

"People" as the subject of constitutional relations: theoretical and law enforcement problems

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Abstract— The work outlines the need to identify the constitutional legal content of the concept "people", presents the existing approaches to its definition. A nation, as an ethnic community, is proposed to be defined through the category of "person"; as a political community through the category of "citizens", "voters", "electorate"; as a subject of constitutional legal relations through the category "the electorate voted". The analysis of the possible influence on the decision taken of the voters' position "against all" is made, as well as those who did not take part in the voting at all (in the case of the presence of an established regulatory requirement for turnout or lack thereof). It is noted that the will of the people established by the legal-mathematical method may not be legitimate in certain situations, contrary to the true will of the majority of citizens, the majority of voters. There is a thesis of the need to comply with the will of the people, represented by a set of individual positions, the electorate voted - the will of the majority of the population. A part of the population gathered in a group, and sometimes in a "crowd", a "wise crowd" cannot be replaced by all the people. The paper analyzes the right of the people to resist the usurpers of people's power and duties. It is proposed to delimit the forms of direct democracy into types, depending on whether they are realized: directly by the "people", as a body of citizens or individual "citizens" or a group of individuals. The author emphasizes that people are certainly the bearer of rights, sometimes specific duties. The paper suggests ways to improve the effectiveness of the institution of democracy.

Keywords— *people, elections, referendum, sovereignty of the people*

I. INTRODUCTION

The relevance and significance of the work are predetermined by the objective need to study the categories of "people", "multinational people" in constitutional law, as well as the need to increase the effectiveness of constitutional legal regulation of forms of direct democracy. The purpose of the work is to identify the definition and identification of the characteristic features of the concept of "people" as the subject of constitutional legal relations.

In the theory of law there is no single position on the concept of "people", there are gaps in the development of the legal personality of the people, the equal meaning is often meant by the concepts of "people", "citizens", "electorate", "crowd". It is proposed to distinguish between forms of direct democracy and realizable by the "people" as

a body of citizens and implemented by individual "citizens" or a group of individuals.

Work hypothesis. The "people" as a subject of constitutional legal relations are already substantial in the categories "population of the state", "citizens of the state". Conducting a study of the concept of "people", the author takes his position on its use, supplements its content. The rationale for the point of view that the people are the bearer of rights, sometimes specific duties is given.

The paper attempts to provide answers to current questions on the basis of regulatory requirements. What is the meaning of the so-often used the term "people"? What does "people" mean? Are they all residing in the territory of the Russian Federation or only some part of them?

II. MATERIALS AND METHODS (MODEL)

The fundamental methods of scientific knowledge used by the author are the method of analysis: systemic, etymological, etc. Etymological and systemic analysis will determine the meaning of the term "people". The formal legal method is aimed at disclosing the legal component of the concept of "people", forms of realization of the ideas of democracy. The work analyzes scientific developments on the problems of democracy, the provisions of international treaties and regulatory acts of some states, acts of the European Court of Human Rights, the Constitutional Court of Russia.

III. RESULTS AND DISCUSSION

The Constitutions (Fundamental Laws) of many democratic states use the term "people": "We, the multinational people of the Russian Federation ... adopt the Constitution of the Russian Federation" (the Constitution of the Russian Federation (12/12/1993) was adopted by popular vote); "... the German people adopted this Basic Law of the Federal Republic of Germany" (the Basic Law of the Federal Republic of Germany (May 23, 1949) was adopted by the Parliamentary Councils); "The French people solemnly proclaim their commitment to human rights and the principles of national sovereignty" (The Constitution of the French Republic (09/28/1958) was adopted by referendum).

There are two main approaches to the definition of the term people: as an ethnic and as a political community.

Depending on the approach, "people" is defined through such categories as "population", "inhabitants of the country", "nation", "nationality", "citizens", "voters", "electorate", etc. [1].

S.I. Ozhegov notes that the people are the population of a state, the inhabitants of a country; nation or nationality "[2].

Other specialists expand the variants of the meaning of this word and add "the bulk of the working population" [3], "the main labor mass of the country's population [4, 5]," people, a group of people; the crowd"[6].

