

POLITICAL PARTIES: PURPOSE, ORGANIZATION, REGISTRATION AND FUNCTIONING

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Abstract

The fact that political parties have appeared is the result of a long process of evolution of modern society. The first right granted to Romanians after the Revolution of 1989 was the right to association by Decree-Law no. 8 of 31 December 1989 on the Registration and Functioning of Political Parties and Public Organizations in Romania.

Keywords: *political party, electoral code, Constitution, organization, statute, fiscal register*

JEL Classification: [K 10]

1. Introduction

In the Romanian political space, the parties began to form in the 19th century, so in 1875 was created the National Liberal Party, in 1880 the Conservative Party, in 1881 the Romanian National Party of Transylvania and in 1893 the Social Democratic Party of Romanian Workers, to refer us only to the most significant ones.

Products of modern society, political parties as motors of public life and communication channels between civil and political societies are indispensable institutions for the organization and leadership of modern and contemporary society. (Leicu, 2002)

2. The founding members of a political party

Law of political parties no. 14/2003, published in the Official Gazette of Romania no. 25/17.01.2003)¹ on the exception of the unconstitutionality of the provisions of art. 19 paragraph (1) and (3) of the Law on political parties no. 14/2003² was removed the administrative barrier regarding the registration of a political party. The condition that the list of founding members to include at least 25,000 members with residence in at least 18 counties of the country and

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¹ Published in the Official Gazette no. 265/21.04.2015.

² Law of political parties no. 14/2003, published in the Official Gazette of Romania no. 25/17.01.2003.

Bucharest, but not less than 700 persons for each of these counties and the municipality of Bucharest, was modified by point 8 of art. I of Law no. 114/2015³ regarding the modification and completion of the Law on political parties no. 14/2003, respectively the constitutive act of a political party must be signed by at least 3 founding members.

The raising of the barrier was also determined by the arguments of the initiators of the draft law which presented a comparative situation with the countries of the European Union regarding this requirement for the registration of a political party.

In no other country from the European Union no longer exists a requirement for registration a political party (see table no. 1 which is part of the explanatory memorandum of the legislative proposal for amending art. 19 and art. 47 of the Law no. 14/2003 of the political parties):

Table no. 1 - Number of founding members needed to form a political party

Country	Number of founding members needed to form a political party	Country	Number of founding members needed to form a political party
Austria	1	Letonia	200
Belgium	3	Lithuania	1.000
Bulgaria	50 (with a minimum of 500 participants at the first founding congress and a minimum of 2500 members in total)	Luxembourg	3
Czech Republic	3 (supported by 1000 citizens)	Malta	1 11
Cyprus	1	Holland	3
Croatia	100	Poland	3 (supported by 1000) citizens)
Denmark	1/175 of the votes validated expressed at the last elections	Portugal	7.500
Estonia	1000	U. R. of Great Britain and Northern Ireland	3
Finland	3 (supported by 5000 citizens)	Romania	25.000
France	3	Slovakia	3 (supported by 10.000 citizens)
Germany	3	Slovenia	2
Greece	200	Spain	2
Ireland	1	Sweden	1.500
Italy	3	Hungary	10

³ Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

In the Member States of the European Union, especially in consolidated democracies, the number of founding members needed to form a political party is reduced precisely to allow for broad freedom of association and participation in public life.

These examples of consolidated democracies that allow a broad freedom of association and participation in public life by establishing a more faithful representation of citizens' interests will lead to an explosion in the number of newly established political parties at both national and local levels because according to art. 4 of the Law no. 14/2003⁴, republished, political parties can be organized and function at national level, at local level or at both national and local level, according to their own statute.

In order to have a clear picture of the number of parties existing in Romania, we mention that in the last local elections from June 2012 have participated a number of 2810 electoral competitors, as follows: 30 political parties, 18 minorities, 1 political alliance, 47 electoral alliances and 2714 independent candidates⁵.

The Charter of Fundamental Rights of the European Union⁶, a legally document obligatory for Member States and annex to the Treaty of Lisbon, provides Freedom of meeting and association (Article 12) as one of the fundamental rights of EU citizens: *“Any person has the right to freedom of peaceful meeting and freedom of association at all levels, especially in the political, trade union and civic spheres”*.

