

Transformation of electoral right to electoral responsibility: opportunity or necessity

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Abstract—The paper considers compulsory voting as a means of increasing voter turnout. The behavior of citizens with an active electoral right, but not participating in the voting (non-voters) can be compared with the behavior of a stowaway in public transport: even if he does not pay the fare, there will still be transport, because there are those who pay the fare. The non-voter does not participate in the creation, he only consumes. It is obvious that if nobody takes part in the elections, the foundations of democracy will collapse. Obliging to participate in elections can have both positive and negative effects on the development of civil society, raising the level of electoral and legal culture of the population, and developing state institutions. It is possible that the imposition of sanctions on mandatory elections may also reduce recognition of democracy. Ideas related to the possibility of deprivation of citizenship of those not participating in elections are critically evaluated. It is emphasized that there is insufficient evidence to judge the relationship between voter turnout and voting results. It is proposed to clearly affirm the obligation of state and municipal employees to participate in elections. If the level of citizenship and electoral culture of voters becomes higher, the issue of compulsory vote will lose its relevance. Voluntary voting is usually better than compulsory.

Keywords— *compulsory vote, electoral responsibility, suffrage, moral duty of the voter*

I. INTRODUCTION

Questions of the "quality" of democracy are of practical importance. It is clear that compulsory voting has both a primary and a secondary impact on the civic political behavior. Although coercion increases voter turnout, its influence on political participation, consistency with the ideas of democracy and the electoral advantage still provokes heated, unambiguous discussions. In some states, participation in elections was initially introduced as compulsory and justified by the need to involve as much of the population as possible in democratic practices. The relevance of the study also arises from the need to study the advantages and disadvantages of a compulsory vote.

The aim of the work is the study of compulsory voting as one of the possible models for increasing not only the level of participation of the population in elections but also

the quality of people's representation. The question of the availability of clear and reliable evidence showing that a change in turnout has an impact on government spending, election results are being investigated.

Low turnout and potential differences in party preferences between voters and non-voters (individuals who have the right to vote but do not participate in elections on their own initiative) influence the outcome of the vote. Will democracy, society, citizens benefit from increased voter mobilization? What percentage of trust is required by elected institutions?

II. MATERIALS AND METHODS (MODEL)

The fundamental method of scientific knowledge used by the author is the method of analysis. The work will analyze the legislative norms of the states in which voting is the same duty of a citizen as paying taxes, serving in the army, caring for disabled parents, complying with the law, as well as scientific research on the issues of a compulsory vote, provisions of international treaties and judicial practice materials.

The formal legal method is aimed at disclosing the legal basis for the implementation of the ideas of democracy, the compulsory voting. The importance is given to the comparative legal method. Comparison is made of the electoral systems of various states. The method of state-legal modeling allows us reflecting on possible options for increasing voter turnout, including considering the pros and cons of imposing obligations on certain categories of voters to participate in elections. The historical method will be used in the study of the formation of the institution of compulsory voting.

III. RESULTS AND DISCUSSION

Low voter turnout in elections to state and local government bodies shows "indifference to public affairs," a high level of absenteeism; leads to the election of an authority not by a majority, but by an insignificant part of the electorate, to the ineffectiveness of the elections; gives grounds to doubt the democratic nature of the procedures applied and the legitimacy of the elected body. A compulsory vote can be considered as a tool to reduce the level of absenteeism. It is important to use this tool in order to bring benefits rather than harm to citizens, society, and the state.

The issue of motivating the electorate to actively use voting rights constantly attracts the attention of political scientists and lawyers. At first glance, the introduction of a universal electoral duty may solve this problem.

In a moral sense, it is obvious that if a citizen sees the order in a democracy that best corresponds to his views, then, from the point of view of a fair distribution of the burden, everyone should contribute to it. Thus, anyone who does not take part in the elections benefits from the realization of democratic electoral procedures, but he doesn't make any effort at the same time, he relies on what others will do, instead of him, necessary. From the point of view of the theory of democracy, this is one of the arguments in favor of compulsory voting. This does not mean that it will stand the test by the constitutional courts of the states, the European Court of Human Rights. Freedom of choice also includes the freedom of negative choice: in the case of a compulsory choice, one cannot abstain from voting, but there is an opportunity to make your vote invalid.