V. Dal as the meaning of the word "people" - indicates "people born in a certain space; people in general; residents of the country speaking the same language; ordinary people of the state, countries under one administration; mobile, common people, lower tax classes; multitudes , the crowd "[7].

Defining the concept of "people", the authors of the Great Encyclopedia note that this is "an ethnic community, a group of people who have a common origin and history" [8]. In the New Russian Encyclopedia it is indicated that the people are synonymous with ethnicity and nationality; in the political and social sphere — the category of a collectivist, joint, common-cause understanding of the source and purpose of the development of the state [9].

The President of the Russian Federation in his Address to the Federal Assembly (12/01/2016) noted: "When people feel they are right, they act unitedly, and confidently follows the chosen path." An important characteristic of a nation as an ethnic community is its cohesion into a single whole [10].

Based on the above interpretations of the word "people" as an ethnic community, it can be concluded that a fundamental component of the people is a person (who may or may not be a citizen of a state). Describing people as a political community, one cannot help emphasizing the use of such concepts as "citizens", "voters", "electorate", "electorate voted."

The people, as a political community, are the main subject of constitutional legal relations, the source of power in the state.

Article 6 of the French Declaration of the Rights of Man and the Citizen (August 26, 1789) states that the law is an expression of the common will; all citizens have the right to participate personally or through their representatives in its creation.

Paragraph 3 of Article 21 of the Universal Declaration of Human Rights (December 10, 1948) proclaims that the will of the people must be expressed in periodical and genuine elections and be the basis of the government authority. Article 3 of Protocol No. 1 to the "Convention for the Protection of Human Rights and Fundamental Freedoms" (03.20.1952) imposes on states the obligation to "hold free elections at reasonable intervals ... in conditions that would ensure the free will of the people ...".

These provisions are spelled out in the "Declaration on the Criteria for Free and Fair Elections" (March 26, 1994), which states that in any state the full power can flow only

from the will of the people expressed in genuine, free and fair elections organized during regular periods of time on the basis of universal equal and secret voting (Article 1); Every adult citizen has the right to vote in elections without any discrimination (Article 2, paragraph 1).

Paragraph 12 of the Universal Declaration on Democracy (26.03.1994) confirms that: "a key element in the implementation of democracy is the holding of free and fair elections at regular intervals, which would ensure the possibility of expressing the will of the people".

The Convention on Standards of Democratic Elections, Electoral Rights and Freedoms in the States Parties to the Commonwealth of Independent States (07.10.2.2002), in continuation of the democratic traditions of international law, has stipulated that democratic elections are one of the highest direct expressions of the power and will of the people (article 1), every citizen upon reaching the age established by the constitution, the laws have the right to elect and be elected to public authorities, local authorities, other people's bodies (national) representation, to elective posts in accordance with the conditions and the procedure provided for by the Constitution and laws (Article 2); during genuine elections, it is ensured that the free will of the people is revealed and directly implemented (Article 9 § 1); genuine elections provide voters with the opportunity to elect candidates on the basis of the Constitution and laws (article 9, paragraph 2).

The Constitution of the Russian Federation states that the bearer of sovereignty and the only source of power in the Russian Federation shall be its multinational people (part 1 of article 3); The people shall exercise their power directly and local self-government (part 2 of article 3); The supreme direct expression of the power of the people shall be referendum and free elections (Article 3, part 3).

From these norms of international documents and the Constitution of the Russian Federation, it follows that the will of the people finds expression in genuine, free and fair elections, in which not the entire population of the state participates, but only persons endowed with active voting rights (voters). The European Court of Human Rights systematically in its judicial acts maintains the provisions of the concept of "implied restrictions", according to which the voting rights are not absolute and when they are regulated at the national level, certain discretion of the state is assumed. At the same time, the European Court of Human Rights notes that the circle of persons entitled to participate in elections should not be arbitrarily limited to a referendum.

Thus, Article 3 of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms ETS N 009 (03.20.1952) states that the High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot in such conditions as would ensure the free will of the people when choosing legislative bodies.

