

# Value principles constitutional law: budgetary protection interests state and society

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**Abstract.** The relevance of the work lies in identifying current trends in strengthening civil initiative budgeting, public control over budgets and public finances to strengthen the principles of democracy and judicial protection at the constitutional level. The novelty lies in the assessment of the legal positions of society and the state regarding the value parameters of budgetary and constitutional provisions as mechanisms for protecting the rights of citizens in the public sector. The purpose of the article is to consider topical constitutional-legal and budgetary-legal problems of increasing the value of constitutional provisions as the basic principles of legal regulation of protecting the budgetary interests of the state and society. Special methods of legal and informational analysis have been used to study innovative approaches to protecting the budgetary provision of constitutional rights of citizens. The results of the study include a set of legal approaches to improve the level of budgetary protection of citizens and the state within the framework of constitutional democracy. They cover judicial review of budget disputes to protect the rights of citizens to compensation payments and social security supplements, increase budgetary activity at the local level through initiative budgeting. As part of the discussion, it is concluded that the model of budgetary control based on the results of budget execution should be consistent with the constitutional principles of budgetary federalism and democracy. The consequences of the conclusion state that the participation of citizens at the stages of the budgetary process of local self-government helps modeling and public monitoring of draft budgets, reduces the risks of misuse of budgets and increases control over the compliance of budget reporting with real results of economic activity.

**Keywords:** constitutional principles value, citizens budgetary protection, budgetary law, initiative budgeting.

## 1. Introduction

### 1.1. Substantiation of the relevance and novelty of the study.

The relevance and novelty of the topic is due to the need for a conceptual and scientific definition of the value of the principles of constitutional law in the legal regulation of public relations in the field of public administration of budgetary relations to improve the welfare of the people.

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In legal practice and legislation, there are gaps in the legal regulation of the grounds for the direct application of the norms and principles of constitutional law as a value orientation in the process of socialization of budgets. It is important to expand the constitutional rights of citizens to participate in the budgetary-procedural and administrative-financial management of public finances. A special role in this area is assigned to the decisions of the Constitutional Court of the Russian Federation, designed to reduce the risks of budget violations against the interests of the state and society (Constitutional Court of the Russian Federation. 2021).

The importance of these problems is of particular importance for the financial and legal analysis of the new edition of the Constitution of the Russian Federation of July 4, 2020, which established additional constitutional mechanisms for protecting the budgetary interests of the state and citizens (All-Russian vote on amendments to the Constitution of Russia. 2020).

The interaction of constitutional and budgetary-legal principles received a new impetus with an increase in the value of the constitutional principle of expanding the participation of public authorities in the budgetary relations of budgetary oversight. Civil society, when interacting with the state, must to verify the results of spending budget funds as public finance. To this end, the Constitution of the Russian Federation, as amended of July 4, 2020, provides the creation of the State Council of the Russian Federation to coordinate public authorities in the field of budget planning, adjust budget allocations, and control budget expenditures based on results. Budget innovations of the Constitution of the Russian Federation in red. 07.04.2020 the authors of this article highlighted earlier in their study on the constitutional and legal protection of the economic and financial sovereignty of the state. (Petrova & Stupakov, 2020). Questions of the value of constitutional principles for ensuring the economic sovereignty of the state are becoming priority areas of Russian scientific research (Boldyrev, 2018).

Along with Russian researchers, taking into account the “election upheavals” in the United States in 2016-2021, American constitutional law experts critically analyze modern constitutional democracy in the United States. They increasingly emphasize that the strengthening of constitutional democracy cannot be limited to the control of the “legality of elections”, but requires respect for the value of the constitutional principles of the rule of law in all spheres (Ginsburg & Huq, 2018). American practitioners traditionally consider the special value of the principles of the US Constitution for the interpretation and application of laws by judges on the principles of impartiality and fairness (Robert, 2019). Swedish experts of the International Institute for Democracy and Electoral Support note the expansion to the texts of modern constitutions of general provisions on the state identity of the people and their will to proclaim common values and ideals of the state and society (Bulmer, 2017).