"A sign of today's transitional time is a revision of people's attitudes towards existing political-state and public institutions. In political terms, this means a shift from "democracy of trust" to "democracy of participation and control" [1]. It is important that this sign is observed more and more often.

In a voluntary vote, all balance implies sincere voting and positive participation. Thus, unlike situations with forced voting, there is no conflict between strategic and sincere behavior. When voting does not require costs, voluntary voting is better than compulsory [2].

Should citizens who have no stable positive active citizenship be legally obliged to vote? We will try to answer this question in light of the characteristics of the positive moments of compulsory vote.

Is there a 51%, 67%, 99% voter turnout from a democracy point of view? What percentage of trust is needed by elected institutions of power? These questions show that there is no objective criterion for the legitimacy of democracy.

The argument that high turnout is a sign of legitimate democracy has already been impressively refuted in the Weimar Republic. The statistics of participation in the elections show that voter turnout was quite high, and on average was about 80%, and in the March 5, 1933 elections, voter turnout reached a record 88.8%. Many citizens of Weimar Germany believed (or at least put on) the results of the elections.

High voter turnout, of course, is not a crisis symptom of democracy. The growth or decline in voter turnout in themselves says little about a democratic regime.

Some states with democratic traditions impose such a duty on all voters. A compulsory vote is a legally established duty of citizens to take part in elections. Compulsory voting appeared in many countries in parallel with universal suffrage, as it was a way to prevent the negative consequences of absenteeism. It was believed that the wealthy classes would manipulate the voices of the less active part of the non-rich. The participation of the majority

of the population contributed to the prevention of this negative effect.

The compulsory vote in Belgium has existed since 1893. When discussing the need to legislate a compulsory vote, it was noted that its introduction was aimed primarily at curbing the possibility of buying absentee votes from the rich establishment. At the present time for ignoring the vote for the first time one can be reprimanded or fined (in the amount of about 50 euros). If you repeat the violation of your duty to participate in the elections, provided that no more than 6 years have passed since the first offense, the size of the penalty imposed will increase substantially (up to 125 euros). In addition, in case of failure to appear at the polling station for the fourth time, a citizen may be deprived of voting rights for ten years, as well as the opportunity to get a position in the public service. If after the first evasion of voting in elections, from 6 to 10 years elapsed before the repeated violation, the information about the voter is placed on a public display in a special list on the facade of the local administration building.

However, despite the fact that voting in elections is the responsibility of a Belgian citizen, the fulfillment of this duty is not ensured by effective means of state coercion, and the responsibility for failure to appear at the elections does not have the due general effect. On average, about 10% of voters ignore this obligation. In those states where there is no compulsory vote, the level of non-participation in elections, as a rule, ranges from 15-25%.

The electoral law of the Italian Republic of 1946 in its first article enshrined that voting is a civic duty and responsibility of the Italians at a crucial time for the country. Article 48 of the Constitution of the Italian Republic of December 22, 1947, also established that: "Voters are all citizens who have reached majority by age - men and women. The vote is personal and equal, free and secret. Its exercise is a civic duty. The right to vote cannot be limited by virtue of civil incapacity, the criminal sentence entered into legal force and in cases of misbehavior specified by law. "Sanctions for violation of this civic duty are exclusively moral. A citizen who did not appear at the elections should have given a written explanation addressed to the mayor of the commune. In the absence of a good reason or if the explanations were rejected, the violators were entered on the mayor's list. This list was posted on the bulletin board on the facade of the City Hall for a period of one month. The reforms of the electoral legislation, carried out in 1993, excluded this responsibility for violation of the electoral duty. The norms of the Constitution have remained unchanged but should be understood exclusively in the moral plane. Statistics show that voter turnout in the elections from 1948 to 1976 averaged 92%.