In some states, the ban on voting for convicts is traditional. Armenia, Bulgaria, Hungary, Georgia, Russia, Great Britain, Estonia automatically deprive citizens who have been sentenced to imprisonment and are actually serving such punishment, the right to vote.

The European Court of Human Rights judgment in the case of Anchugov and Gladkov v. Russia "(07/04/2013)

acknowledged the violation of the right to free elections by the provision of part 3 of article 32 of the Constitution of the Russian Federation, according to which all citizens held in places of deprivation of liberty by a court sentence do not have the right to elect government bodies. European Court of Human Rights I came to the conclusion that, in the light of modern penitentiary policies and current human rights standards, such a universal prohibition against electing government bodies should have strong and convincing grounds.

A similar position was expressed by the European Court of Human Rights in the case of "Hirst v. United Kingdom (N 2)" (06.10.2005), in particular, it was noted that convicts in general, continue to enjoy all the fundamental rights and freedoms guaranteed by the Convention, with the exception of the right to liberty (in cases where the lawfully applied deprivation of liberty refers to scope of Article 5 of the Convention). It is also emphasized that the blanket deprivation of all convicts held in British prisons is applied automatically to such convicts, regardless of the length of imprisonment, the nature or gravity of the crimes committed and their individual circumstances. The conclusion of the European Court of Human Rights is that the general, automatic and non-selective limitation of the vital convention law should be considered as going beyond any acceptable limits of discretion, no matter how wide they are, and incompatible with Article 3 of Protocol No. 1 to the Convention.

In connection with the request of the Ministry of Justice of the Russian Federation, Resolution No. 12-P of the Constitutional Court of the Russian Federation (April 19, 2016) found it impossible to execute the decision of the European Court of Human Rights in the case of *Anchugov and Gladkov v. Russia* "(07/04/2013) in terms of general measures that imply amending Russian legislation (and thereby changing court practice based on it), which would limit the electoral rights of not all convicts serving sentences in places of imprisonment by sentence the court, since the prescription of part 3 of article 32 of the Constitution of the Russian Federation, which possesses supremacy and the highest legal force in the Russian legal system, most definitely means an imperative ban, according to which are of voting rights without any exceptions were all convicted persons serving their sentence in prison, certain criminal law.

The traditional qualification, the observance of which is associated with the provision of active suffrage, is age. European Commission for Democracy through Law (5-6 July and 18-19 October 2002) Article 1 (a) of Article 1 of the Code of Good Practice in Electoral Law adopted by the European Commission for Democracy through law) establishes that (the right to vote and to be elected shall be limited to the minimum age); the right to vote must be acquired (vote must be acquired no later than the age of majority).

In most states, a citizen has the right to vote when he/she is 18 years old (in Japan it is only possible to vote at the age of 20). The majority of the population considers this qualification quite reasonable, necessary and associated with the insufficient political maturity of minors. Although, for example, in Austria, Brazil, Iran, Nicaragua, the age at

which the right to vote is granted is increasing - citizens do not participate in elections from the age of 18, but from 16. Moreover, young people vote as well as other voters [11].

The obvious fact is that not the entire population and not all voters participate in elections, referendum, and popular vote.

For example, on December 12, 1993, the "Constitution" of the Russian Federation was voted out of 106,170,835 voters included in the lists - only 32,937,630 (58.43%) [12]. The total population of Russia in December 1993 was about 148 million people [13]. The Constitution of the Federal Republic of Germany was adopted not by referendum, not by popular vote, but by Parliamentary councils elected by citizens of the country, endowed with an active electoral right. By not tricky mathematical calculations, we obtain that of all the inhabitants of Russia, only about 22% voted directly for the adoption of the Constitution of the Russian Federation. The preamble of the existing Constitutions of Russia, France and Germany by their "people" adopted means the totality of electorate voted. The people, represented by the whole electorate voted, adopting the Constitution of the Russian Federation at a nationwide vote, were the subject of constitutional legal, electoral legal relations.

