# CONSTITUTIONAL AND LEGAL FORMS OF POLITICAL ACTIVITY OF CITIZENS IMPLEMENTED WITH THE HELP OF INFORMATION AND COMMUNICATION TECHNOLOGY: CONCEPTS, TASKS AND FUNCTIONS

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**Афоніна О.В. Конституційно-правові форми політичної активності громадян, що реалізуються за допомогою інформаційно-комунікаційних технологій: поняття, завдання та функції.**

Перехід світової спільноти від індустріального суспільства до інформаційного істотно вплинув на всі види політичної активності громадян. Дедалі більше таких форм здійснюється за допомогою інформаційно-комунікаційних технологій (ІКТ) і отримує конституційне та законодавче підґрунтя через їх важливість для розвитку електронної демократії та забезпечення політичних прав і свобод громадян. Це важлива частина конституційних механізмів реалізації політичних прав як частини електронної демократії. Зазначені питання є актуальними не лише з теоретичної точки зору, а й у праксеологічному аспекті. Щоб прийти до спільного розуміння того, як інформаційно-комунікаційні технології можуть позитивно підтримувати демократичні процеси, такі як удосконалення державного управління через залучення громадян до прийняття рішень, ця стаття присвячена визначенню поняття та функцій конституційно-правових форм політичної діяльності громадян, які реалізуються за допомогою ІКТ.

Вказується, по-перше, реалізовані через ІКТ конституційно-правові форми політичної діяльності громадян є відповідним елементом функціонування електронної демократії та є вираженням дорадчої демократії. По суті, такі форми є зовнішнім вираженням демократії, але з урахуванням особливостей, пов'язаних зі збором, обробкою, зберіганням, розповсюдженням, відображенням і використанням певних даних за допомогою певного програмного забезпечення. Така інформація створюється в процесі комунікації органів державної влади чи місцевого самоврядування з громадянами, а тому ефективне функціонування різноманітних ІКТ, які є платформою для політичної активності громадян, потребує дотримання таких критеріїв, як інклюзивність, прозорість, дискусія через ефективну каналів, що гарантують громадянам громадськість та економічність державного чи місцевого бюджетів. По-друге, основними функціями, які виконують різноманітні інструменти електронної демократії у здійсненні політичних прав громадян, є моніторинг, визначення порядку денного та сприяння прийняттю рішень. Належне виконання цих функцій можливе за умов запобігання використанню «мови ворожнечі», забезпечення зворотного зв'язку щодо висловлюваних громадянами думок та розуміння та передбачення ризиків як отриманих результатів.

**Ключові слова:** політичні права, конституційні права, електронна демократія, електронний уряд, електронна участь.

**Afonina O.V. Constitutional and legal forms of political activity of citizens implemented with the help of information and communication technology: concepts, tasks and functions.**

The world community's shift from an industrial society to an information one has significantly affected all types of citizens' political activity. More and more such forms are carried out by information and communication technologies and get constitutional and legislative foundations due to their importance for developing e-democracy and ensuring the political rights and freedoms of citizens. It is an important part of constitutional mechanisms for implementation of political rights as a part of e-democracy. The aforementioned issues are relevant not only from a theoretical point of view, but also in the praxeological aspect. To come to a common understanding of how information and communication technologies can positively support democratic processes such as improving government through engaging citizens in decision-making, this essay concerns the topic of concept and functions of constitutional and legal forms of political activity of citizens, which are implemented with ICT.

Firstly, the constitutional and legal forms of political activity of citizens implemented through ICT are an appropriate element of the functioning of e-democracy and are an expression of advisory democracy. In essence, such forms are an external expression of democracy, but given the peculiarities that they are associated with the collection, processing, storage, distribution, display and use

of certain data through certain software. Such information is created in the process of communication between public authorities or local governments with citizens, and therefore the effective functioning of various ICT, which serve as a platform for political activity of citizens requires compliance with criteria such as inclusiveness, transparency, discussion through effective channels, guaranteeing citizens public affairs and cost-effectiveness of state or local budgets. Secondly, the main functions performed by the various instruments of e-democracy in the exercise of citizens' political rights are monitoring, setting the agenda and facilitating decision-making. Proper performance of these functions is possible under the conditions of preventing the use of "hate speech", providing feedback on the opinions offered by citizens and understanding and anticipation of risks as the results obtained.

