

## ELECTION CAMPAIGN: DEFINITION AND TEMPORAL BOUNDARIES

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The subject. Detection of the essence of electoral process, the election campaign and their influence on the temporal component of the electoral process is the subject of this publication.

The purpose of the article is to confirm or disprove hypothesis that the concept of "election campaign" should include activities for the preparation and conduct of elections, carried out in the period from the date of the decision on the appointment of elections to the day of official publication (publication) of the decision on the results of elections

The methodology. General scientific methods were used when considering and analyzing the concepts of the electoral process, election companies, and stages of the electoral process. Normative-logical and comparative-legal methods were used in the process of analyzing the electoral legislation.

The main results and scope of their application. The definition of the electoral process is considered by scientists not only as a system of relations, but also as a phenomenon, as an institution, as a form of implementation of constitutional principles, as a legal technology, as a technological infrastructure. Almost all authors, detecting the essence of the electoral process, cannot avoid the temporal aspect of this phenomenon. Political scientists and sociologists understand an election (election) campaign as a system of various campaigning events, with the help of which political parties and individual candidates seek the support of voters in elections. The election campaign in the broad sense is the period of time during which citizens have the opportunity to exercise most of their electoral rights. It is essential not only to legislate consolidation of the definition of "election campaign", but also to define its temporal component, adequate to the goals and objectives of the implementation of the constitutional right to elect and to be elected.

The current law defines the election campaign as activities for the preparation and conduct of elections from the date of publication of the announcement of elections until the day the election commission submits the election report.

The start of the election campaign is given by the publication of the announcement of the election, but not the adoption of this decision. The campaign ends not with the determination of the winner, but after the election commission submits a report on budget

spending, i. e. 3 months after the actual completion of the election. This duration of the campaign does not correspond to the objectives of the election and artificially lengthens the election campaign.

The time limits of an election campaign are closely related to the stages of the electoral process, i.e., a set of electoral actions and procedures that are separate in time, aimed at forming a government body and electing an official. The author refers to the mandatory stages of the electoral process as determining the voting day and publishing the decision to call elections; nominating and registering candidates (lists of candidates); election campaigning; voting, determining the results of voting, determining the results of elections and publishing them. Deadlines mark the boundaries of the stages of the electoral process, affecting its institutional, subject and technological components.

Conclusions. Nowadays, it is necessary to reduce the legislatively fixed period of the election campaign and, as a result, clarify the definition of "election campaign", which is preferably defined as activities for the preparation and conduct of elections, carried out from the date of the decision of the authority or official on the election to be held until the day official publication of the decision of the election commission on the election results.

## 1. Introduction

In constitutional law, "elections are understood as the participation of citizens in the exercise of the power of the people by allocating representatives from their environment by voting to perform their functions in state bodies and local self-government bodies for the exercise of power in accordance with the will and interests of citizens expressed at the elections" [1, p.227-228]. Considering the elections, I. V. Zakharov and A. N. Kokotov pointed out that they are held on the basis of certain electoral systems and within the framework of election campaigns [2, p. 21]. The duration of a specific legal regime such as elections is important for law enforcement. Identification of the essence of such concepts as the electoral process, the election campaign and their impact on the temporal component of the electoral process is the subject of this publication.

## 2. The electoral process: the concept

The electoral process is an ordered system of relations that reflect a certain sequence of their development within the framework of the election campaign, ensuring the dynamics of the electoral rights of Russian citizens, which are formed on the basis of the implementation of legal procedures stipulated in the legislation on elections [3, p.282].

The concept of the electoral process is firmly embedded in the scientific, legislative and law enforcement lexicon. As a multifaceted phenomenon, it is considered by scientists from various sides – not only as a system of relations, but also as a phenomenon, as an institution, as a form of implementation of constitutional principles, as a legal technology, as a technological infrastructure, as a sequence of actions.