Russian academic researchers of the problems of constitutional law, in a comparative analysis of the constitutions of the new generation, revealed their modern features, demonstrating both the intensity and extensiveness of the development of constitutional provisions with a significant expansion of the subject of constitutional law (Khabrieva, 2019; Boldyrev, 2020). In the works of the Russian scientist I.A. Umnova-Konyukhova most fully reflects the theoretical and practical significance (value) of the general principles of constitutional and international law for judicial practice of interpreting law and law enforcement (Umnova-Konyukhova, 2019).

In order to achieve the main goal of the work, innovative mechanisms for the implementation of state budget policy according to national laws and standards of international financial organizations (the World Bank, the IMF, the Financial Stability Board) are compared. The recommendations and standards of these organizations are aimed at strengthening budget control, guaranteeing compliance with the constitutional rights and legitimate interests of citizens for budget initiatives in the management of sustainable development, especially in crisis conditions of a pandemic, etc. (World Bank Group. PEMPAL, 2020).

Within the framework of the working hypothesis, some methodological recommendations of financial authorities on the introduction of the constitutional principle of citizens' participation in the budgetary distribution of public finances through public initiatives into financial and legal regulation are considered (Ministry of Finance of Russian Federation, 2021). It is noted, that the expert groups

of the World Bank, together with Russian, Brazilian and other experts, suggested that financial authorities further develop initiative mechanisms of «participatory budgeting» to implement the constitutional right of citizens to participate in decision-making processes on the use of all or part of the available public funds (Dias, Sahsil & Simone, 2019). In foreign literature the problems of increasing the information security of financial information of participants in public control over budget spending and budget security as users-citizens, who have the right to reliable information about the activities of state bodies, are discussed (Jorge, Nogueira & Jesus, 2019). Russian researchers of participatory budgeting also note that citizens' access to financial information contributes to the democratic process of enhancing citizens' participation in resolving issues of targeted allocation of budget funds for priority national development projects while monitoring the effectiveness of their use (Vinogradova, 2021). The term "participatory budgeting" is international and has been included since 2020. into Russian legislation as “proactive budgeting” (State Duma of the Russian Federation, 2020).

## 1.2. Questions and structure of the study, hypothesis, goals, objectives

*Research question 1:* Determine the types of principles of constitutional law, which are the values of the system of legal regulation of budgetary relations to protect the budgetary interests of the state and society.

*Research question 2:* On what constitutional principles is based the right of citizens to financial compensation from the budget and public control over public finances.

*Research question 3:* Constitutional methods for protecting the budgetary interests of citizens and the state in the implementation of the budgetary coordinating functions of the State Council of the Russian Federation

*Research question 4:* The constitutional value of the principle of protecting the rights of citizens to reliable information about budget expenditures and revenues in the management of budgeting.

The purpose of the study is to substantiate the value of the principles of constitutional law for the legal protection of the budgetary interests of citizens and the state by studying the world and Russian practice of developing constitutional and financial law, scientific views, concepts of constitutional development, judicial decisions. The tasks of the work are determined by the research questions posed. The research hypothesis is expressed by a new legal model of the constitutional principle of budgeting, a methodology and a system for finding ways that can increase the value (value) of the constitutional principle of democracy in budget regulation. The article includes 5 sections: 1) introduction, 2) materials and methods, 3) research results, 4) discussions and conclusions; 5) conclusion. They include the hypothesis, goals and objectives of the study, methods for analyzing current problems, the concept of the interaction of constitutional principles with the legal regulation of budget financing and social budgeting, scientific results, discussions and practical recommendations.

## 2. Materials and methods

Comparative analysis methodology is followed by experts of the international organization in Stockholm «International Institute for Democracy and Election Support (International IDEA)», who analyzed most of the constitutions of the countries of the world, concluded that constitutions as legal and political documents reflect the intersection of the legal, political, social systems of society (Bulmer, 2017).

By comparing the legislative levels of the implementation of the principles of constitutional law as a «value» that improves the quality of regulation of legal relations in society, the growing system-forming influence of general and special principles of constitutional law on such branches of law as financial, budgetary, municipal, administrative, tax is revealed.