The Constitutional Court of the Russian Federation in Resolution No. 1-P (01.02.2005) defines the people as the whole citizens, points to the collective participation in the exercise of power in the Russian Federation of citizens who constitute in their totality the multinational people of the Russian Federation.

Expressing his special opinion in connection with the Decree of the Constitutional Court of the Russian Federation N 17-P (November 29, 2004), the judge of the Constitutional Court of Russia N.S. Bondar draws attention to the following: "The constitutional principle of equal suffrage is directly interconnected with the principle of the free will of the people in elections, which involves the provision of adequate guarantees for the realization of electoral rights (active and passive) to the entire electoral body".

Taking into account this provision of the Constitution of the Russian Federation, two forms of exercising the power of the people can be distinguished: direct (direct) democracy, representative democracy - the delegation of its power by the people to state authorities and local governments. The Constitution of the Russian Federation enshrines the following forms of direct democracy: a referendum, elections, participation in the activities of associations, public events (meetings, rallies, demonstrations, processions, pickets), appeals to state bodies and local governments, local self-government.

However, the Constitution of the Russian Federation and the current legislation does not contain an exhaustive list of forms of direct democracy, through which the people can express their power. Listing the forms of direct democracy, with the exception of a referendum and elections, the Constitution of the Russian Federation uses the term "citizens" and not "people." A similar position on the use of these terms can be traced in the laws and regulations implementing legal regulation on the implementation of

forms of direct democracy. Only elections and referendum are called in international acts and the Constitution of the Russian Federation as the highest forms of direct/direct democracy of the people.

Federal Law of the Russian Federation N 67-FZ "On Basic Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation" (12.06.2002) detailing the legal regulation of the provisions on democracy, establishes: elections are a form of direct 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, charters of municipal formations for the purpose of forming a government body, a local government body -government or granting authority officer (paragraphs 9 9 n article 2.); the voter is a citizen of the Russian Federation who has an active electoral right (clause 18, clause 9 of Article 2); referendum of the Russian Federation - a referendum held in accordance with the Constitution of the Russian Federation, the Federal Constitutional Law "On the Referendum of the Russian Federation", this Federal Law among citizens of the Russian Federation who have the right to participate in a referendum, whose place of residence is located in the Russian Federation Of the Russian Federation residing or staying outside the territory of the Russian Federation (clause 55 clause 55 of Article 2).

From these provisions, it follows that the general will of the people is not identical to the will of the entire population of the state, but is a combination of individual positions of the electorate voted.

The Constitutional Court of Russia in Resolution No. 8-P (April 22, 2013) points out: "A citizen as a voter has the right to expect that his vote in support of a candidate (list of candidates), simultaneously being a part of the general will of the people, will be filed and recorded by an authorized body in strict accordance with the act of will".

It seems that it is in elections and in a referendum that the people as the subject of constitutional legal relations should be understood only as the electorate voted. In a referendum and elections, the people act as a consolidated subject of law that forms and expresses its popular will, identical to the will of the majority of voters who cast their vote in elections.

As a rule, only citizens who have an active electoral right have the right to participate in elections and a referendum and, therefore, by expressing their individual will, they are able to influence the identification and determination of the general will of the people as a subject of constitutional legal relations.

It is necessary to ensure that during the elections there is "the possibility of direct expression of the will of the people; the will of the people must be adequately expressed in the election results" [14].

In the United States, one of the problems is the non-statutory participation of foreigners in elections. When registering at a polling station and receiving a ballot, as a rule, a driver's license or other document is sufficient, including without a photo. Foreigners do not indicate that they are not US citizens and are given the opportunity (but not the right) to vote in elections [15].

One of the most common positions on the notion of the people, as a subject of constitutional powers of government, is that under it "the Constitution of Russia, of course, understands in a global sense all citizens of the state, who in their totality constitute the very people" [16]. Every citizen, including one who does not have an active electoral right, has a hypothetical opportunity to become a voter, to participate in elections, a referendum. Other forms of the implementation of democracy are more peculiar not for the people, as the whole citizens, namely for individual citizens or their groups.

