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## CONSTITUTIONAL-LEGAL STATUS OF POLITICAL PARTIES AS SUBJECTS OF THE ELECTORAL PROCESS

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**Annotation:** The article discusses the legal nature of the subjects of the institution of suffrage - political parties. The conceptual apparatus and the essence of the constitutional legal status of political parties as subjects of the electoral process of Russia are determined. It is noted that the main trend of modern Russian election legislation is related to the expansion of the foundations of participation of political parties in elections, not only at the federal, but also at the regional and municipal levels. Discusses the issues of the electoral process and the legal regulation of political parties.

**Keywords:** state power, public institutions, rights and freedoms, constitutional status, electoral process, suffrage, political party, subjects of law, electoral process, representative bodies.

Currently, in constitutional law science, the issue of determining and the elemental composition of the sectoral legal status of collective subjects of public legal relations, such as public associations and political parties, despite a lot of scientific work on this issue, continues to be debated. This is due both to the problematic scientific discussion regarding the category of "constitutional legal status" itself, and to the particularities of the status of political parties at the present stage.

It should be noted that the term «status» itself, as a legal category, can simultaneously mean both diverse phenomena (in this case, researchers supplement the definition with a specific term, obtaining several subspecies of the «status» category), or it can be considered as a complex-structured, multidimensional phenomenon.

In the scientific literature, this category was initially interpreted as a complex, sometimes dichotomous phenomenon that went beyond the summative system of legal rights and freedoms and legal duties, and implemented a set of structural elements, a list of which has been noted and grouped, and there are many disputes.

So, as an example of disputed elements, we will point out such as legal capacity, legal capacity, tort (so, this position is shared by N. A. Bogdanova, but not shared, for example, by L. B. Sobolev and others), guarantees of the exercise of rights and freedoms and etc. [3, p. 19]

The legal status of a party is a comprehensive collective category, reflecting its legal nature, place in the system of state and public institutions, rights and obligations, the ability to act as a subject of law, social relations, grounds for legal responsibility. Differentiation of the legal status of a political party may reflect its various facets - depending on the perspective of the study.

An analysis of the provisions of the federal laws «On Political Parties» and «On Basic Guarantees of Electoral Rights and the Right to Participate in the Referendum of Citizens of the Russian Federation» reveals the following varieties of special statuses: parties that have representation in the State Duma in the legislative (representative) government bodies of the subjects Russian Federation; parties actually participating or not participating in elections; parties with the right to state funding, parties deprived of the right to free access to the media during elections, etc.

It should be noted that with the adoption of the Federal Law «On Political Parties», which unified the requirements for their organizational structure, excluding the possibility of creating regional and local parties, there were less varieties of the special status of political parties. However, the allocation of this category, in our opinion, is still legitimate.

The structure of the legal status of a political party includes its legal structure, fundamental rights and obligations that determine its constitutional and civil legal personality, legal responsibility, as well as legal relations of a general (status) type. The latter, in particular, include issues of interaction between the state and political parties, principles of activity of political parties, etc.

The essential features of a political party find their concise expression in its various definitions.

Moreover, there is no universally recognized definition of a political party in legal and political science. Among the many definitions of the party in world political science, the most widely used are electoral (J. Sartori and others), structural (M. Duverger, M. Ya. Ostrogorsky), functional (K. Lawson and others), structural and functional (S. Neumann).

Thus, a political party is understood to mean a temporarily stable organization that expresses the interests of a part of society and sets as its goal the struggle for power, characterized by statutory discipline, fixed membership, common values and corporate interests [2].

As notes S.E. Zaslavsky, various theoretical and methodological approaches to the definition of the concept of a political party are formed both by state lawyers and political scientists.

Of course, the scientific definitions of a political party, although they do not carry a normative burden, are reflected in the development and consolidation of the legal structure of political parties in normative acts. Moreover, in the course of its development, the concept of a political party is operationalized: it primarily reflects legally significant features, the presence or absence of which can be established with certainty [2, p. 85].

The impossibility of completely identifying the legal concept of a political party with the concepts formulated by the political and sociological sciences has been repeatedly noted in the latest studies on political parties, since «the translation of the relevant theoretical provisions into a normative act requires taking into account the specifics of legal regulation» [2].

We emphasize that a feature of the normative constitutional legal status of political parties is the possibility of normative regulation by both the federal legislator and the laws of the constituent entities of the federation (with regard to the participation of regional branches of political parties in elections in a constituent entity and in municipal elections in the constituent territory), as well as in individual allowed by the federal legislator and potentially possible from the point of view of the possibilities of the regional legislator, cases - and regulation by regulatory acts of local self-government.

So, despite the fact that at first glance with regard to the nature of political parties in Russia, it is impossible to go beyond the electoral approach, given the constant trend of the last decade to increase the role of parties in the public power system and power relations in general, and in the federal electoral process, in particular, taking into account the direct dependence on political parties of the very possibility of implementing certain electoral procedures, the fact that there are no obstacles to party monopoly at the regional level, the classical functional interpretation of the goals and functions of political parties is also found, which is the main component of party goal-setting «the pursuit of power, political hegemony domination».

The procedures for the participation of political parties in elections are sequentially functionally complicated and transformed in the direction of increasing the importance of parties in the formation of the institutions of state power of the Federation, while the level of «party discretion» in relation to a number of significant non-legally binding, but permissible election procedures (primaries) increases.

But growing in recent years, this value puts on the agenda a new question: the extent of permissible party influence in the claim to the title of democratic, legal system. This answer requires a consistent and comprehensive analysis of the laws and procedures that vest political parties with relevant rights and clarifies the impact of the implementation of these political rights on the political system in comparison with the impact of the realization of the political rights of non-partisan citizens, as well as other subjects of political and legal relations and public policy actors.

