

Principles of Legal Regulation of Political Parties Activity in Modern Russia

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Abstract: In the 21st century, the multiplicity of Russian parties has found itself in a whole new set of political conditions, which are associated with the passage of the Federal Law “On Political Parties” on June 21, 2001. In this article, the author analyzes the major principles on which the modern mechanism of the legal regulation of relations with the participation of political parties in the Russian Federation is built: voluntariness, parity, self-governance, legality and transparency. The author also brings to light the tenor of the principles of independence, territoriality and freedom of political party activity and illustrates the difficulties existing in putting these principles into action.

Key words: Political Party • Party System • Legal Institutionalization • Political System • Legislation on Parties

INTRODUCTION

The development of a law-bound democratic state in the Russian Federation in the current stage ought to be effected with intent attention to the activity of political parties, since it is political parties that have the right to take part in elections at different levels [1, 2]. Therefore, one should consider as natural the expansion of the rights of political parties, as well as reduction of requirements as to the minimum party size, which has been implemented in national legislation in the current stage [3-5]. The amendments to the Federal Law “On Political Parties”, referred to throughout the article, are in line with the major principles of regulating party activity, which the author is going to dwell upon.

Main Part: It should be noted that the state is interested in regulating party activity for the purposes of modernizing the political system [6, 7]. In concert with political parties, it ought to develop a program for the development of civil society, which will be based on the fundamentals of morality and law and aimed at the development of every citizen [8, 9].

The activity of political parties in the Russian Federation is predicated upon the principles of voluntariness, parity, self-governance, legality and transparency. Article 8 of the Federal Law “On Political Parties” establishes principles that can be divided into

those underlying the legal personality of political parties as a type of public associations and those underlying that of political parties as such. In the latter case, we are referring to Item 4 of Article 8: “Political parties ought to create for men and women, citizens of the Russian Federation of various ethnicities, who are members of political parties, equal opportunities for presence in the governing bodies of state authority and bodies of local self-government”. This principle also expresses the purpose both of legislative changes associated with party system development processes and restricting the rights to the formation of and membership in political parties on the part of persons holding Russian citizenship.

The significance of this principle within the structure of the constitutional-legal status of political parties lies in that it looks like a mediated reinforcement of the provisions of the second chapter of the Constitution of the Russian Federation, which contains wide-ranging and modern guarantees for fundamental rights and freedoms. Note that within the meaning of Item 1 of Article 55, the list of rights and freedoms is open: the enumeration of fundamental rights and freedoms in the Constitution of the Russian Federation should not be construed as denying or belittling other universally recognized rights and freedoms of man and citizen. Consequently, the effect of the definition derived is the emergence of so-called unwritten constitutional rights.

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Another principle of the constitutional-legal status of political parties is the territoriality principle. Article 5 of the Federal Law “On Political Parties” provides a direct definition of this principle: “A political party is empowered to conduct its activity throughout the territory of the Russian Federation”, which means confining the activity of political parties to the territory of the Russian Federation, in which only Russian parties and their structural units have the right to operate [10].

And when it comes to evolutionary changes to current legislation, which are associated with the action of the territoriality principle, it makes sense to refer to Article 47 of the Federal Law “On Political Parties”, which is dedicated to issues of transforming Russian national political public associations and defining the status of interregional, regional and local political public associations. Item 1 of Article 47 stipulates that Russian national political public associations formed prior to the coming into effect of said law are empowered to transform into political parties in accordance with this law within two years following the date of its coming into effect. What is referred to is the resolutive condition, for Item 5 of Article 47 reads: “Upon the expiration of the term stipulated in Item 1 of this Article, any Russian national political public association that has not transformed into a political party loses its status of a political public association and operates as a Russian national public organization or a Russian national public movement on the basis of a charter, which is applied in the part that does not contravene this Federal Law”. Whereas pursuant to Item 6 of this article, upon the expiration of the term stipulated in Item 1 of Article 47, interregional, regional and local political public associations lose their status of political public associations and operate as respectively interregional, regional, or local public associations on the basis of their charters, which are applied in the part that does not contravene said law.