Some authors point out that government functionaries who are representatives of the people are elected by a majority of society [17]. In our opinion, this is rather an idealistic goal and not a fait accompli. The concept of "society" is a broader concept than "people", as well as the concept of "man" is broader than "citizen". It should also be borne in mind that not all voters participate in the elections, and, moreover, not all the participants vote for the winning candidate.

In our opinion, the legal content of the concept "people" (as a subject of constitutional legal relations, not in a global, but in a strictly formal legal sense) includes all citizens of the state endowed with an active electoral right. However, in the absence of a legislative requirement for a minimum voter turnout, the actual content of the concept "people" is a collection of citizens who not only have an active electoral right to participate in the referendum, elections but also actively participate in the referendum and elections.

To refer to draft dodgers in elections and referendums, the term "non-voter" is used [18].

Describing the belonging of other forms of direct democracy to the people, as a subject of constitutional legal relations, let us pay attention to the following. Do the people, as a subject of constitutional law, exercise power through participation in activities of associations, public events (meetings, rallies, demonstrations, processions, pickets), appeals to state bodies and local governments? What is the number of citizens participating in a political party, a public event, or having sent an appeal to an authority that tells us this is the will, the decision of the people? How can it be determined what it is the people or a group of extremists? The current legislation does not contain an answer to this question. It seems that these forms of direct democracy are more inherent to individual citizens, and not to the people as a subject of constitutional legal relations. The real will of the people can be revealed only in a referendum and elections - all voters can come to the polling station and express their position in the prescribed manner, thereby determining the will of the majority. No other form of direct democracy can offer this.

The Resolution of the Constitutional Court of the Russian Federation N 18-P (December 15, 2004) states: "Political parties ... by consolidating the political interests of citizens ... contribute to the formation of the political will of the people. In political parties' struggle for power, the necessary democratic environment is created. It allows the multinational Russian people as the bearer of sovereignty and the only source of power in the Russian Federation consciously choosing the optimal directions for the

development of society and the state, achieving civil harmony."

A party with the support of even the majority of voters is not called a "people." The "people" cannot be understood and several parties in the aggregate supported by an absolute majority of the population. It is obvious that a part of the population gathered in a group, and sometimes in a "crowd", "a wise crowd" [19], using their right to public events, has no right to make a binding decision on the abolition of some rule of law, on dismissal persons of the state, including those elected by the people through elections.

The law sometimes provides for the right of people to resist usurpers of people's power.

United States Declaration of Independence (04.07.1776) stated in the preamble: "... when a long series of abuse and violence ... reveals a desire to subordinate people to absolute despotism, then the right and duty of the people to overthrow such a government and create new guarantees to ensure their future security ...".

Article 35 of the French Declaration of the Rights and Freedoms of Man and Citizen, which is an integral part of the French Constitution (06.24.1793) established: "When a government violates the rights of a people, an uprising for the people and for each of its parts is its sacred right and the most urgent obligation".

Article 3 of the Constitution of the Republic of Lithuania adopted by referendum (25. 12 1992) states: "No one can infringe upon or limit the sovereignty of the People, to appropriate the sovereign will, belonging to the whole People. The people and every citizen have the right to oppose anyone who by force violates independence, territorial integrity, and the constitutional order of the Lithuanian state.

"Fixing the people's right to resist, the legislation did not define the specific powers of this right and the mechanism for its implementation. Not a single revolution was carried out by the whole people: individual citizens - yes, the crowd - yes. The people, as the subject of constitutional legal relations, only through fair elections and a referendum, delegate the power belonging to it, form the authorities vested on its behalf with the right to exercise state power and local self-government.

The multinational people of the Russian Federation, therefore, are the subject of constitutional legal (including electoral and referendum) relations, which is designated as a specific feature of constitutional law as a branch of law. In other branches of domestic Russian law, people as a subject of legal relations, as a rule, are not singled out. But T. Bogdanov indicates that "the people, being a subject of politics, cannot but be a subject of law, including civil law" [20].

The subject of legal relations is traditionally understood as a person covered by law having a legal personality, acting as a bearer of rights and obligations.