Let's consider the various points of view of scientists on the electoral process:

- this is a dynamic phenomenon that unfolds in space and time, while it is directed by the legal will of the subjects of electoral law, and the goal is to form elected bodies of state power and local self-government [4, p. 45];

- an ordered system of relations reflecting a certain sequence of their development within the framework of the election campaign, ensuring the dynamics of the electoral rights of Russian citizens, which are formed on the basis of the implementation of legal procedures stipulated in the legislation on elections [3, p. 282];

- not only the legal technology of organizing voting, but also the institution that provides political stability and continuity, democracy and legitimacy of power [5, p. 279];

- this is a certain sequence of actions of the subjects of electoral law for the preparation and conduct of elections that is performed within the framework of a temporary stage in accordance with the established procedure. At the same time, it is also a system of procedures and procedural forms for resolving electoral cases [6, p. 644];

- technological infrastructure and the form of implementation of the constitutional principles of organizing periodic free elections and ensuring the electoral rights of individuals and citizens within the framework of the sequence of electoral actions and procedures provided for by law, and the organization and conduct of elections is carried out within the framework of the election campaign as the main temporary factor in the implementation of electoral actions and procedures, ensuring the implementation of the political right of citizens of the Russian Federation to elect and be elected to state and local government bodies [7,

p. 47].

– the legal form of implementation by subjects of law of the constitutional rights of citizens of the Russian Federation to form representative bodies of state and municipal power, to grant powers to elected officials; it consists of successive stages determined on the basis of identification and Association of characteristic actions and procedures that form a separate cycle of the electoral process and are regulated by the norms of electoral law. Power political and legal activity of voters (their associations) for the formation of state authorities, local self-government and the assignment of powers to elected officials, carried out through the Commission of electoral actions and procedures in the manner and within the time limits provided for by the norms of electoral law [8, p.10].

Attention is drawn to the fact that almost all authors, identifying the essence of the electoral process, can not bypass the temporal aspect of this phenomenon (time, time stage, time factor, cycle). They also indicate the sequence of actions, their performance, activities, and development of relations that is closely related to time periods, as well as the terms stipulated by the law.

To say that the electoral process, the organization and conduct of elections is carried out in the framework of the election campaign as the main time factor of committing electoral actions and electoral procedures implementation, ensuring realization and protection of constitutional rights of Russian citizens to free elections and the right to elect and be elected to bodies of state power and bodies of local self-government on the basis of universal, equal and direct suffrage by secret ballot [5, p. 275].

### **3. Election campaign**

Most researchers of electoral law do

not consider the election campaign as a separate phenomenon, but only mention in connection with such concepts as elections, the electoral process, the electoral system, and electoral legal relations. The subject of election campaigns is more in demand by political scientists, sociologists, historians, and even philosophers. For legal scholars, the election campaign is usually not the subject of research, but only a kind of scale to the larger concepts studied by the authors.

Thus, according to Yu. a. Vedeneev and V. I. Lysenko, " the system of electoral legal relations shows all the variety of electoral actions and procedures expressed in the form of rights and obligations, powers and responsibilities of participants in the electoral process [9, p.271]". In turn, S. D. Knyazev and V. M. Tsyrfya write that " the electoral process acts as a natural prerequisite for the exercise of electoral rights by participants of election campaigns and ensures that the procedural aspects of organizing and conducting elections correspond to the goals and objectives of a democratic and fair formation of representative foundations of democracy [10, p.13-14]". In the legal literature, the opinion has been established that in a broad sense, the term "electoral process absorbs the content of the term "election campaign", and yet these terms are not identical [5, p. 278-279; 11, p. 112; 12 p. 186]. In turn, the "electoral system" is actually identified with the concept of "election campaign", enshrined in the Federal law "on basic guarantees of electoral rights and the right to participate in a referendum of citizens of the Russian Federation" dated June 12, 2002 No. 67-FZ (hereinafter referred to as Federal law No. 67 – FZ), and the use of the concept of the electoral system in a broad semantic sense has no strictly legal meaning and is hardly justified, since it largely duplicates such categories as elections, election campaigns and the electoral process"

[13, p.38].

In the understanding of political scientists and sociologists, an election campaign is a system of various campaigning events through which political parties and individual candidates seek support in the upcoming elections and try to get votes. The term "election campaign" is also used. In law, this understanding of election (electoral) campaign corresponds to the term "election campaign of a candidate, electoral Association" - the activity directed on achievement of certain result on elections, and carried out in the period from the date of nomination of candidate, list of candidates before submitting the final financial report a candidate, electoral Association, as well as their authorized persons.