The method of information analysis of financial and legal acts of different countries made it possible to identify the growing connection between the general constitutional principles for protecting the budgetary interests of the state and society with the principles of information security and information security of the population with reliable information about budgets (Haustein, Lorson, Caperchione & Brusca, 2019).

The content of special constitutional principles for protecting the budgetary interests of the state and society is revealed by the method of a special legal analysis of the material. These are the principles of budgetary and tax federalism, the principles of inter-budgetary and interdepartmental control of the balance of budgetary revenues and expenditures, the principles of a fair distribution of taxes and budgetary financing of the federation and subjects of the federation, the unity of the judiciary to ensure law and order in budgetary regulation. The article gives a general assessment of the development trends of the special principles of the Budget Code of the Russian Federation and the Tax Code of the Russian Federation. They specify the constitutional foundations for social and budgetary financing of the interests of the state and society after the amendments to the Constitution of the Russian Federation on July 4, 2020

### 3. Research results

In the study of «question 1» on the impact of the principles of constitutional law on financial law, it was determined that the development of the norms of budgetary regulation of the interests of the state and society is ensured by the activation of the constitutional protection of citizens' rights. At the constitutional level, budgetary provision of social benefits, support for financing public and private businesses, etc. are protected. In judicial interpretation, the importance of constitutional principles as the value of legal protection of the budgetary interests of the state and society is increased. These principles are important for local self-government in the implementation of the rights of citizens to participate in local self-government. Public budgetary control is based on the general constitutional principles of legality, law and order, the unity of public authority, the protection of social security, and the improvement of the welfare and security of citizens. This is proved by the practice of the Constitutional Court of the Russian Federation, for example, by the Solution of the Constitutional Court of the Russian Federation of July 15, 2021 No. N 37-P, concerning the execution of court decisions arising from the claims of citizens for foreclosure on budgetary funds.

The Constitutional Court of the Russian Federation indicated that there could be conflicts between the constitutional principles of the timeliness and completeness of the execution of a court decision and the obligation for the state to perform the functions of budget financing in accordance with the approved budget spending standards. The possibility of foreclosure on budgetary funds is justified by acts of executive authorities, since judicial protection of property (extra-budgetary) interests of citizens must be consistent with the expenditure side of treasury accounts of budgets. The implementation of the right of a citizen to judicial recovery of funds from the budget should not violate the budgetary security of recipients of budgetary funds under the Budget Code of the Russian Federation.

In the study of «question 2» it was told about the constitutional principles underlying the rights of the state and society to financial compensation from budgets and the rights of citizens to public control over budget funds. The value influence of constitutions on the stability of budgets and stimulation of the factors of socialization of budget management is shown. Budgetary law thus protects the interests of the state and society through social budgetary financing, increasing the legal protection of state budgetary and extra-budgetary funds from the risks of insolvency and the risks of budgetary «underfunding». According to the constitutions of many countries, the state is obliged to increase the size of pensions and other social benefits «depreciated» due to inflation. It is responsible for eliminating budget deficits, taking anti-crisis financing measures to eliminate the consequences of pandemics and other threats. However, measures against the illegal export of budgetary funds, misuse of budgets, abuse of budgetary benefits, loans, subsidies, etc., often remain ineffective.

In the study of «question 3» on the constitutional methods of protecting the budgetary and social security of citizens and the state, it should be noted the financial and stabilization function of budgets as the public and financial basis of the state, which is protected by immunity. This is confirmed by the position of the Supreme Court of the Russian Federation (Post. Plenum of the Supreme Court of the Russian Federation dated May 28, 2019 N13), which generalizes the practice of applying budgetary and legal norms related to the imposition of penalties on budgetary funds by courts. The Budget Code of the Russian Federation establishes the constitutional principle of profitability, sufficiency and

immunity of the budgets of the budgetary system of the Russian Federation. Part 1, p.p. "v.1-v-2" Article 114 of the Constitution of the Russia as amended on 04.07.2020 establishes the principle of budgetary protection of socio-economic development. Point «e-5» of Article 83 of the Constitution of the Russia establishes the powers of the President of the Russia to create a new body, the State Council of the Russia, designed to provide a mechanism for interaction between public authorities. According to the Federal Law of the Russian Federation "On the State Council of the Russian Federation" No. 08.12.2020 (Art. 5.p. 7), its functions, among others, include interdepartmental coordination of federal budget parameters and monitoring of budget execution based on results.