**Key words:** political rights, constitutional rights, e-democracy, e-government, e-participation.

**Introduction.** The transition of the world community from the industrial to the information society has significantly affected the forms of political activity of citizens. More and more similar forms are carried out with the use of information and communication technologies, and therefore are becoming an important element for such a phenomenon as e-democracy. Accelerated and simplified social interaction, which is essentially an expression of various forms of political activity of citizens, is the task of modern constitutionalism, which is freedom, where the leading feature is the ability of the subject to show initiative. However, there is a question of defining the very concept of this phenomenon, its features and functions that it performs to regulate public relations related to the legal support of political activity of citizens, which is carried out using information and communication technologies.

Issues related to the constitutional and legal principles of human-state interaction in the information society, were studied in the general context by both domestic and foreign scholars, in particular: Y.Y. Atamanova, O.A. Baranov, K. Vozniuk, Y. Harlan, O.S. Denisova, M. Castels, V. O. Kiryan, S. Coleman, O.V. Nesterenko, O.V. Seriohin, L. Ruma, T. Kaminska, A. Semenova, Y. Oliinyk and other.

However, there is no comprehensive study of the theoretical aspects of the concept of constitutional and legal forms of political activity of citizens, which are implemented through information and communication technologies, tasks and functions they perform.

**Main part.** The single concept of e-democracy in the doctrine of constitutional law to date has not been formulated. Electronic democracy (e-democracy) can be considered in a narrow and broad sense. Speaking of e-democracy in the narrow sense, we mean the use of information and communication technologies (ICT) to provide (electronic support of) the rights of citizens. In this case, only the technological side of submitting applications, appeals, inquiries to the authorities on behalf of citizens changes. That is, using his legal right to obtain a certificate, a citizen can apply to the court in writing, or, for example, using e-mail. E-democracy in a broad sense involves the involvement of citizens (both individually and collectively) through modern information technology to solve various socio-political problems [1, p. 5]. In general, various constitutional and legal forms of political activity of citizens, implemented through ICT, are in their content deliberative (advisory) democracy, because the central place in the theory of advisory democracy is the principle of equity participation: all those affected by public decisions (who has their "share"), get the right to vote when discussing problematic issues [2, p. 248]. Volosheniuk O.V., while analyzing the effectiveness of advisory democracy, notes the impact of the concept of "good governance" on the development of public administration, which should be open, accessible, accountable and controlled, and therefore sensitive to the demands of citizens, their needs and requests. According to Volosheniuk O. V., under this approach, advisory procedures can be seen as tools that can provide a basis for ensuring proper democratic governance [3, p. 39].

According to Nazarko A.T., e-democracy is regulated by the norms of constitutional law by regulating the functioning of this institution with the defining doctrinal constitutional provisions, where man is the highest social value. The concept of e-democracy, in particular, its provision at the local level of public authority in Ukraine, is not directly expressed in the Constitution of Ukraine. However, given the objectivity, it is seen, in particular, from the content of Article 3, which declares the establishment and protection of human rights and freedoms, that the main duty of the state is creating conditions for the observance of rights, freedoms and legitimate interests [4]. At the same time, S. Coleman and D.F. Norris noted that e-democracy is a means of disseminating more political information to improve communication and participation, as well as a perspective for the transformation of political debates and political culture [5]. In general, e-democracy encompasses those arrangements whereby electronic communications are used by those in power and the citizens they serve to interact with each other to inform and modify the way power is used. Therefore, today the participation of citizens in the management of public affairs is becoming a very important area of development of democratic countries, including e-democracy, which involves the use of ICT for citizen participation. The specifics of the use of ICT is the use of more

efficient interconnection, online platforms to discuss the most common issues in certain areas, created by the public authorities in the implementation of e-democracy institutions. E-democracy imitates and practices offline democracy with only one difference: use of electronic tools. In most of its instruments, e-democracy is about direct democracy, which, due to the use of ICT, gets the expression of e-citizen participation, as there is the possibility for a (virtual) formation of a community, online polls and debates. This contributes to both taking into account the different opinions of citizens, as well as more effective decision-making by representatives of the authorities. However, for example, in electronic voting for the election of a president or parliament, there is also a place for representative democracy.

As for the political activity itself, it can be expressed in a large mobilization of opinions of citizens who are interested in the policies or activities of the government and the state as a whole. Constitutional forms of such political and legal activity of citizens are related to the exercise by citizens of their rights within their legal status, including political rights. The object of research is the constitutional and legal forms of political activity of citizens, which are realized through the participation of citizens in public administration, and for this we need to understand the concept of political activity of citizens, which in turn will be the basis for defining the concept of constitutional and legal forms of the political activity of citizens, implemented through ICT.

