impeachment procedure, combined with the ultrashort time of implementation of the constitutional and legal responsibility mechanism, makes this procedure practically unrealizable [17, p. 29].

3. The political factor is the dependence of participants in the impeachment procedure directly from the figure of the President of the Russian Federation [18, p. 54]. This is not only and not so much about the presence in the State Duma of the RF Federal Assembly of a numerically predominant ruling party, but rather about the still rather high role of the head of state in empowering and dismissing the heads of executive power of constituent entities of the Russian Federation, which determine the candidatures of half of the Federation Council of the Federal Assembly of the Russian Federation; at the submission to the Federation Council of candidates for appointment to the position of judges of the Constitutional Court of the Russian Federation and the Supreme Court of the Russian Federation (clause "e" of Article 83 of the Constitution of the Russian Federation). Finally, with the last constitutional amendment the head of state is empowered to directly appoint members of the Federation Council - representatives of the Russian Federation in an amount not exceeding 10% of the number of other members of the Chamber (Part 2, Article 95 of the Constitution of the Russian Federation). Their votes can be decisive for preventing the constitutional and legal responsibility of the President of the Russian Federation at the final stage of the decision by the upper house.

4. Absence of investigative bodies' rights at a special commission of the State Duma formed to prepare a decision of the State Duma to bring an accusation against the President of the Russian Federation, while in the United States, for example, an investigative procedure for this issue is foreseen [14, p. 24].

5. Excessive level of discretion of the chambers of the Federal Assembly under the rulemaking within the limits of its regulations in the sphere of determining the procedural moments of the implementation of the constitutional and legal responsibility of the head of state in specifying their participation in the stage of the prosecution. This leads to the fact that the State Duma sends a resolution on the nomination of charges against the President of the Russian Federation simultaneously to the Federation Council and to give an opinion to the Supreme Court of the Russian Federation and the Constitutional Court of the Russian Federation (part 10, article 180 of the Rules of the State Duma).

However, the admissibility of the request to the Constitutional Court of the Russian Federation to issue a conclusion on compliance with established procedures when charging the



President nomination of the Russian Federation of treason or other grave crime put the federal legislator (in the person of the same chambers that make their own regulations) are dependent on the availability of the conclusion of the Supreme Court Russian actions in the presence of the head of the crime evidence of the state (Art. 108 of the Federal constitutional law "on the constitutional Court of the Russian Federation", further - FKZ "On the Constitutional Court of the Russian Federation"). The very request to the federal body of constitutional control can be sent exclusively by the Federation Council (Article 107 of the Federal Law "On the Constitutional Court of the Russian Federation"). Thus, all the prerequisites have been formed for the Constitutional Court of the Russian Federation to adopt a lawful conclusion on non-compliance with the established procedure for accusing the President of the Russian Federation (clause "b" of Part 1 of Article 110 of the FKZ "On the Constitutional Court of the Russian Federation") with full observance by the chambers of the provisions of its own regulations in the course of implementing the mechanism for attracting the head of state to constitutional responsibility. In this way, "without changing Art. 180 of the Rules of the State Duma of the established order of bringing a charge cannot in principle be recognized by the Constitutional Court complied with it" and the implementation of the provisions of Chapter. XV FKZ "On the Constitutional Court of the Russian Federation" is becoming very unlikely [17, p. 30, 31].

All these problems are of a fundamental nature, which is manifested in the practical impossibility of involving the President of the Russian Federation in constitutional responsibility. Particular attention is drawn to the fact that the head of state as a guarantor of the Constitution of the Russian Federation, called upon to take measures to protect the sovereignty of the Russian Federation, its independence and state integrity (Part 1, 2, Article 80 of the Constitution of the Russian Federation), if necessary, does not bear any legal responsibility for the commission of such crimes as public justification and propaganda of terrorism, non-reporting of a terrorist offense, public calls for terrorist, extremist activities, violation of the territorial integrity of the Russian Federation, the disclosure of state secrets, the loss of documents containing state secrets (Part 1 of Article 205.2, Article 205.6, 280, 280.1, part 1 of Article 283, Article 284 of the Criminal Code of the Russian Federation).