The people, of course, are the bearer of rights, sometimes the bearer of specific duties. The multinational people of the Russian Federation have the right to directly

make certain decisions, as well as the right to form government bodies and local self-government bodies.

The Constitution of the Russian Federation has not established any responsibilities for the people, in contrast to the constitutions of other states. For example, the third chapter of the Constitution of Japan (03.11. 1946) is entitled "Rights and obligations of the people". The Japanese people are not only endowed with individual rights, but they are also assigned certain responsibilities: by continuous efforts to uphold the rights and freedoms guaranteed by the people to the Constitution; refrain from any abuse of these freedoms and rights. Note that these duties of the Japanese people are not specific, the mechanism for their implementation is not clear, there is no mechanism for bringing to responsibility for non-performance of this duty. In addition, the Constitution of Japan stipulated that people are responsible for the use of rights and freedoms in the interests of public welfare. However, it is not established what exactly this responsibility is expressed in, how people can be brought to legal responsibility.

The constitutional legal personality of the multinational people of the Russian Federation is expressed in the fact that only he/she is the carrier of sovereignty, the only source of power in the country. In addition, the Declaration on the Granting of Independence to Colonial Countries and Peoples (12/14/1960) affirmed that all peoples have the right to self-determination, on the basis of which they freely establish their political status, carry out their development. The Resolution of the Constitutional Court of the Russian Federation (March 13, 1992) states that the right of people to self-determination is exercised by means of legal will. It is also noted that this right to self-determination has limits and is limited by the observance of international principles of territorial integrity, human rights.

The subject of legal relations is characterized by the ability to develop and express their own personified will. The legal mechanism for identifying the will of an entire people is represented by the highest forms of democracy in which voters participate. A voter in the Russian Federation is not any individual, but only an active citizen of the Russian Federation.

Resolution No. 8-P of the Constitutional Court of the Russian Federation (April 22, 2013) states that the general will of the people as a sum is made up of individual votes of citizens as voters. Thus, voters, participating in elections or a referendum and expressing their individual will through the use of a ballot paper, are able to influence the determination of the general will of the multinational people of the Russian Federation.

It is axiomatic that not all voters participate in elections. In case of establishing a regulatory turnout requirement, voters, even without participating in an election or referendum, can influence the formation (legal formalization) of the general will of the people. If the lower threshold of those appearing at the polling station is not overcome, then the election or referendum is declared invalid, which means that it is impossible to identify the legally formed general will of the people.

In Russia, non-voting citizens can influence the legal identification and consolidation of the common will of the

people only during a referendum, since the threshold for mandatory attendance for elections is not provided, but set for the referendum of the Russian Federation.

In the absence of a statutory established lower threshold for voter turnout, the sum of the votes of at least two voters who voted for a certain decision will be the personified will of the whole people. The will of the people established in such a legal-mathematical way may not be legitimate, contrary to the true will of the majority of citizens, the majority of voters.

The question of the legitimacy of the decision arises when the decision was taken by a slight majority. At the press conference (12.20.2018) V.V. Putin drew attention to the modern negative changes in the sphere of democracy: "Trump won - this is an obvious fact ... but they do not want to recognize this victory, because this is disrespect for the voters ... Or in Britain: the Brexit passed - no one wants to perform. And after all, they don't recognize that the election results. Democratic procedures are offset, they are destroyed, their value is destroyed. "V.V. Putin, in connection with Brexit in the UK, also noted that the will of the people expressed at the referendum must be fulfilled "or otherwise it is not a referendum at all. Someone didn't like it - again and again. Is this a democracy or something? Yes, I'll see the critics of this process will assess the situation when and if they get spit on this Brexit and will hold all these activities again until they satisfy someone."

After the cancellation in the Russian Federation in 2011 of the seasonal daylight-savings to the Volgograd Regional Duma, proposals began to come in from the Moscow time to the local time. Due to the heterogeneity of the position of the deputy corps, no decision was made. At the end of 2017, a regional referendum was initiated. March 18, 2018, in the Volgograd region for the first time after the adoption of the current Constitution of the Russian Federation was held a referendum on switching to local time. More than 66% of voters took part in the regional referendum, of which over 58% voted for the transition to local time. However, disputes on switching to local time did not stop after the referendum. Currently, it is actively discussed that a new referendum should be held, since it was not the voters who voted, but those who opposed switching to local time did not come to the polling station.