Considering the phenomenon of human activity in socio-political life, it should be borne in mind that civil society as a complex cultural and socio-political phenomenon has a component structure. It includes social practices (public, civic activity of the population, not limited to participation in elections); social movements; initiative groups; civic involvement in voluntary public associations; awareness of socio-political life; legal culture and ability to use the human rights and judicial system; activities of independent non-governmental organizations involved in human rights protection; lobbying for socially significant initiatives).

According to M. Ostapenko, the concept of political activity is only a subspecies of social activity, while being one of its most active forms [6].

In the conceptual series related to the participation of citizens in the management of public affairs, the term «political activity» also needs attention. Political activity (and social activity that absorbs political activity in volume) in the legal literature is considered in several aspects:

1) as the activity of the subject aimed at achieving socio-political, state interests, as a process, active participation of a person in political life;

2) as a property, personality trait that characterizes his active attitude to political life;

3) as a measure of activity (derived from the political activity itself), which combines its qualitative and quantitative characteristics.

When we talk about forms of political activity, they are essentially an outward expression of the exercise of people power.

Citizens can be politically active by joining political parties and public organizations and directly through participation in national and local referendums, elections to public authorities and local self-government, etc. In this regard, there are two forms of political participation of citizens: 1) «direct» and 2) in associations of citizens, ie through civil society institutions («organizational», «indirect»). These are organizational forms of citizen participation in management, which can be more accurately called individual (personal) and collective. Some of the political rights can be exercised only individually (participation in national referendums, elections of deputies of Ukraine, President of Ukraine), others - only in association with others, collectively (the right of citizens to unite; the right to hold meetings, campaign, marches, demonstrations) - they can not be done alone.

There are also rights that can be exercised both individually and collectively (the right to send individual or collective written appeals or personally apply to public authorities, officials of these bodies). At the same time, associations of citizens can be both temporary (at meetings, demonstrations) and permanent (political party). Most scientific sources distinguish two procedural forms (two legal orders) of realization of constitutional rights, freedoms and responsibilities: 1) initiative – when the holder of rights determines the need and procedure for their implementation, organizes their implementation; 2) procedural and legal (process and procedural) – when the law, with varying degrees of certainty, provides (regulates) the order, procedure for the exercise by citizens of their constitutional rights, freedoms and obligations, the sequence of actions of the holder of the right and obliged subjects, as well as the direct content of these action [7].

As for information and communication technologies, which are becoming an instrument for the implementation of the political activity of citizens, the following can be noted. Information and communication technologies – a set of methods, production processes, as well as software and hardware integrated in order to collect, process, store, distribute, display and use data in the interests of their users [8, p. 7].

Taking into account the results of the entire analysis of the conceptual apparatus carried out above, it is possible to finally determine the concept of constitutional and legal forms of political activity of citizens, implemented with the help of ICT.

The constitutional and legal forms of political activity of citizens, implemented with the help of ICT, are an external expression of the exercise of democracy,

determined by the state to ensure and implement the political rights of citizens, based on the use of software and hardware integrated for the purpose of collecting, processing, storing and distributing, demonstrating and using of data for the benefit of their users.

Electronic petitions can be identified as examples of tools for the implementation of various forms of political activity of citizens, implemented through ICT. Article 2 of the Civic Initiative Act of the Republic of Finland [9] stipulates that the right to take a citizens' initiative is enshrined in the Constitution, and Article 5 of the Civic Initiative Act stipulates that signatures in support of a citizens' initiative (statements of support) are collected in paper or electronic form within the computer network. E-consultations also belong to the group of tools for e-participation of citizens, which are practiced at all levels of government from local to national levels. The Government of the Kingdom of the Netherlands has on its official website a reference to the provisions relating to the participation of citizens in the affairs of the country [10, p. 93–130]. The page reveals the main provisions on the opportunities for citizens of the Kingdom of the Netherlands to express their views on certain issues in the country. A separate site «Participation Platform» is an initiative of the Ministry of Infrastructure and Water Management [11]. On this site, citizens can express their views on projects involved in the Ministry of Infrastructure and Water Management, in particular on topics such as railways, the environment, water and aviation. The «Participation Platform» is managed by a body such as the Directorate for Participation. This directorate is part of the Ministry of Infrastructure and Water Management. Citizens have the right to comment on the plan or decision on this website and the opportunity to see what phase the project is in. The participatory budget (public budget or participatory budget) also belongs to the democratic process of discussion and decision-making, in which each resident of the local community decides how to spend part of local or state resources and can also be carried out using ICT. In general, the list of e-democracy tools that can be used for political activity of citizens is open.