#### **7. Constitutional legal responsibility of citizens of the Russian Federation and refugees for the commission of a crime against its state unity and territorial integrity: current problems.**

The Constitution of the Russian Federation directly excludes the possibility of introducing the institution of constitutional and legal responsibility of citizens in the form of depriving them of their citizenship or the right to change it (Part 3, Article 6).

At the same time, constitutional-legal responsibility in the form of cancellation of the decision on admission to the citizenship of the Russian Federation on the grounds provided for by law is not excluded. And according to the latest amendments to the constitutional legislation, the scope of these grounds (submission of fraudulent documents or deliberately false information by the applicant) was extended by the fact of the applicant's refusal to take the Oath, as well as by the fact of the applicant reporting knowingly false information regarding the obligation to comply with the Constitution of the Russian Federation and Russian legislation (p. 1 Article 22 of the Federal Law "On Citizenship of the Russian Federation", further - the Federal Law "On Citizenship of the Russian Federation"). The latter of its grounds can be manifested in the commission by a naturalized person of at least one of the crimes (preparation for a crime or attempted crime) under Art. 205, 205.1, part 2 of Art. 205.2, Art. 205.3 - 205.5, 206, 208, part 4 of Art. 211, Art. 281, 282.1 - 282.3 and 361 of the Criminal Code of the Russian Federation, or at least one of the crimes (preparation for a crime or attempted crime), provided for in articles 277-279 and 360 of the Criminal Code of the Russian Federation, if their commission is associated with the implementation of terrorist activities (Part 2, Article 22 of the Federal Law "On Citizenship of the Russian Federation"). It is easy to see that one of the objects of the vast majority of the listed crimes is social relations related to ensuring state unity and territorial integrity of Russia.

Thus, the fact of committing at least one of the listed crimes by a person who has been accepted into Russian citizenship and brought the Oath from the point of view of domestic constitutionalism is one of the forms of reporting the applicant's knowingly false information regarding the obligation to comply with the Constitution of the Russian Federation and Russian legislation. This constitutional obligation is directly related to the institution of the Oath of the person acquiring the citizenship of the Russian Federation (Article 11.1 of the Federal Law "On Citizenship of the Russian Federation"). Hence, the constitutional and legal responsibility naturalized person actually is violation of the oath taken in the part of the adoption of the obligation to comply with the Constitution and Russian legislation after the adoption of the decision to acquire the Russian citizenship.

Violation of the Oath as the basis of the constitutional and legal responsibility of naturalized citizens puts them in an unequal position with other citizens of the Russian Federation, depending on the grounds for acquiring citizenship, which contradicts the constitutional principle of equality of citizenship (Part 1, Article 6 of the Constitution of the Russian Federation). After all, the constitutional obligation to comply with the Constitution of the Russian Federation and the current legislation applies equally to all Russian citizens (Part 2, Article 15 of the Constitution of the Russian Federation), but the negative consequences in the form of constitutional and legal responsibility for some reason only apply to naturalized persons who have taken the Oath. However, not all applicants have the obligation to take the Oath - not only minors, incompetent and incompetent applicants are released from it, but also any categories of persons independently identified by the President of the Russian Federation (Part 2, Article 11.1 of the Federal Law "On Citizenship of the Russian Federation").

Based on the foregoing subject of constitutional responsibility - a capable full age at the time of bringing the Oath of a person accepted Russian citizenship and later which brought oath, in respect of which the court established that posts false information with regards to the obligation to observe the Constitution of the Russian Federation and the Russian Federation legislation. In this case the legislator vaguely fixed position that the established fact of a sentence of at least one of the above crimes only "*Equated*" with the court's establishment of the fact of reporting knowingly false information regarding the obligation to comply with the Constitution of the Russian Federation and the current legislation (Part 2, Article 22 of the Federal Law "On Citizenship of the Russian Federation"). Consequently, the possibility of a different form of judicial establishment of such a fact is not excluded.