When distinguishing an election campaign directly from the election campaign of a candidate (electoral Association), the authors usually note that this is an activity for the preparation and conduct of elections carried out during the period specified by law.

An election campaign is a period of time during which citizens have the opportunity to exercise most of their electoral rights. That is why it is essential not only to legislate the concept of "election campaign", but also to define its temporal component, which is adequate to the goals and objectives of implementing the constitutional right to elect and be elected.

The Federal law "on basic guarantees of electoral rights of citizens of the Russian Federation" of 6.12.1994 No. 56-FZ did not define the content of the term "election campaign", which was used only once in this law. Article 23 of the Law forbade journalists, media officials, officials and creative employees of state TV and radio companies to participate in the coverage of the election campaign through the media, if these persons

are candidates or proxies of candidates. The Federal law "on basic guarantees of electoral rights and the right to participate in a referendum of citizens of the Russian Federation", which replaced it, No. 124-FZ, first formulated the concept of "election campaign", defining it as the period from the date of official publication of the decision of an authorized official, state authority, local self-government body on the appointment of elections before the day of official publication of the election results.

This utilitarian approach-the definition in the law of the period of time during which the subjects of the electoral process have the right or are obliged to carry out certain electoral actions – did not reveal the essence of the election campaign, did not allow to analyze and evaluate what the legislator was guided by when setting such time coordinates of the election campaign. The next version of Federal law No. 67-FZ established that an election campaign is an activity for the preparation and conduct of elections. At the same time, the period of implementation of this activity was extended by the legislator to the day when the election Commission organizing the elections submitted a report on the expenditure of the relevant budget allocated for the preparation and conduct of elections.

According to the law, elections are a form of direct expression of the will of citizens carried out in accordance with the Constitution of the Russian Federation, Federal laws, constitutions (charters), laws of constituent entities of the Russian Federation, and charters of municipalities in order to form a state authority, local self-government body, or to confer powers on an official.

It is worth noting that when determining the legal status of participants and regulating the dynamics of the electoral process at its stages, the legislator sometimes uses the term

"election period" instead of "election campaign" or "election campaign period".

Paragraph 17 of article 29 of Federal law No. 67-FZ stipulates that "for the period of preparation and conduct of elections", a member of the Commission with the right to vote who is released from the main job, retains the main place of work (position) and is paid monetary compensation. The term of this guarantee is clearly perceived as the period of the election campaign [14, p. 61-62].

According to paragraph 1 of article 58 of Federal law No. 67-FZ "when conducting elections" to local self-government bodies, in certain cases, a candidate does not have to create an election Fund. And in paragraph 3 of article 60 of Federal law No. 67-FZ, the legislator also uses the phrase "during elections" instead of the election campaign period, regulating issues related to the work of the control and audit services of election commissions.

The question remains: when does the "holding of elections" end? Is the conduct of elections the same as the end of an election campaign? We should assume that the process ends when the result is reached. In the case of elections, the formation of a public authority or the granting of powers to an official. However, based on the results of voting, the representative body is not always elected in the authorized composition, and the official may not be elected, or the decision to elect him may be canceled on the grounds provided for by law, the election may be declared invalid. Thus, the result of the election may be the need to call a repeat election. In this case, it would be legitimate to claim that the election campaign in a particular election has ended, and the election of a public authority (official) is continuing. Rather, they will continue as part of the new election campaign, after the publication of the decision to call

repeated elections.

Based on the provisions of Federal law No. 67-FZ, an election campaign is an activity aimed at forming a public authority and empowering an elected official. Let's consider the necessary time period for this activity based on its goal setting.

#### **4. Time limits of an election campaign**

The purpose of the election – the determination of the competent entity of the polling day at the election and boundaries election campaign, it "gives "legal start" the beginning of the campaign, in connection with which the subjects of electoral legal relations may begin to exercise their rights in the manner prescribed by the electoral law" [15, p.31]. The legislator connects the beginning of the election campaign period with the publication of the act defining the day of voting in elections. On the one hand, this is logical, since it is with the publication of this act that a wide range of subjects will learn about the new election campaign. On the other hand, when making a decision to call an election, there is a duty to publish this decision within the established time frame. Any failure to comply with this obligation will be a violation of electoral rights during this particular election campaign. In addition, including the period before the publication of the decision to call elections in the election campaign period will allow election commissions to start their work without waiting for the publication of the decision to call elections.