Given the above, it should be noted that an important task for the state is to determine the potential for maximum benefit from ICT. Areas where e-participation is most used are participatory budgets or online consultations in specific areas. The use of these tools involves the use of information, and the key to their effective functioning in e-democracy is the transformation of such information into political action. The impact of these potential actions on the political and legal activity of citizens on the actual decision-making in the state also depends on the social relations of power in the political system. Involvement of citizens and their associations in the formation of public policy, as well as its implementation, examination, monitoring and evaluation is bilateral, and proposals received by the authorities in the process of involvement should be considered and / or taken into account according to certain known procedures. This is the key to feedback, so the better the procedures are written, the more likely it is that the public's position will be taken into account, the more real the participation itself. Without feedback, even involvement does not become a real part of increasing the accountability, control and accountability of the authorities. Thus, prevention of abuse, corruption, separation of power from the problems / needs of the community is an opportunity to more effectively solve community problems and to spend most rationally budget funds, an opportunity to achieve the same or similar understanding of community problems, directions and ways to solve them and to develop a shared vision for the future of the community that everyone will be willing to work for as a group.

Thus, the effective provision of state guarantees for the implementation of constitutional and legal forms of political activity of citizens, implemented through ICT, is not possible without solving the following tasks facing public authorities and local governments:

– the need to provide feedback on the opinion of citizens, because if the final result of any communication between the citizen and the government will not be presented taking into account the views of the participants, citizens may devalue such procedures;

– to solve problems with potential danger in the issues of manipulating topics that are the subject of discussion, including such a phenomenon as «hate speech»;

– to understand and anticipate the risks in the quality of the results obtained in case of insufficient justification or low education of the participants themselves in communicating with the authorities through ICT on the issues discussed.

Also, for the effective implementation of the instruments of constitutional and legal forms of political activity of citizens, implemented through the ICT of citizens, it is important to comply with the following necessary criteria:

• inclusiveness – taking into account the interests of different segments of the population;

• transparency – providing citizens with complete, accurate and understandable information, but it is important to keep in mind that access to a large amount of information does not guarantee its full understanding;

• providing discussion in the format of «city-citizen», in particular through effective channels of interaction based on e-government platforms. An important factor in fulfilling this condition is the «desire

to reconsider one's views» in the light of the discussion;

- guaranteeing citizens the opportunity to influence public affairs;
- cost-effectiveness of budgets through the assessment of project costs and expected benefits and social consequences.

It is necessary to note the list of functions performed by various instruments of e-democracy in the exercise of citizens' political rights:

1) monitoring function, which includes monitoring and control of political processes, actors and decisions through access to relevant digital technologies, information (electronic information), online discussions.

2) an agenda-setting function that can begin to receive relevant information and discuss political issues, but extend to activities such as supporting political projects and submitting formal requests to government agencies (electronic petitions).

3) decision-making function, which provides input on political decision-making (e-consultation), prioritization or budget expenditure (e-participation budgeting) and voting for political alternatives (e-voting) [12].

Involvement of citizens takes place in order to obtain certain information, including opinions on a particular issue, which will be taken into account in the future in the implementation of the state of a particular area of activity, ie the state's own functions.

**Conclusions.** Firstly, the constitutional and legal forms of political activity of citizens implemented through ICT are an appropriate element of the functioning of e-democracy and are an expression of advisory democracy. In essence, such forms are an external expression of democracy, but given the peculiarities that they are associated with the collection, processing, storage, distribution, display and use of certain data through certain software. Such information is created in the process of communication between public authorities or local governments with citizens, and therefore the effective functioning of various ICT, which serve as a platform for political activity of citizens requires compliance with criteria such as inclusiveness, transparency, discussion through effective channels, guaranteeing citizens public affairs and cost-effectiveness of state or local budgets. Secondly, the main functions performed by the various instruments of e-democracy in the exercise of citizens' political rights are monitoring, setting the agenda and facilitating decision-making. Proper performance of these functions is possible under the conditions of preventing the use of «hate speech», providing feedback on the opinions offered by citizens and understanding and anticipation of risks as the results obtained.

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