It is noted that turnout in referendums is usually lower than in parliamentary elections, and tends to shift towards citizens with high socio-economic status. Consequently, critics of direct democracy argue that the results of the referendum may not reflect the preferences of the general population [21].

The current Russian referendum legislation does not allow for the possibility of a second referendum within two years from the date of the official publication of the results of the previous referendum on a similar issue. It seems that in order to impart stability to the legal system, it would be logical to extend this period to the term of office for which government bodies are elected (5-6 years).

The Constitutional Court of the Russian Federation in Resolution No. 17-P (06.10.1998) noted that "the will of the voters can be expressed by voting not only for or against individual candidates but also in the form of voting against

all candidates on the ballot. The fact of the negative attitude of the majority of voters to all candidates, confirmed by a "against all candidates" vote by a larger number of voters than voted for the candidate who gained the most votes, means that this candidate did not receive the support of voters, necessary sufficient to ensure genuine representation of the people."

Judge of the Constitutional Court of Russia A.L. Kononov, in the dissenting opinion in connection with the Decree No. 17-P of the Constitutional Court of the Russian Federation (November 29, 2004), noted that the will of the voters "against all" means that the candidates are denied the right to represent the people in elected bodies of public authority. A.L. Kononov also noted that "elections as a way to identify the will of the people ... are based on the priority of the will of the majority of voters who took part in the vote."

Voters, using sometimes the right to vote "against all" set forth by law, also have the opportunity to influence the results of the determination of the will of the people. In the Russian Federation, voting "against all" in the elections of state bodies is not provided for, but it is possible in municipal elections. The column against all can be established in accordance with the law of the subject of the Russian Federation. If in this box, the mark will put a greater number of voters than in the column of the leading candidate, then the elections will be recognized as invalid. It seems that it is logical to return this column in the elections of state bodies, which will increase the voter turnout and give greater legitimacy to the decision.

President of the Russian Federation V.V. Putin, speaking on December 12, 2012 with the annual Message to the Federal Assembly, drew attention to the need to pay more attention to the development of direct democracy, and also said: "In the streets of our cities and towns we see today the results of what happened in the state, in society, at school, in the media, and in our heads in the past, in the previous 15-20 years. We are in a way, spilled out the child together with the dirty water. Today, it is manifested in indifference to public affairs, often in a willingness to put up with corruption, with arrogant greed, manifestations of extremism and offensive behavior. And all this sometimes gets ugly, aggressive, defiant forms, I will say more - it creates long-term threats to society, security and the integrity of Russia."

Officials of the state to whom the people of Russia delegated their power through nation-wide voting held on December 12, 1993 and periodically held elections of government bodies are obliged to strive to improve the existing democratic institutions, implement the principle of the priority of human and civil rights and freedoms, respect the norms of the Constitution, internationally recognized standards and existing legal norms, the unity of law and legal practice. When adopting legal acts, the requirements of legal norms that are of greater legal force must be strictly complied with.

IV. CONCLUSIONS

We believe that the relationship between government bodies and the people should take into account the meaning of the well-known Latin expression "Vox pópuli vox Déi"

("the voice of the people - the voice of God"). Historical experience shows that the imperfection and inconsistency of the lived reality of electoral legislation, not reflecting the true will of the people at elections leads to negative consequences - faith in the effectiveness of the institution of elections disappears, voters withdraw from participation in government elections, the number of dissatisfied with the existing state of affairs increases, and as a result - a systemic crisis of society can occur, as well as revolutionary upheavals.

Improving the legal culture of citizens and, as a result, increasing voter turnout is the most important task of the state, which can be resolved, including the most fully revealing and taking into account the will of the people when making decisions. It seems that the institution of the referendum should be actively used as the highest form of direct democracy of the people. The people and individual citizens should be active subjects of constitutional and legal relations, civil society.

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