It seems that the legally defined time of the end of the process is not directly related to the achieved result. What is the reason that the election campaign ends after the submission of the final financial report on the expenditure of budget funds allocated for the preparation and conduct of elections? In Federal elections to provide the CEC a financial report has a deadline of not later than three months from the day of

official publication of General election results the Same deadlines are set and the legislation of subjects of the Federation .

Of course, financial and budgetary issues are important. However, the election campaign begins not with the allocation of money for elections, but with the publication of the decision to call elections. The preparation and submission of financial reports by election commissions can be attributed to the current activities of these state or municipal bodies rather than to the election campaign. Artificial prolongation of the election campaign for several months is not justified by any objective circumstances.

The arguments for this extension of the election campaign include the following:

- after the elections, candidates (electoral associations that participated in the elections) must submit their final financial reports to the election Commission that registered candidates (lists of candidates). It is logical that they fulfill this duty within the framework of the election campaign, while maintaining the status of candidates;

- it is still possible to Finance the activities of election commissions from the funds allocated for the preparation and conduct of elections.

However, these arguments do not look very convincing.

The end date of an election campaign depends not only on the level of the election (the higher the level, the longer the campaign), but also on the will of the election Commission organizing the election. Of course, the deadline for submitting a financial report is set by law. But there are no legal or technical obstacles to the election Commission submitting its report as soon as possible without waiting for reports from campaign participants, creating a situation in which the election campaign is legally completed and the candidates have not

yet submitted their financial reports. If we talk about the status of registered candidates, then after determining the election results, it is lost by all candidates (the winner acquires the status of an elected Deputy or official), which in no case cancels the obligation to submit the final financial report, does not terminate the right to challenge the results of voting and election results. On the other hand, the election Commission may, in violation of the law, delay the submission of its report. In this case, the election campaign is automatically extended for a non-indefinite period.

As for post-election financing of election commissions, it should be noted that the submission of the financial report of the Commission organizing elections does not end the activities related to a particular election campaign. Thus, different terms of storage, transfer to the archive and destruction of election documents have been established. Not all legal disputes can be completed by the formal end of the election campaign, and, therefore, it is possible to make changes to the results of voting and election results based on the results of consideration of administrative claims by the courts.

Arguments about the time of the end of the election campaign are not scholastic in nature, but have a very practical application.

The law strictly stipulates that during the election campaign:

- the list of polling stations and their borders cannot be specified;

- the terms of office of election commissions at all levels are extended;

- no decision can be made to disband the election Commission organizing the elections;

- from the date of the end of the election campaign, a three-month period is counted for applying to the court to disband the election Commission;

- there are reduced terms (up to 10

days) for early termination of the powers of members of election commissions with the right to vote and the obligation to appoint new members in their place;

- there is a reduced (five-day) period for consideration of complaints by election commissions;

- labor guarantees of a member of the election Commission with the right of Advisory vote are preserved in the form of a ban on dismissal at the initiative of the employer or transfer to another job without his consent;

- starting from the end of the election campaign, a one-year period of labor guarantees is calculated for journalists who participated in election coverage.

If several election campaigns are held in a row, restrictions related to polling stations and the terms of office of election commissions pose a serious problem. So, in 2018 election campaign at elections of the President of the Russian Federation on 18 March and the election campaign in the Federation in a single voting day September 9, almost superimposed on each other. Given that the five-year terms of office of precinct election commissions expired in most regions during the Presidential election campaign, the CEC of Russia had to prepare a special explanation on the expected end dates of the campaign and the timing of the formation of commissions in order to strictly comply with the law regarding the timing of the formation of precinct commissions. When re-elections are held, there is also an overlap of election campaigns – no sooner does the campaign for the main elections end than the re-election campaign begins, which may prevent the renewal of the composition of election commissions.