Analyzing the state and Republican elections of 1949-2010 in Austria, it can be concluded that legal norms providing for compulsory voting with weakly executed penalties in the form of fines increase the turnout by about 10 percentage points [3]. A similar conclusion also follows from the analysis of the statistics of participation in the elections of citizens of Belgium and Italy. In our opinion, it is not so much.

The Greek legislation for failing to appear at the elections provides for a system of more diverse sanctions:

fine, arrest, imprisonment (for a period of one month to one year), deprivation of ranks and positions. The absence of a voter in the territory of Greece at the time of the elections is not considered a valid reason for not participating in the voting.

In Luxembourg, those who have not complied with the rule on the compulsory voting may be punished with a fine (for the first failure to appear - \$ 80, for the second three times more), deprived of voting rights for a certain time. Offenders may be denied entering state and municipal service, as well as the institution or organization funded from the local budget.

In some countries, compulsory voting was conducted only recently to ensure the sustainability of the electoral system and the quality of political representation. For example, in Bulgaria, from 2016, participation in elections has become an obligatory right of citizens of the country. Those who did not come to the polling station for voting without good reason are excluded from the list of voters at the next election.

Schaffhausen, the canton of Switzerland, also uses compulsory voting. There is a procedure for the legal refusal to participate in voting: the blank ballot should be sent back to the authorities. The ballot can be returned no later than three days after the voting. An indication of the reason that led to the return of the newsletter is not required. Those who have not bothered to take even these simple steps will have to pay a fine of three francs (at a rate of approximately three dollars).

Article 37 of the Constitution of the Argentine Republic of May 1, 1853, states: "The right to vote is universal, equal, compulsory and exercised by secret ballot." In Argentina, a voter who declined to appear at a polling station is fined and is deprived of the opportunity to hold public office for three years.

For non-participation in the Brazilian elections, the culprit must explain in writing the reason for the failure to appear. If the reason is not recognized as valid, a fine may be imposed. In Egypt, simultaneously with the imposition of a fine (the amount of which does not exceed one dollar), who has not come to the polls is facing imprisonment. In Pakistan, for a failure to appear at the polls, the amount of the fine amounts to \$ 60, and for repeated non-attendance - hard labor for up to five years. In Singapore, the non-election of a citizen with an active electoral right entails an automatic ban on the implementation of passive electoral rights. Turkish legislation provides for liability in the form of a fine (in the amount of about \$ 14) for failure to appear at the elections, and malicious deviators are subject to criminal penalties.

The obligation to vote may not apply to all citizens with the right to vote. For example, in Lebanon, military personnel may abstain from voting (which, in certain cases, seems quite logical). In some states, citizens may not vote at a certain age (in Luxembourg - 70 years, in Paraguay and Peru - 75 years). In Ecuador, voting is compulsory for citizens between the ages of 18 and 65 who are literate (apparently, the goal of this relief is comparable to the goal of a voter's literacy set in many countries, a literate person usually makes a more informed decision).

On the issue of introducing a compulsory vote in Russia there are various points of view.

A. Vishnyakov, who served as Chairman of the Central Election Commission of the Russian Federation, points out: "From the point of view of the Russian Constitution, by correcting it and then making changes to the election laws, this can be done ... But we must be well aware of all the pros and cons of compulsory voting ... As a result, we get the power that is formed one-sidedly, by certain categories of citizens of the Russian Federation, who are disciplined to go to all the polls, while another category of citizens, especially the young, unfortunately, ignores the elections A misunderstanding of this issue, which is not fully explained, leads to the stereotype that elections are solid filth and irregularities, and it is not necessary to participate in them"[4].

Acting Defense Minister of Russia, one of the leaders of the United Russia party, S. Shoigu, suggested: "A person who will not come to the elections three times without a good reason ... will be deprived of Russian citizenship. If he does not want to choose power, it means that he doesn't care in which country to live ... Today we have opponents, but there is one enemy. The enemy is the most important and the most invisible. This enemy is called either non-attendance or voting against all. When a person votes against all, it means, I think he has no moral, no human or patriotic views and practices "[5]. In our opinion, deprivation of citizenship is a very serious punishment, which is excessively for not participating in the elections. In addition, international documents contain a direct ban on deprivation of citizenship. Subparagraph "c" of clause 1 of Article 4 of the European Convention on Nationality (ETS N 166) of November 6, 1997, stipulates that no one may be arbitrarily deprived of his citizenship. Clause 3 of Article 6 of the Constitution of the Russian Federation states that a citizen of the Russian Federation cannot be deprived of their citizenship.