The instance of this form of constitutional and legal responsibility is the President of the Russian Federation or the Ministry of Internal Affairs (Article 23 of the Federal Law "On Citizenship of the Russian Federation").

This innovation is reminiscent of the constitutional duty of Soviet citizens "with dignity to bear the high title of a Soviet citizen," the violation of which could result in the deprivation of citizenship in the event of acts discrediting this high rank and damaging "the prestige or state security of the USSR" (Article 18 of the USSR Law "On the Nationality of the USSR"). But, unlike modern constitutionalism, in the USSR this duty was equal and did not presuppose its offensive after the taking of a special oath; the emergence as a result of the will of a particular category of citizens - some naturalized persons.

The political grounds for the reform of the constitutional and legal institution of citizenship of the Russian Federation regarding the responsibility of naturalized citizens are obvious. The return to the country of citizens of the Russian Federation who went to regions with increased terrorist activity to join the ranks of members of radical Islamist terrorist structures became a large-scale threat to national security [ 19, p. 50 ]. On the need to block the channels of entry and exit of terrorists from Russia. Putin said, speaking at a meeting of the Collegium of the Russian FSB More in March 2015 [ 20 ] The situation is complicated by the fact that the constitutional prohibition of deprivation of citizenship refers to the foundations of the constitutional system of the Russian Federation and can only be revised by adopting a new Constitution (Article 135 of the Constitution

of the Russian Federation). As a result, at the highest level, desperate attempts are made to bypass the Constitution of the Russian Federation.

The constitutions of a number of foreign states directly establish the institution of deprivation of citizenship or provide for the possibility of its introduction (Portugal [21, p. 754], Italy [21, p. 107], which corresponds to the Universal Declaration of Human Rights (Part 2, Article 15). Undoubtedly, Russia's special geopolitical position dictates the need for steadfast, effective provision of national security. It seems that the further development of domestic constitutionalism in the part of the institution of Russian citizenship must take place in one of two directions: either by abolishing the questionable institution of constitutional and legal responsibility of some naturalized persons for the actual violation of their Oath, or by securing the institution of deprivation of citizenship in cases strictly defined by the Constitution of the Russian Federation, connected with the threat of national security, the unity and territorial integrity of the country, embodied in concrete acts, emanating from the citizen.

Refugees bear constitutional and legal responsibility in the form of deprivation of refugee status on the basis of an effective court verdict for committing a crime on the territory of the Russian Federation, regardless of the object, nature and degree of public danger of such an act. The institution of constitutional and legal responsibility in this case is the Ministry of Internal Affairs. The entry of the relevant sentence was excluded in 2004 from the grounds of such constitutional and legal responsibility as deprivation of the status of a forced migrant.

#### **8. Constitutional legal responsibility of a registered candidate for committing a crime against state unity and territorial integrity of Russia: current problems.**

The candidate in elections has constitutional and legal responsibility for committing crimes envisaged by the legislator, the fact of which must be established by a court verdict that entered into legal force, in view of the loss of passive electoral right.

The Constitution of the Russian Federation is categorical in this matter: it fixed a closed list of restrictions on subjective suffrage in Art. 32 (part 3). Active and passive suffrage are denied to those citizens of the Russian Federation who were found to be legally incompetent, as well as those held in places of deprivation of liberty by a court verdict.

At the same time, the federal legislator significantly expanded the range of grounds for limiting passive electoral rights related to the violation of the criminal law. According to the current federal legislation, citizens of the Russian Federation who are not only held in places of deprivation of liberty but also have an unexpunged or outstanding conviction for committing grave and especially serious crimes in the event that these citizens were sentenced to deprivation of liberty have no right to be elected. In addition, after the removal or repayment of such a conviction, such a citizen remains deprived of his right to vote within a certain period of time determined by the legislator. Finally, a citizen does not have the right to be elected, convicted "for committing crimes of an extremist nature" if there is an unexpunged or unexpired criminal record on election day - if such crimes do not belong to the number of grave or especially grave crimes (subparagraphs "a" - "b" clause 3.2 of Art. 4 of the Federal Law "On the basic guarantees of electoral rights and the right to participate in the referendum of citizens of the Russian Federation", hereinafter - the Federal Law "On Basic Guarantees of Electoral Rights ...").

