

The “Mobile Voter”: legal regulation and regional practice in the context of modern migration

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Abstract. This article examines the legal framework and law enforcement practice of applying the procedure of voting by place of residence, taking into account the realities of modern migration processes in cross-border regions. In the professional literature and some environments, this mechanism is called the “Mobile Voter”. Based on the practice of organizing and conducting the election of the President of the Russian Federation and elections to the state authorities of the constituent entities of the Russian Federation in 2017-2018, the conclusion is that the “Mobile Voter” mechanism is a new, relevant, and effective guarantee for the exercise of constitutional electoral rights in the Russian Federation.

Keywords: mobile voter, electoral legislation, election, law, electoral rights

1. Introduction

The current stage in the development of cross-border regions is characterized by a high level of both external and internal migration. According to the Regional Fragment of the State Automated System “Elections”, the number of voters registered at the place of residence in the Altai region decreased from 1,860,508 to 1,833,955 people (1.43%) from January 1, 2018 to January 1, 2019 [1]. At the same time, it is noted both the migration of residents of the region to other regions of Russia and moving within the region without registration at the place of residence or at the place of stay.

Under these conditions, the issues of implementation of constitutional electoral rights of the Russian citizens are beginning to acquire particular urgency. The Constitution of the Russian Federation in Article 32 proclaimed the right of citizens of the Russian Federation to participate in the management of state affairs, both directly and through their representatives. By securing the right to elect and be elected to state and local authorities, the constitutional legislator restricts a citizen only to the framework of part 3 of article 32 of the Constitution of the Russian Federation: “citizens recognized by the court as incapable, as well as those held in places of deprivation of liberty by a court sentence, do not have the right to elect and be elected.” The right to move freely, to choose the place of stay and residence is also classified as constitutional (Article 27 of the Constitution of the Russian Federation). Moreover, in Article 19 of the Basic Law of Russia, the state guarantees the equality of the rights and freedoms of a person and citizen, regardless of place of residence.

The electoral legislation, which was in force until recently, linked the possibility for a citizen to exercise an active electoral right to such a condition as a place of residence (in some cases, a place of stay), as a rule. In this regard, the need to develop the legal, organizational, and technological

parameters for the smooth implementation of the electoral rights of Russian citizens has become particularly relevant.

2. Materials and Methods

In this article, the object of study is the totality of social relations arising in connection with the consolidation and implementation of the mechanism of voting in federal and regional elections at the location. The subject of the research is legal norms that fix and regulate the use of the “mobile voter” mechanism in the constituent entities of the Russian Federation.

The study was based on the provisions of federal and regional legislative acts on elections, regulations of the Central Election Commission of Russia and election commissions of the constituent entities of the Russian Federation, as well as materials on the practice of applying this institution in the Altai region during the 2018 election cycle.

The toolkit of research methods is predetermined by the objectives of the research and includes a number of systematic, comparative legal, structural-functional, statistical methods. Their use made it possible to consider the object of research in its integrity and comprehensiveness, the relationship with other forms of ensuring the electoral rights of citizens.

3. Results

For the first time, the “Mobile Voter” mechanism was implemented in the Altai Territory during the presidential elections of the Russian Federation on March 18, 2018. A voter who is on the day of voting outside his place of residence has the right to file with the election commission an application for inclusion in the voter list at the place of his residence in the manner established by the Central Election Commission of the Russian Federation [2]. This right is spelled out in clause 4.1 of Article 27 of the Federal Law “On the Election of the President of the Russian Federation”.

The analysis of legal foundations and law enforcement practice allowed us to formulate the following conclusions. First, the federal legislator refused to direct legislative regulation of this mechanism, referring its specification to the subordinate level. The procedure for submitting an application for inclusion of a voter in the voter list at the location of the election of the President of the Russian Federation was approved by the Resolution of the Central Election Commission of the Russian Federation No. 108/900-7 of November 1, 2017 and applied in the election of the President of Russia in 2018. This Procedure determined the sequence and deadlines for submitting an application for inclusion of a voter in the voter list at the location, ways to protect an application against forgery, the procedure for processing and transmitting information about these applications, including using GAS “Elections.” Also, it defined the procedure for registering voters for inclusion in the voter list at polling stations at the location and exclusion from voter lists at polling stations at the place of residence, posting information on the number of voters who submitted applications in the “Internet” information and telecommunications network.