If democracy is understood as the statistical distribution of the majority and minority, in which there are no common interests, but only the interests of individuals, then the right to vote or abstain from voting should be left to the discretion of each voter. If we see democracy as a joint association of citizens who wish to collectively settle their common affairs, then this automatically implies a certain form of mutual responsibility. Turning to the systemic reading of the existing constitutions of democratic states, it can be concluded that the normative prescriptions are directed not only at the sovereign, self-improving individuality but also at the individual in the community. Such a profile of the Constitutions allows you talking about compulsory voting.

The Resolution of the Constitutional Court of the Russian Federation of April 22, 2013, No. 8-P states that the general will of the people as a sum is made up of individual votes of citizens as voters. Voters, participating in elections or a referendum and expressing their individual will through the use of a ballot, determine the common will of the multinational people of the Russian Federation. In other words, speaking of the people, we mean the same citizens, but the emphasis is not on their legal status, but on that state-forming function, which they perform, as a social community [6]. In the concept of "people", there is no

unnecessary specifics, but at the same time it does not imply the mechanical sum of everyone living in the relevant territory (as "population" or "inhabitants") [7].

The decision can be considered accepted by the people, even in cases where a minority of the population took part in the elections. It should be noted that persons who do not participate in the elections, still indirectly affect the composition of the elected authorities. If there is a statutory requirement for voter turnout, voters can influence the failure to take a decision, even without participating in an election or referendum (an election or a referendum is then considered invalid). If the law does not establish the minimum voter turnout necessary for the recognition of elections and referendum as held, citizens who do not participate in the voting cannot influence the adoption of a decision. Currently, in the Russian Federation, the threshold of mandatory attendance at elections at all levels has been abolished. For the referendum of the Russian Federation, the turnout threshold is preserved [8].

Will democracy win by introducing compulsory voting or not? A public discussion of this issue is even more important than the actual introduction of compulsory voting because it allows us reflecting on the importance of voting.

O. Morozova stresses that "compulsory voting can be a stimulus and an effective lever for influencing those segments of the electorate that, while showing low political activity, actually ignore the fulfillment of civic duty" [9].

The main positive impact of compulsory voting is seen in ensuring equal and high-quality representation of all social groups, a more accurate reflection of their interests in the formation and implementation of state policy. In addition, candidates may not spend energy on carrying out a bright, sometimes populist mobilization campaign that attracts the attention of the population, but focus on solving important, meaningful proposals. Obligatory participation in elections creates a "habit of voting", has a long-term effect on the political culture of the country and allows forming a parliament that more accurately reflects the interests and will of voters when making decisions based on the majority of the electorate. Turnout is important for the mandate of the government, its legitimation [10].

It is important to note that compulsory voting increases the political knowledge of citizens, either because voters prefer to be informed, given the requirement to vote, or because the voting process itself gives random knowledge [11]. The participant of voting masters new political practices receives skills of voting.

At the same time, the question of how the introduction of a compulsory vote affects the participation in elections has remained quite debatable over the centuries.

Most experts emphasize that compulsory voting increases participation in elections [12]. Some researchers, on the contrary, point out that, contrary to the generally accepted opinion, it does not seem that the general turnout will greatly change the election results [13], the share of votes of Eurosceptical parties will not depend on a higher turnout [14]. Interesting research related to the study of the relationship between the introduction of a mandatory vote and the result of elections. Also, the second order effects are not fully established.

Mandatory voting can have negative effects associated with attracting "ignorant" voters to the polls who are not interested in political and social issues. Among absentees, it is most of all those who do not understand politics and generally try not to participate in public life. As a result of the application of the norms of compulsory voting, there is often an increase in the irrational choice.