The major principles of the activity of political parties are set out in Article 8 of the Federal Law “On Political Parties” and they express the specific nature of a party as a type of public association, i.e. this is clearly a mediated reinforcement of Article 18 of the Constitution of the Russian Federation. In this regard, what is referred to are the principles standing in the way of arbitrary intentions towards changes to current legislation. Besides, they underlie the specific nature of the structure of the constitutional-legal status of political parties, wherein the

positive freedom of their activity is matched up against the negativity of their rights. In other words, this is the “allowed is everything that is not prohibited by the law” general principle: political parties are free to define their internal structure, goals and activity methods, but have to deal with limitations established by the Federal Law “On Political Parties”.

The principle of party parity before the law means the equality of their legal statuses [11, 12]. The norms of law hold equally for all parties, regardless of ideologies, goals and objectives set out in their documents. This issue also incorporates the obligation of the state to provide for the protection of the rights and legitimate interests of all parties.

The parity principle has a narrower interpretation. The equality principle implies equality of the legal status of all parties, while the parity principle, using the language of logic, means the equality of volumes of rights granted to different parties. That said, the volume of rights should not be made dependent on the ideology, goals and objectives of a party. Let us say all parties participate in elections on equal terms. The parity principle also means ensuring the actualization of citizens’ right to unite into political parties. Therefore, creation of political parties based on professional, racial, national, or religious grounds is not acceptable.

The voluntariness principle in a maximally broad sense means the right of citizens of Russian Federation to unite into political parties. However, compared with the parity principle it means a right to unite in accordance with one’s convictions, a right to refrain from joining a party and a right to unhindered withdrawal from one. Besides, the voluntariness principle can be endowed with the internal and external forms of expression. In the first case, it is the level of relations between parties and external subjects, in the second—the level of relations between parties and their members. Thus, one can speak of voluntary unification of parties into an electoral bloc or passing party decisions through voting at a party congress.

The self-governance principle is consonant with the notions of party activity freedom. In a stricter sense, it means the impossibility of external governance over a political party. Besides, it can be conceptually associated with the party independence principle, which means the separation of a party in its legal personality from the state and other public establishments whose impact on party activity is effected only within the law.

The transparency principle is set out in Item 3 of Article 8 of the Federal Law "On Political Parties": "Political parties act transparently; information on their constitutional and manifesto documents are commonly accessible". Thus, pursuant to Article 19 of the Federal Law "On Political Parties", information on the formation and liquidation of political parties is published in Russian national periodic print media. The registration authorities create records of state registration for parties and their regional divisions in the Single State Register of Legal Entities, which is open to public viewing. The federal registration authority publishes annually a list of parties and their regional divisions (providing the registration date for each party and each of its regional divisions) in Russian national periodic print media and on a special website. Besides, the site contains parties' consolidated financial reports, telephone numbers for permanent leading party bodies and other information related to party activity.

Furthermore, Item 6 of Article 19 of the Federal Law "On Political Parties" places restrictions on the extent of openness and common availability of information on parties: "Information on members of a political party, which is presented for reference to authorized authorities, is considered restricted access information. The disclosure of information specified in this Item without the consent of corresponding members of a political party results in liability as provided by the legislation of the Russian Federation".

The most common is the principle of legality of political party activity. Item 1 of Article 27 of the Federal Law "On Political Parties" states that a political party ought to abide in its activity by the Constitution of the Russian Federation, federal constitutional laws, federal laws and other statutory and regulatory enactments of the Russian Federation, as well as its own charter. Political party activity ought not to violate the rights and freedoms of man and citizen guaranteed by the Constitution of the Russian Federation.

CONCLUSION

Political parties ought to develop as democratic and pluralistic organizations based on the principles of majority rule, responsibility, voluntariness, parity, self-governance, legality and transparency. Their activity is an indicator of the process of development of civil society, democratization of the political system, development of self-governance and the more efficiently it is implemented, the firmer civil society will be.

Inferences: Interrelations between the state and political parties are predicated upon the principle of mutual non-interference with each other's activity. At the same time, the state, as the central subject of the political system, administers the legal regulation of political party activity and can impose bans on the activity of those of them that try to employ unlawful means to adversely affect society and citizens. In my view, the state's granting greater leeway will have a positive effect on national democracy and help improve the partogenesis process in the country.

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