Second, for the first time, the legislator has significantly expanded the circle of subjects ensuring the realization of citizens' electoral rights and did not reduce it to the exclusive powers of election commissions. Voters could submit an application not only to the relevant territorial or district commission, but also through the multifunctional center of state and municipal services (MFC). (If there is an agreement between the election commission of the relevant subject of the Russian Federation and the authorized MFC) [3]. Or, they could submit an application electronically through the federal state information system “An unified portal of state and municipal services (functions)”.

Third, already the first cycle of application of such an institution showed its necessity, relevance, demand for those voters of the Altai region who are outside their place of residence, or, conversely, citizens of the Russian Federation who are for one reason or another during the election campaign in the Altai region. So, in general, these voters submitted 80,170 applications for voting at the location, in the Altai Territory, in the period from January 31 to March 17, 2018. Of this number, the voters submitted 10,048 applications through their territorial election commissions; 43,365 of them went through precinct election commissions; 5,380 applications were through the MFC; and 18,377 were

via the “Gosuslugi” portal. Before the voting day (from March 13 to March 17, 2018), the voters submitted 3,000 special applications for choosing a polling station convenient for voting to the precinct election commissions at the place of voter registration [4].

The results of approbation of the voting mechanism at the location of the federal elections predetermined the attention of the regional legislator to it. Most of the constituent entities held elections to regional government bodies on a single voting day, on September 9, 2018. Most of them, including the Altai region, decided to use such a structure in the regional electoral legislation. A voter who is outside his place of residence on election day has the right to file with the commission an application for inclusion in the voter list at the place of residence in the manner established by the Central Election Commission of the Russian Federation. This right is established by paragraph 14 of Article 95 of the Code of the Altai Territory on Elections, Referendum was applied during the elections of the Governor of the Altai region and deputies of the Altai Region Legislative Assembly. The deadline for submitting an application is set by the Central Election Commission of Russia within the time limit that begins no earlier than 45 days before the voting day and ends at 2 p.m. local time of the day preceding the voting day. The application can be submitted using the federal state information system “The Unified Portal of State and Municipal Services (Functions)”, as well as through the multifunctional center of public and municipal services.

Already familiar with the election of the President of the Russian Federation in March 2018, the technology of choosing a convenient (at the voter’s location) polling station was claimed by residents of the Altai region during the election campaign for the early elections of the Governor of the Altai region on September 9, 2018. In the Altai region, voters submitted 36,281 applications for inclusion in the voter list by location, from July 25 to September 5, 2018, including:

- 6,119 applications were submitted to territorial election commissions;
- 22,299 applications via precinct election commissions;
- 1,138 applications through the MFC;
- 6,725 applications via the portal “Gosuslugi” [1].

4. Discussion

The legislative introduction of a new order of voting at the location caused an active theoretical and scientific discussion among the scientific community, political scientists and electoral lawyers, election organizers. Overall, we should note the positive assessment of the new mechanism. So, E. S. Yusubov and P. N. Sizov notes that the “Mobile Voter” creates favorable conditions for those citizens who actually live far from the place of their legal registration to participate in elections and to include them into the voter list [5]. However, the following provisions need to be addressed.

First, special studies rightly point out that the current electoral legislation does not define the legal nature of the “Mobile Voter” procedure. In this regard, we propose to refer the vote on the location to the number of public services [6], which seems quite debatable.

Second, the introduction of the “Mobile Voter” mechanism at the regional level falls under the jurisdiction of the constituent entities of the Russian Federation, which suggests various approaches to its use in the regions.

Third, the introduction of the “Mobile Voter” mechanism at the level of the subject of the Russian Federation abolishes the use of early voting and voting using absentee ballots in regional elections. Most researchers perceive this situation positively. However, when conducting combined election campaigns (especially with municipal elections), this provision creates different legal regimes for citizens to participate in elections.

Fourth, in the federal and regional elections in the Russian Federation in 2017-2018, the use of the institute “Mobile Voter” went practically “from the wheels.” Currently, a thorough study of the legal, organizational, technological aspects of this mechanism is required. This is necessary for the purpose of not only their further improvement, but also in the context of the emergence of a new method of organizational-territorial identification of the Russian voter at his location.

5. Conclusion

It should be recognized that the new voting procedure at the location is an effective and sought-after guarantee of the implementation of constitutional electoral rights of citizens. In terms of its application, the problems caused by the high level of interregional migration are leveled, the tendency to increase voter turnout is noted. Certainly, in the Russian electoral legislation and practice of the electoral process, a significant step has been made towards strengthening the guarantees of the inclusion of a citizen in the process of direct participation in the exercise of state power.

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