Most of the problematic issues will be resolved if the law defines the end of the election campaign as the moment when the achieved campaign goals – election results-are

officially published. Moreover, such a framework for the election campaign already existed in the previous version of the Federal law "on basic guarantees of electoral rights and the right of citizens of the Russian Federation to participate in a referendum". This will not prevent the existing deadlines for certain electoral actions from actually being preserved, since most of the concepts and legal deadlines associated with the term "election campaign" are completed before the election day (campaign materials, election campaigning and various restrictions on it) or have an additional restriction in the law ("during the election campaign or during the year before the official publication of the decision to call elections", "during the election campaign before the voting day").

Considering the election campaign as a technological process, it should be borne in mind that the most valuable and irreplaceable resource of this process is time. "The time reserve is necessary for both the administration-to prepare election funds, and for political competitors-to develop a campaign strategy, develop a program and appeals, recruit activists, raise funds, and perform many other tasks [16, p.135]."

The practice of conducting elections shows that the duration of election campaigns is gradually reduced to three months.

## 5. Stages of the electoral process

Due to such an essential characteristic of the electoral process as consistency, the scientific literature has fixed the consideration of the electoral process through the prism of its stages. This understanding is absolutely natural and corresponds to the content of the electoral process as a tightly regulated complex of legal actions, usually alternating with each other, aimed at achieving a certain result – the election of a representative body of public power or an

elected official.

The time limits of an election campaign are closely related to the stages of the election process. In the literature, one can also find the actual identification of the stages of the electoral process with the stages of the election campaign [17, p. 32]. The dynamism of the electoral process is given by the timely transition from one stage to another on the way to achieving the main goal – the formation of a public authority or the election of an official.

E. V. Korchigo understands the stage of the electoral process as a discrete time-a set of electoral actions and procedures, United's own self-purpose and aimed at achieving the stipulated procedural norm of electoral law results, ensuring the achievement of the common goal of the electoral process, and characterized by a special range of subjects and their reasons (actions and procedures) the Commission [18, p. 97]. We should agree with this opinion, bearing in mind that the purpose of this process is to implement the electoral rights of citizens of the Russian Federation and other participants in elections.

In the scientific literature, there has never been a consensus on the composition and name of the stages of the electoral process. A number of authors tend to excessive fragmentation of the stages forming the electoral process [19, p. 340; 20, p.4], others group various electoral actions into larger stages based on the unity of functional purpose in the election regime [21, p. 33-34; 7; 5, p. 297; 11, p. 113-114, 123; 13, p. 62-63; 6, p. 646; 22]. In studies of the Soviet period, one can find a division into three stages [23, p. 75]. Along with the main stages of the election process, there are also optional stages – additional nomination of candidates, repeated voting, appeal of the results of voting and election results.

In modern conditions, the formation of precinct and district election commissions formed for the period of the election campaign can be added to the optional stages. It is hardly justified to refer to the optional stages of the electoral process as the recognition of elections as failed or the results of elections as invalid [24, p. 82-83], since they are variants of the election result. When enumerating and researching the stages of the electoral process, modern scientists rely on the calendar of the election campaign (as an exception, we can only mention the stage of appealing the results of voting and election results highlighted by individual authors). Opposing the allocation of a particular group of electoral actions to a separate stage of the electoral process, the argument is made for the Commission of these actions outside the boundaries of the election campaign. "It seems unreasonable to refer to the stage of the electoral process such a national event as the registration (registration) of voters. The procedure for registration (registration) of voters is carried out outside the framework of the electoral process twice a year, regardless of the appointment and conduct of elections" [22]. It can be clarified that the registration of voters is a permanent process, and the number of voters is recorded annually on January 1 and July 1. The proposal to allocate the inter-election period as an independent stage of the electoral process was expressed, but did not receive further development [25, p.6; 26, p. 150-151]. The new stage was supposed to last from the moment when the election Commission provided the financial report on the conduct of elections to the day when the decision to call new elections was officially published. At the same time, it is not completely clear: will the election campaign for additional elections of a representative body Deputy be an inter-election period? Numerous electoral actions between elections are conducted by different subjects at



different times and do not have a single goal that would allow them to be attributed to the same stage of the electoral process. If we consider the period between elections through the prism of the activities of the election commissions between elections is the time when the relevant territory is not carried out the election campaign, not the time from the end of the relevant election campaign until the next elections of the official or representative body. In this regard, it seems that the period when there is no election campaign, can not be combined into a separate stage of the electoral process.

