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**FEATURES OF THE CONSTITUTIONAL AND LEGAL REGULATION  
OF THE REALIZATION OF CERTAIN POLITICAL RIGHTS AND  
FREEDOMS OF A PERSON AND A CITIZEN IN THE RUSSIAN  
FEDERATION ON THE INTERNET**

12.00.02 – Constitutional Law; Constitutional Litigation; Municipal Law

**THESIS ABSTRACT**

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**Relevance of the research topic.** One of the most essential problems at the current stage of development of the constitutional doctrine is the need to reconsider the essence of the existing elements of the constitutional and legal status of a person and a citizen, taking into account the development of information technologies. A crucial catalyst for such activity is the transformation of mechanisms for the realization of rights and freedoms, primarily related to the increasing role of information technology, which certainly activates scientific and legislative activities and seem to be quite consistent in the era of e-democracy.

Although theories related to the expansion of the use of e-democracy mechanisms already occupy a vital place in the constitutional and legal doctrine, it is premature to talk about the direct use of digital technologies in the process of implementation of many components of political rights. The totality of these actions leads to establishment of modern trends, among which the key ones are worth highlighting.

Firstly, at present, in the sphere of the realization of political rights and freedoms of a person and a citizen, the Russian constitutional and legal regulations adhere to a fragmentary regime of emergence of novelties. This practice is formed not only in the sphere of realization of political human rights on the Internet, but also in the sphere of digital rights in general, primarily due to the high dynamics of development of the legal relations under consideration, in which the authors of scientific doctrines try to keep pace with the development of the relations under study. It is assumed that such actions are carried out due to the lack of understanding of a specific direction of development, both in relation to doctrinal and practical provisions.

Secondly, for a fairly long period of time, there has been a tendency of transition of existing legal relations from offline to the Internet, which certainly facilitates the development of information technologies. The tendency advances the rapid establishment of new forms of realization of political rights, which require greater attention due to the potential involvement of a larger number of participants.



The issue of extending constitutional principles to such mechanisms also arouses intense interest and requires close attention.

At the same time, legal professionals have a problem with perceiving digital space as an effective mechanism for realization of human and civil rights, which results in a variety of approaches to understanding the legal nature of such an institution.

There is an insignificant number of studies in the Russian legal science that consider the legal nature of the Internet as a platform and means for the realization of constitutional rights and freedoms of a person and a citizen, in this regard, there is a clear need for a comprehensive analysis of the institutions for the realization of a group of political rights on the Internet, as well as analysis on legislating them. Furthermore, in the existent Russian and foreign scientific studies, it is noted that the constitutional and legal regulation of political rights and freedoms is not completely streamlined and has certain gaps, which is more typical of the mechanisms for implementing a group of the specified rights and freedoms in the information and telecommunications space.

The third issue, which is probably of the utmost importance, is the question of approaches to extending similar regulation applied to rights and freedoms outside the online sphere to relations in the digital space. In the scientific literature, suggestions on the need to equate the rights in the online space with the traditional ones existing offline and extension of the existent guarantees and obligations to them can be discovered. However, when solving this issue difficulties that require solutions arise in legislative theory and practice, but despite all the contradictions, it is nonetheless necessary to consider the thesis about the extension of the Constitution of the Russian Federation to legal relations in digital reality as a normative legal act of supreme legal force in the legal system.

To resolve the existent scientific contradictions, within the framework of this research, specific steps have been proposed to resolve crucial issues in terms of the correlation of the latest legal relations in the online format with the already shaped and regulated legal structures outside the World Wide Web.



It is vital to emphasize that non-recognition of any legal relations and the corresponding absence of their legal regulation imposes a real threat of violation of constitutional legislation and the fundamentals of the constitutional system of the Russian Federation. In this regard, concerns are raised by the participation of foreign citizens in the organization of public events in the Russian segment of the Internet and the possibility of their involvement in unauthorized meetings, rallies, demonstrations, marches or picketing in Russia through the use of digital technologies, including from abroad.

Thus, taking into account all of the above, it can be argued that the study of the constitutional and legal regulation of political rights and freedoms of a person and a citizen in the online space seems to be in high demand and extremely relevant at the current stage of the society's development.

**The degree of scientific development of the research topic.** The issues related to the institutions of the realization of human and civil rights and freedoms are quite thoroughly studied due to their significance for the entire legal doctrine, however, the issues related to the application of various legal norms in the context of the use of information technologies, due to the novelty of such legal relations themselves, can be characterized as having received the least attention from representatives of legal science and, thus, are poorly developed. At the same time, nowadays legal scholars' interest in the field of regulation of online space is increasing, but it must be still admitted that the issue of regulating political rights and freedoms on the Internet seems to be rather specific and it has not been a subject matter of a significant number of studies yet, in this regard it is worth mentioning the lack of a sufficient number of specialized literature containing a comprehensive approach to the legal relations under consideration.

In scientific literature, when studying topics related to the realization of rights and freedoms on the Internet, greater attention is paid to the issues of social and political context, while aspects of legal regulation of such activities recede in the background. Experts in the field of constitutional law, in turn, often consider the



mechanisms for implementing prohibitions and restrictions, rather than their constitutional and legal consolidation.