When resolving «question 4» on the constitutional value of the principle of protecting the rights of citizens to manage budgeting, to reliable information on budget expenditures and incomes, the relevance of improving the protection of budgetary rights and citizens' interests for initiative budgeting was also emphasized. The authors of the article support the positive views of foreign analysts on information methods for protecting the rights of users of financial information on local budgets, when there are guarantees for the use of reliable budget information on budgeting and financial reporting (Van Helden & Reichard, 2019). From a practical point of view, the views of foreign experts on the relevance of financial analysis of motivated budget speeches of politicians to ensure the financial independence of budgetary self-government are interesting. Understanding the value of the constitutional principle of publicity of power at the level of local self-government, it is necessary to support the method of budgetary and legal analysis through a public assessment of the reliability of financial information provided by local authorities in reports, reports and public speeches (Sinervo & Haapala, 2019).

#### **4. Discussions and conclusions**

The principles and institutions of constitutional law are a special category of constitutional and legal regulators that are of systemic importance for the formation of branches and institutions of Russian law, including legislation on the organization of state management of economic development. Constitutional-legal and doctrinal specification of the content of the principles of constitutional law will help prevent possible risks of blurring the scope of constitutional regulation by the budgetary process and transform them to the level of general legislative regulation, which may violate constitutional stability.

One should be critical of the comprehensive dissemination of budgeting as a universal method of budgeting, supported by foreign theories about innovative methods of budget control through budgeting with the involvement of public control (Haustein, Lorson, Caperchione & Brusca, 2019). Undoubtedly, many are drawing on a new institutional theory to explore the potential for implementing performance-based budgeting (RBB). Although RBB is an alternative to traditional budgeting formats and procedures, this does not mean that the use of the cash basis of financial reporting used at the government level is abandoned. The traditional cash-based budgeting system is deeply rooted in the existing practice of budgetary relations, but today it does not meet the development of the constitutional principle of "people's control" of the targeted use of budgets and requires its transformation into a flexible response system, especially in a pandemic (Shaolong & Muhua, 2020).

#### **5. Conclusion**

Based on the results of the analysis of scientific sources and regulatory material, the main conclusions should be drawn

1. Being laws of the highest legal force, the provisions of the constitutions on budgetary relations are values expressing the principles-standards of national budgetary regulation, reflecting the original values of the state and society.

2. The Constitutional Law regulating local self-government (Federal Law 20.07.2020 No. 236-FZ) of the Russian Federation changes and develops budget regulation at the level of local democracy. Since January 1, 2021, the law has been supplemented with a new form of concretization of the

constitutional principle of citizens' self-government through initiative budgeting projects. This shows the value of the constitutional principle of democracy, when through proactive budgeting based on the unity of public authority, citizens are involved in budgetary relations as initiators of financing priority projects of territories.

3. Compensatory measures through the indexation of pensions at least once a year, provided for by Part 6 of Article 75 of the Constitution of the Russia, meet international standards for the constitutional development of protecting the budgetary interests of the state and society.

4. It is necessary to eliminate the methodological and ideological disunity of understanding the value of principles in law, philosophy, sociology, political science. Further research is needed on the value of the principles of constitutional law as a complex backbone conceptual set of socio-ideological, cultural, historical, organizational, financial and managerial foundations of the rule of law.

5. There is a financialization and socialization of constitutional and legal regulation by expanding budgetary and coordinating methods for protecting the integrity and stability of public finances by constitutionally protective, socio-economic, public initiative, financial and legal methods for adjusting and developing budgets at various levels. Financialization means a growing and systemic dependence of constitutional development in the context of ensuring the rights of citizens to public control of budgets, the priority of public finances for the purposes of social policy.

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