In addition, compulsory voting can strengthen the role of marginal segments of the electorate, which forces the parties to focus their programs on them more.

Forced voting increases participation in the elections of citizens who consider the election procedures to be erroneous or meaningless. It is unlikely that such voters will make a reasoned decision. Elections at which a mandatory vote is established are not an ideal indicator of the true preferences of the population [12]. The obligation to vote influences, above all, the turnout of those citizens who are not informed, who have no or minimal interest in politics [15]. There is empirical evidence that richer economic classes have a higher level of political participation. Forced voting can be a useful mechanism for equalizing the percentage ratio of voter turnout between rich and poor [16]. The ideal is a model of society in which moral duties are performed by citizens without any pressure and ensured by democracy and internal citizenship of a person.

For Muslims, the issue of participation in the elections has been resolved unequivocally. The Sharia rule "that without which it is impossible to implement the mandatory - becomes mandatory" obliges Muslims to take part in the elections.

Opponents of a compulsory vote are also on both moral and libertarian aspects. Freedom of choice is put in the foreground, which also includes the freedom not to participate in elections since no one can be forced into the political life of a society. Skepticism is dominant in believing that the quality of democracy will improve, since voter turnout can be, among other things, a symptom of critical or crisis development, and not a solution to the problem.

Forcing citizens to vote is justified only if it is aimed at a good, legitimate goal, such as increasing the acceptability of democracy.

Residents of all democratic states are guided by complicated and increasing rules, mechanisms and procedures. They differ from country to country, and there are no two absolutely democratic states in the world.

In Russian society, not least because of the experience of the Soviet dictatorship with actual coercion to elections - compulsory participation in elections in constitutional logic is a foreign body. If the crisis symptoms of democracy had appeared, they would not have been resolved by compulsory elections, as can be seen in the political situation of some countries with compulsory elections.

A significant problem and even a threat to Russian society and democracy is the low electoral and legal culture of citizens.

December 12, 2012, Russian President Vladimir Putin delivered the ninth message to the Federal Assembly, in

which it was noted: “We must pay more attention to the development of direct democracy”.

In the streets of our cities and towns we see the results of what happened in the state, in society, in school, in the media, and in our heads in the past, in the previous 15-20 years. We are in a certain sense splashed out the child along with dirty water.

Today, this manifests itself in indifference to public affairs, often in a willingness to put up with corruption, brazen acquisitiveness, 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 ".D.A. Medvedev, being the President of Russia, in his Address to the Federal Assembly of the Russian Federation, on November 5, 2008, also noted that it was necessary “to take measures to further raise the level and quality of people's representation in power”.

Clause 2 of Article 32 of the Constitution of the Russian Federation establishes that citizens of the Russian Federation have the right to elect and be elected to state and local government bodies, as well as to participate in a referendum.

In our opinion, it is possible to use a compulsory vote for certain categories of citizens, for example, for state and municipal employees. Almost all researchers highlight the moral component in voting. From the provisions of ethical codes, which in their behavior should be guided by state and municipal employees, implicitly follows such compulsory voting. Indeed, for many of them, it is statutory to establish that they must be a “model of moral purity”, “serve the state and society”, “protect and multiply fundamental moral values”, “must be guided by generally accepted standards of morality and ethics”.

Article 40.4 of the Federal Law "On the Prosecutor's Office of the Russian Federation" dated November 22, 2006, establishes the following words of the Oath of the prosecutor (investigator): "Devoting myself to serving the Law, solemnly swear to be a model of moral purity." Participation in elections is a moral duty of every citizen and, therefore, the duty of a prosecutor.