This study is based on scientific works devoted to regulation of the fundamental rights and freedoms of a person and a citizen by Russian scientists such as: S.A. Avakyan, S.S. Alekseev, O.L. Alferov, A.A. Antopolsky, S.A. Afanasyev, M.V. Baglay, I.N. Bartsits, I.L. Bachilo, I.Yu. Bogdanovskaya, R.S. Buyantueva, N.V. Vitruk, V.D. Zorkin, T.Sh. Izzatov, A.T. Karasev, S.V. Kobzev, A.I. Kovler, A.N. Kokotov, I.Yu. Krylatov, V.V. Lapaeva, E.A. Lukasheva, V.A. Meshcheryagin, S.V. Narutto, L.A. Nudnenko, N.V. Rachmanin, A.Yu. Sibileva, E.V. Talapina, A.I. Khusnutdinov, A.A. Shapov, S.M. Shakh-ray, A.I. Cherkasov, S.N. Sheverdyaev, B.S. Ebzeev and others.

When studying the topics under consideration, close attention was paid to the works of foreign experts such as: P. Alston, J. Bartlett, V.G. Cerf, S. Fadi, Y. Harlan, M.K. Land, D.G. Robinson, M.L. Trajkovska, S. Barocas, A.D. Selbts, E. Goldman, J. Kosseff and others.

**The object of the dissertation research** is comprised of social relations which arise in the process of realization of political rights and freedoms of a person and a citizen by using an information and telecommunications network, i.e. the Internet

**The subject of the dissertation research** is comprised of the legal norms of the constitutional legislation of the Russian Federation and foreign countries, the norms of international law, legal acts of the Russian Federation, Russian, foreign and international judicial practice, materials of law enforcement practice, user agreements, scientific literature on the topic under study and reports of international organizations on human rights.

**The purpose of the dissertation research** is a complete and comprehensive study of the features of the constitutional and legal regulation of certain political rights and freedoms of a person and a citizen in the Russian Federation on the Internet, on the basis of which scientifically sound suggestions are formulated in

terms of the development and enhancement of such legal relations, approaches to their understanding and further constitutional and legal regulation.

**Research objectives.** Based on the purpose of the study, the following tasks can be identified:

- to assess the impact of the Internet on the constitutional and legal regulation of political rights and freedoms of a person and a citizen in the Russian Federation;
- to study the constitutional and legal nature of modern institutions of political rights and freedoms of a person and a citizen on the Internet;
- to identify and classify the existent constitutional and legal mechanisms for the implementation of certain political rights and freedoms of a person and a citizen on the Internet;
- to research the constitutional and legal nature of the application of prohibitions and restrictions in terms of the realization of political rights and freedoms on the Internet;
- to identify negative tendencies in legal regulation in the field of realization of certain political rights and freedoms in the Russian Federation on the Internet;
- to develop and substantiate scientific and practical recommendations for enhancing the constitutional and legal regulation of mechanisms for the realization of certain political rights and freedoms of a person and a citizen in the Russian Federation on the Internet.

**Methodological basis of the research.** The methodological basis of the dissertation research is comprised of formal logical methods such as analysis, synthesis, abstraction and modeling, as well as structural and systemic functional methods. Special methods of legal comprehension of reality have also been applied: comparative legal, historical legal and formal legal.

**The normative legal basis of the dissertation research** is comprised of the Constitution of the Russian Federation, generally recognized principles and norms of international law, international treaties of the Russian Federation, federal constitutional laws and federal laws, subordinate regulatory legal acts, legislative



acts of the subjects of the Russian Federation, as well as legislation of foreign countries.

**The empirical basis of the dissertation research** consists of the following: decisions of the Constitutional Court of the Russian Federation and other judicial bodies, decisions made by the European Court of Human Rights and foreign bodies entrusted with the functions of constitutional control. In the process of the dissertation research data on statistical and sociological research published in scientific publications and mass media, as well as other materials relevant to the topic under study, were used.

**The scientific novelty of the research** is attributable to the fact that within the framework of the conducted dissertation research, definitions and components of new legal phenomena which have significant impact on all elements of the legal status of an individual in modern society are formulated and structured.

The proposed measures to standardize the mechanisms for implementing prohibitions and restrictions in the online space are novel as well. The legal constructions formulated by the author at the level of the dissertation research are used for the first time and, as it appears, should have positive impact on further development of the group of political rights.

**The following scientific provisions are submitted for defense:**

1. The necessity of strengthening the role of the stimulating function aimed at development of constitutional and legal legislation in the field of using an information and telecommunications network, i.e. the Internet, for the realization of human and civil rights and freedoms has been established. Shaping of legal norms that ensure achievement of the specified goal at the level of constitutional legislation is crucial for further development of mechanisms for interaction between the state and society on the Internet. Submission of such norms to the constitutional level will be a catalyst for development of the entire legal system and will correspond with modern legal tendencies as well, aimed at using the Internet as one of the effective mechanisms for the realization of political rights and freedoms of person and citizen.