Note that in modern political and legal studies, a considerable number of approaches are known to define and define a «political party», and to identify its place and the place adequate to the democratic political regime in the political system and its role in certain significant legal procedures.

It should be noted that the current Russian legislation on the status of political parties, in a rather specific way, determines their general role, containing a very reduced legal definition; however, by analyzing the functions of parties in the political system and their most important responsibilities, the approach chosen by the Russian legislator to determine the role of political parties can be described as based on the so-called electoral approach (above, we have already mentioned the work of J. Sartori and others) [5]. This approach provides mainly an answer to the questions of the goal-setting of political parties.

Allowing ourselves some methodological liberty and appeal to reductionist methods, we note that, in fact, the analyzed approach can be reduced to the following statement: «the party's goal lies in the electoral sphere».

As a kind of special case of a functional approach to understanding the phenomenon of a political party, the electoral approach is embodied in the main provisions of Russian legislation, including the consolidation of a significant number of electoral procedures in which the participation of political parties and their regional branches is mandatory. Of great importance in analyzing the participation of political parties and their regional branches as participants in elections at the level of a constituent entity of the federation is the structural approach proposed in due time by M. Duverger.

It is applicable especially since in Russia there is a rather specific requirement for the presence and a certain number of structural units, and at the same time, regional political parties that are quite widespread in Europe and the USA are prohibited.

Thus, we proceed from the fact that the constitutional and legal status of a political party will be the normative provision established by the norms of constitutional legislation and the actual position of the political party in the public law sphere implemented through participation in constitutional legal relations, a specific level of implementation of constitutional legal goals, tasks and functions of a political party in the political system, a system of constitutional legal guarantees and constitutional responsibility of political parties and a specific level of social fulfillment of constitutional legal rights, duties, guarantees and responsibilities of a political party.

This definition contains a listing of the most important, in our opinion, elements of the constitutional legal status of political parties: goals, objectives and functions, the order of creation, structural change and liquidation, rights and obligations, guarantees of activity, responsibility.

Identifying the most important essential features of the constitutional and legal existence of political parties, the Constitutional Court of Russia in its Resolution of April 13, 2017 No. 11-P

«On the Case of Verifying the Constitutionality of Part 2 of Article 40, Parts 10 and 11 of Article 42 of the Federal Law» On the Election of Deputies of the State Duma Federal Assembly of the Russian Federation», clauses 2 and 3 of part 1 of article 128 and part 10 of article 239 of the Code of Administrative Procedure of the Russian Federation in connection with the complaint of citizens Trunova and M.V. Yurevich «defines political parties as» the main collective subjects of the electoral process».

Indeed, according to paragraph 1 of Article 36 of the Federal Law of July 11, 2001 No. 95-FZ «On Political Parties», it is parties in Russia that are «the only type of public association that has the right to nominate candidates (lists of candidates) for deputies and other elected posts in government bodies».

Thus, the most important component of such elements of the constitutional legal status of political parties as the goals of creation, tasks and functions will be the participation of political parties in the elections. And this, in turn, will determine the content of their rights and obligations, the composition and content of guarantee mechanisms, as well as the types, forms and content of liability.

Analyzing the role and purpose of political parties in the Russian election process, the Constitutional Court of Russia emphasized that «it is political parties that serve as the necessary institution of representative democracy, which in many ways ensures the participation of citizens in the political life of the country, the political interaction of civil society and the state, the integrity and stability of the political system, which predetermines their legitimization as electoral associations, mediating the exercise of the electoral rights of citizens and endowed, inter alia, with the right to nominate candidates (lists of candidates) during any election campaign».

Note that in the decision cited above, the Constitutional Court of Russia uses the category of «electoral legal status» to specify the constitutional and legal status of a political party as a subject of the electoral process, which follows from the objectives of constitutional normative control, not limited by the sectoral framework of constitutional law.

We note that the most important obligation (and, at the same time, the most significant right) of political parties arising from the semantic core of the content of the purpose-functional block is.

This is nothing more than participation in elections, and the obligation is formulated disjunctively: by listing (logical addition) of those types of elections, at least in one of which, and at least once, the political party is obliged to take part within the established term, which today is 7 years old.

At the same time, the right to participate in a political party in elections, including federal ones, is formulated conjunctively: a political party can take part in all the electoral campaigns listed in the article, without any restrictions when meeting the mandatory procedural requirements for such participation provided for in the legislation.

Summing up some of the results, we note that the status of a political party essentially represents the normative and actual position of a political party in the public law sphere, the party fulfilling the most important function - participating in elections, exercising the rights of the political party, which correspond to the guarantees of the political party, and fulfillment of duties, which correspond to different types of responsibility of a political party, while rights, liability and guarantees correspond to liability for violation of the law on political parties.

The constitutional and legal status of a political party, therefore, is a normative provision established by the norms of constitutional legislation and realized through participation in constitutional and legal relations, the actual position of a political party in the public law sphere, a specific level of realization of the constitutional legal goals, objectives and functions of a political party in political system, a system of constitutional legal guarantees and constitutional responsibility of political parties and a specific level of social enforceability of constitutional legal rights, duties, guarantees and responsibilities of a political party.

Despite the fact that participation in elections is an essential part of the content of the constitutional legal status of political parties, and non-participation entails constitutional legal responsibility in the form of liquidation, a comparative analysis of Russian and foreign legislation shows the incompleteness of the imperative requirement for political parties to participate in elections (you can completely ignore parliamentary elections) allows the creation of client-parties and the long-term evasion of political parties from their most important sociopolitical and legal function - participation in elections, in connection with which it is necessary to consistently amend the current legislation on political parties in order to increase the imperativeness of the requirement to participate in elections, and, we emphasize - participation in elections to representative bodies of the state authorities.

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