For example, the "Ethical Code of Civil Servants of the Antimonopoly Service", approved by the Order of the FAS Russia dated February 25, 2011 N 139, is a system of requirements for the behavior of state civil servants of the Federal Antimonopoly Service established by the legislation of the Russian Federation, as well as moral standards based on generally accepted moral principles and the norms of Russian society and the state. The Code is the basis for the formation of proper morality of civil servants and acts as an instrument of public control of the morality of civil servants and a factor in reducing corruption risks. The Code of Ethics of a public servant is intended to help strengthen the authority of the government, citizens' confidence in the institutions of the state, in particular, the FAS Russia and its territorial bodies, and provide a single moral basis for concerted and effective actions by the Federal Antimonopoly Service. Article 4 of the Code specifies as a basic principle of administrative morals of civil servants - serving the state and society. By participating in the

elections, the civil servant expresses his service to the interests of the state and society, building a rule-of-law state, and contributes to strengthening the authority of state power and citizens' confidence in the institutions of the state.

Paragraph 3 of Article 4 of the Code of Professional Ethics of an employee of the internal affairs bodies of the Russian Federation establishes that an employee of the internal affairs bodies, conscious of personal responsibility for the historical fate of the Fatherland, considers his duty to protect and enhance fundamental moral values: citizenship as loyalty to the Russian Federation, awareness of the unity of rights and freedoms and the duties of a person and a citizen; statehood - as a statement of the idea of a legal, democratic, strong, indivisible Russian state; patriotism - as a deep and sublime feeling of love for the Motherland, loyalty to the Oath of an employee of the internal affairs bodies of the Russian Federation, his chosen profession and official duty.

Clause 2 of Article 4 of the Code of Judicial Ethics (approved by the VIII All-Russian Congress of Judges on December 19, 2012) established that in his professional activities and outside the service a judge must comply with the Constitution of the Russian Federation, federal constitutional laws, federal laws, be guided by the Law of the Russian Federation "On the Status of Judges in the Russian Federation ", procedural legislation, other regulatory legal acts, as well as the principles and rules of conduct established by the Code of Judicial Ethics, accepted by the norms of morality and ethics, strictly follow the oath of the judge.

Non-participation in the election of a state and municipal employee, without good reason, should entail the termination of duties of a state and municipal employee, without the right to re-enter public service for 6 years (the term for which the President of the Russian Federation is elected). It is difficult to call state and municipal servants incompetent in politics, not literate, etc.

It is necessary to agree with S.N. Slobodchikova, that “restricting the right to free participation in elections of state and municipal servants will necessarily raise the issue of proportionality and the need to impose such restrictions, and their further fate will likely depend on the political interest of the current government to establish such parameters” [17].

IV. CONCLUSION

The goal of introducing compulsory voting is to increase voter turnout. A high turnout in this case, as a rule, equates to a "good", "true" democracy. The voter turnout level becomes, so to speak, a sign of quality for democracy, increases its recognition, the legitimization of power and its authority.

In the legislation of democratic states, the compulsory voting appeared as a result of cultural or historical traditions, the mentality of the population, or is a response to a specific event. In some states, this duty is an archaic tribute to antiquity. The election duty has a purely individual basis. In authoritarian states, the obligation to participate in elections serves to pseudo-legitimize rulers.

A compulsory vote would allow some degree of social segregation to be overcome. Currently, socially weak and disadvantaged citizens do not participate in elections.

In the current legislation, it is necessary to clearly establish the requirement for the official behavior of a civil and municipal employee for state and municipal employees an additional - to participate in the voting.

Fatigue of the electorate is an epidemic that has affected many democracies. Democracy is not a gift from heaven, but a necessity that needs to be maintained and protected again and again.

The right to vote was won by courageous people. But for some citizens, Election Day is an insignificant date. Many citizens waive their right to vote, motivating his refusal by the lack of interest in political processes, fatigue from unrealistic program promises of candidates. The main statement of the absentees is: "Nothing depends on my voice." It is important that this attitude of people towards political life, "democracy of participation and control" should gain momentum, the active citizenship of a citizen should become the norm for everyone. With this state of public life, the question of initiating participation in voting will be resolved by itself.

An unequivocal assessment of the mandatory voting of all voters is missing. At the same time, the influence of other mechanisms for enhancing turnout has been proven: the institution of electronic voting, the encouragement of voters who came to the polling station, etc. It seems to be important to the problem of increasing voter turnout, the legitimation of power to approach comprehensively and not consider a compulsory vote as a panacea.

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