In General, sharing the approach of preemptive compliance of the stages of the electoral process with the stages of the election campaign, taking into account changes in the electoral legislation and in the practice of preparing and organizing elections, it is important to clarify the list of stages of the electoral process.

The development of the national electoral system is on the way to stabilize the territorial basis of elections and professionalize the work of election commissions. If earlier, within the framework of each election campaign, electoral districts and precincts were formed, district and precinct election commissions were formed, then at the present stage everything has changed. Electoral districts in the elections of representative authorities were formed for a ten-year term, and polling stations became permanent. Precinct election commissions (with the exception of those formed in places where voters temporarily reside) are formed for a five-year term. District election commissions are being created less frequently. Their powers (depending on the level of elections) are usually assigned to the election commissions of the subjects of the Russian Federation, territorial and municipal election commissions.

Thus, the need to review the stages of the electoral process is due to the development of the organizational and technological basis of elections, the introduction of a number of actions and procedures beyond the limits of a specific election campaign, that is, in the inter-election period.

In our opinion, the mandatory stages of the electoral process include:

- determination of the voting day and publication of the decision to call elections,
- nomination and registration of candidates (lists of candidates),
- election agitation,
- voting, determining the results of voting, determining the results of elections and publishing them.

These stages fully reflect the essence of elections – a lengthy process of granting public powers to bodies and officials by voting. At the initial stage, the competent authority decides when the election will take place and makes this information publicly available. At the next stage, the subjects of the electoral process declare their intention to exercise the passive electoral right and undergo the registration procedure for participation in elections. After the nomination of candidates (lists of candidates), the main and longest stage starts – the election campaign of candidates and electoral associations, that is, persuading the electorate to make their choice on the day of voting. And the decisive stage is the voting itself (on election day and ahead of schedule) and summing up its results with the publication of the election results. A large number of activities is carried out continuously, regularly and regardless of the campaign or during the election campaign (for example, registration (accounting of voters), the formation of electoral districts and polling stations, the formation and organization of activities of election commissions, financial support for the preparation and conduct of

elections, the use of gas "Vybory", storage of election documents). In this regard, it was even proposed to "transfer" in legislative acts the provisions regulating these organizational (non-procedural) activities from the chapters devoted to individual stages of elections to the chapters containing General provisions on the preparation and conduct of elections [17, p.33].

At the same time, it should be noted that the logical sequence of stages of the electoral process, as a rule, does not entail the need to complete one stage by the beginning of the next. This transition is smooth. There may be different stages in an election during the same time period. For example, the stage of election campaigning begins almost immediately after the stage of nomination and registration of candidates, lists of candidates (it is Worth noting that the legal regulation of elections before 2002 was different: the stage of election campaigning began after the end of the registration stage). And, although the agitation stage ends at 0 o'clock one day before the voting day, it cannot be said that it does not intersect with the voting stage, since early voting begins before the agitation stage ends. In addition, it should be added that the stage of campaigning through the media begins after the end of registration of candidates (lists of candidates). This legal provision is also due to the fact that for the fair division of such limited resources as print space and airtime, it is necessary to clearly determine the range of applicants.

Deadlines are applied at all stages of the electoral process [27, p. 16]. They not only mark the boundaries of the stages of the electoral process, but also affect the institutional component of the electoral process. Their role is no less important in the subject and technological components of the electoral process. Electoral deadlines

distinguish stages and determine the possibility of performing certain electoral actions within them, as well as they are an element of the legal status of electoral subjects.

## 6. Conclusions

Thus, the time frame in the election process is broader than the time frame in the election campaign. The appearance of the starting point of the election campaign – the date of election appointment-is mutually linked with the determination of the date of voting in elections and is impossible without calculating the terms of office of elected public authorities and officials.the decision To call elections determines the boundaries of the election campaign and, consequently, the period of time when the electoral rights of citizens and electoral associations can be exercised. The time frame for the implementation and restrictions of electoral rights and their protection is outlined.

In modern conditions it is necessary to curtail the statutory election campaign period and, as a consequence, the concept of "election campaign", which is preferably defined as the activities on preparation and conduct of elections carried out in the period from the date of the decision of the authorized body or officials of the election to the day of official publication (publication) of the decision of the election Commission that organizes the elections, about election results.

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