The registered candidate is deprived of his status in the event of the loss of passive electoral right on these (or other) grounds during the cancellation of the registration of a candidate by the election commission that registered him, or the cancellation of the decision on his registration by a court (paragraph 3, subparagraph "a", clause 7, Art. 76 FZ "On Basic Guarantees of Electoral Rights ..."). Thus, these state bodies act as instances of the constitutional and legal responsibility of the candidate.

The legislator is not entirely consistent in using the wording of "extremist crimes", which forces the researcher and the law enforcer to appeal to the Federal Law "On Counteracting Extremist Activity" and the Federal Law "On Counteracting Terrorism." The first of these laws does not list the composition of crimes that the legislator classifies as extremist. In this regard, the authors of the article-by-article commentary to the Federal Law "On Basic Guarantees of Electoral

Rights ..." refer to them the above-mentioned compositions specified in Part 1 of Art. 24 of the Federal Law "On Counteracting Terrorism" [22]. However, in Art. 1 FZ "On Counteracting Extremist Activity" it is clearly expressed that all crimes committed in accordance with motives specified in clause "e" of Part 1 of Art. 63 of the Criminal Code of the Russian Federation (political, ideological, racial, national or religious hatred or enmity or on grounds of hatred or enmity towards any social group, which certainly threatens the unity of the multinational people of Russia). To these crimes, according to the current criminal law, there are also qualified types of murder, damage to health of different severity, beatings, torture, hooliganism, etc. However, it is hardly possible to consider social relations to ensure state unity as a whole the object of such socially dangerous acts.

The Constitutional Court of the Russian Federation has recognized this restriction of passive electoral law in accordance with the Constitution, insofar as it will not be unlimited and undifferentiated.

At the same time, scientists in different ways assess the consolidation in the current legislation of such grounds for the constitutional and legal responsibility of registered candidates in elections. Thus, N.E. Tayeva believes that this corresponds to the provisions of Art. 2, 18, 19, 32, 50, 55 of the Constitution of the Russian Federation [23, p. 1088]. E.A. Lukyanov, on the contrary, resolutely exclaims: "what should be disrespect and disregard for the Constitution, in order to sign a change in the electoral legislation that extends these restrictions for a period after serving a criminal sentence and for administrative ones, in spite of the closed list of restrictions on active suffrage established by the Basic Law (Part 3, Article 32)? collection?" [24, p. 8]. It is difficult to argue that the Constitution of the Russian Federation (its part 3 of article 32 in literal interpretation) does not imply an expansion of the list of grounds for limiting subjective suffrage by efforts of the federal legislator.

### **9. The conclusion.**

It is necessary to improve the current constitutional legislation with a view to eliminating the existing problems of constitutional and legal responsibility for committing crimes against state unity and territorial integrity of the Russian Federation. To this end, it is necessary to supplement the range of grounds for dismissing the President of the Russian Federation from office by the fact of committing a crime against certain objects, regardless of the nature and degree of public danger. Thus, being in office of the head of state is incompatible with the commission of crimes against state unity and territorial integrity of the Russian Federation. The situation when The President of the Russian Federation is officially called upon to take measures to protect the sovereignty and territorial integrity of the Russian Federation, but is not subject to constitutional legal responsibility for public appeals to violate territorial integrity or commit extremist acts.

It is also necessary to eliminate the prevailing inequality of citizens depending on the acquisition of nationality grounds: only naturalized person, which brought oath, are constitutional and legal responsibility is actually for the commission of crimes against the Russian state unity and territorial integrity and fulfillment of some other socially dangerous acts.

Finally, hardly possible to agree with such a constitutional and legal responsibility of candidates registered in the election, as the lack of passive suffrage in view neistecheniya installed legislator terms after withdrawal or redemption of a criminal record. It seems that this limitation of subjective suffrage is based on an overly broad interpretation of the provisions of Art. 32 of the Constitution of the Russian Federation.

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