2. Based on the analysis of new forms of expression of opinions carried out using the Internet information and telecommunications network, the definition of the concept of "online rally" has been developed and formulated, its main features and characteristics have been developed and systematized. It is proposed that the term "online rally" shall be understood as a mass gathering of citizens on a certain page of the site on the information and telecommunications network, i.e. the Internet, implemented with the aim of overtly expressing public opinion on pressing issues primarily of a socio-political nature. The developed criteria for classifying political actions on the Internet are characterized by the format of their conduct - in real time or broadcast of pre-prepared materials.

3. The constitutional and legal nature of the application of an institution "The right to freedom of choice of information received" has been formulated and substantiated. The introduction of this legal structure is attributable to the need to comply with the provisions of Article 29 of the Constitution of the Russian Federation, as well as modern features of dissemination of information on the Internet, which constitute an important component of the proposed legal mechanism, functioning in the absence of any imposition of the information received by its distributors, which must be perceived as an element of the legal status of an individual in the online space. Within the framework of the study, the main components of the proposed terminology have been formulated, which shall include the following:

- freedom from imposing information;
- absence of unreasonable restriction of information;
- specification of legal regulation and activities of the resources through which information is disseminated.

4. The necessity of establishing a regulatory and legal consolidation of an obligation of authority bodies to decide on the consideration of initiatives that are sent through the Internet resource "Russian Public Initiative" using a complex procedure and meet the criteria proposed by the dissertation candidate. Such a conclusion is based on the extensive practice of applying forms of democracy



institutions implemented through information technologies, indicating the absence of decision-making on the most vital issues of socio-political life, provided that all the necessary criteria are met.

5. It is stated that it is premature to consolidate the wordings related to the declaration of the universal right to access to the Internet in the Russian constitutional legislation. This statement is based on existing international experience and various aspects of Russian reality. The provisions that strengthen the importance of the Internet and promote the spread of digital technologies require regulatory consolidation in Russian legal documents.

6. It is concluded that it is essential to establish standards regulating the content of agreements between Internet resources and its users, the main purpose of which is to prevent the restriction of the institution of human and civil rights and freedoms of a person and a citizen on the Internet. Such a proposal is based on an analysis of existing user agreements that have a variety of practices and norms, including the possibility of applying prohibitions and restrictions imposed on users of digital resources.

7. The negative tendency of a broad understanding of information censoring mechanisms has been identified and justified. Based on a comprehensive study of the features of censoring information in social networks, it is argued that the constitutional and legal prohibitions and restrictions that have arisen in connection with the use of the Internet differ in semantic and content principle from those originally laid down by the constitutional legislator.

**The practical significance of the results of the dissertation research** is attributable to its novelty and the theoretical and legal conclusions of the author. The proposals based on the results of this study can be used for further legislative regulation of the sphere of legal relations under consideration. The study also suggests potential ways to enhance these legal relations and measures to protect the institution of political rights and freedoms of a person and a citizen in the Russian Federation.



**Approbation of the dissertation research.** The results of the dissertation research were presented and supported during delivering speeches by the author at the following international scientific conferences: International scientific conference of students and postgraduates "Speranskiy Readings" (Moscow, November 28, 2018); International scientific and Practical Internet Conference "Modern Challenges and Current Issues of Science, Education and Production: Intersectoral Disputes" (Kiev, Ukraine, November 13, 2020); International Scientific and Practical Conference "Globalization and Public Law" (Moscow, November 20, 2020), International Conference Session "Public Administration and Development of Russia: Designing the Future" (Moscow, May 17 - 21, 2021).

**The structure of the dissertation research.** This dissertation consists of a table of contents, an introduction, three chapters divided into 9 paragraphs, a conclusion and a bibliographic list.

The **Introduction** substantiates the relevance of the chosen topic of the dissertation research and the degree of its elaboration, describes its novelty, defines the goals and objectives, subject matter and object, methodological basis of the research, theoretical and practical significance of the research results, presents the provisions for defense, characterizes the degree of reliability and approbation of the results research.

**Chapter 1 "Features of the development of political rights and freedoms in the era of digitalization"** analyzes the formation of the institution of political rights and freedoms of a person and a citizen, identifies the main tendencies of its development in both foreign and Russian law. The study of the impact of information technologies on the constitutional and legal regulation of mechanisms for the realization of a group of political rights has been conducted.

**Chapter 2 "Modern mechanisms for the realization of the right to participate in the management of state affairs"** reflects the most popular current models of taking into account the opinion of the population in decision-making process on the state significant level and the legal consequences of their use.



**Chapter 3 "Features of the constitutional and legal regulation implementations of the right to information on the Internet"** analyzes theoretical foundations of realization of the right to freedom of mass information, its constitutional and legal regulation associated with the mechanisms of political rights in the online space, as well as a comparative legal analysis of the existing prohibitions and restrictions in this area has been performed in this chapter.

The **Conclusion** reflects the main results of the study where theoretical conclusions and proposals have been formulated.

**The author's publications on the research topic.** The main results and conclusions of the study are published by the author in 7 scientific publications, 4 of which are published in scientific publications recommended by the RANEPА Academic Council for publishing articles on jurisprudence.