The arguments presented in several statements of reasons versions of the draft law to amend the number of members required to form a political party are reasonable and in conformity with the right of association provided for in the Treaty of Lisbon. Political competition must have as its object values and objectives.

The size and power of a party depend on the ability of its members (many or few at the beginning) to convince the electorate. That is why is given the possibility to enter more parties in the political competition, and success of each will depend on the values that it promotes and how the electorate is convinced. Also, by political consensus, were removed the provisions which connects the internal organization of the political parties to the administrative-territorial organization of the country.

⁴ Published in the Official Gazette no. 25/17.01.2003.

⁵ According to the Report on the organization and conduct of elections for the local public administration authorities from June 2012, elaborated by the Permanent Electoral Authority, p. 59.

⁶ The Charter of Fundamental Rights of the European Union was proclaimed by the European Commission, the European Parliament and the Council of the European Union at the Nice European Council from 7 December 2000.

The rules of candidacy rules set out in the Electoral Code Commission aimed not to differentiate the electoral competitors in the sense of their discrimination. These are: campaign rules, funding rules and erase rules. Have been followed, in this respect, the recommendations of the Group of States Against Corruption (GRECO), but, first of all, the transparency of the activity and financing of political parties.

The new rules of functioning of the political parties aim to refresh the Romanian political class, but taking into consideration a fair electoral competition, transparency of financing, facilitating the registration of political parties, correlated with stipulating certain conditions of their activity, in order to fulfil, real, the public mission guaranteed by the Constitution (Roș, 2015).

In the particular case of national youth policies, international reference documents developed in recent years also recommend the formulation of such policies through systematic consultation between the Government and National Youth Organizations, their representation platforms and other actors in the field. In a more extended version, the recommendations go to the suggestion of setting up national youth policy based on a broad consultation process involving representatives of all major political parties and interested NGOs (Roș, 2003).

Both the law from 1996 and the law from 2003 gradually reduced the number of political parties that entered into the electoral race for parliamentary elections. If in 1990 and in 1992, 67 and respectively 140 parties entered the electoral race, their number gradually decreased because the conditions for registering a political party became more and more restrictive. In 1996, the number of political parties that participated in the election was 61 in 2000 was 54, in 2004 was 45, in 2008 was 19, to reach only 16 in 2012.

Law no. 14/2003 has proposed to institutionalize political parties, making them representative institutions for the entire Romanian population, thus putting, to a certain extent, the equal sign between what should be two different types of political participation: adhesion to a party and electoral vote.

The electorate, also called the electoral body, is not confused with the population of the country (Muraru, 2005). The electorate includes a part of the population, its mature political and active part. Electorate is a dynamic segment of the population, always in renewal, a natural phenomenon of human life, the dynamics of generations.

It is obvious that the number of people who form the electorate is lower than that of the people who form the population. Those two digits have different functions in the elections. The population is taken into account when is established electoral districts or when is established the number of mandates.

The particular role of political parties implies the existence of a law for to detail constitutional provisions. Involvement of parties in the elections implies that their legal regime should be established a long time ago.

2. Purpose, organization, registration and function

Political parties are political associates of Romanian citizens with voting rights, who participate freely in the formation and exercise of their political will, fulfilling a public mission guaranteed by the Constitution⁷. They are legal entities of public law.

Through their activity⁸, political parties promote national values and interests, political pluralism, contribute to the formation of public opinion, participate with candidates in elections and the establishment of public authorities and stimulate citizens' participation in elections, according to the law.

Political parties which by their status, programs, propaganda of ideas or other activities violate the provisions of art. 30 par. (7), art. 40 par. (2) or (4) of the Romanian Constitution, republished⁹ are prohibited. Political parties can be organized at local and national level or both locally and nationally level, according to their own status. Full name of political parties or political alliances and the abbreviated name, as well as the permanent sign can not reproduces or combine the national symbols of the Romanian state, of other states, international bodies or religious cults. Exceptions are political parties that are members of international political organizations, who can use the logo of the respective organization as he is or in a specific combination.

Can be members of political parties the citizens who, according to the Constitution, have the right to vote. Political parties can not include people to whom political association is forbidden by law¹⁰. A Romanian citizen can not be part of two or more political parties at the same time. If a person wants to be part of another political party they must resign from the party whose member he was previously¹¹.

No person can not be constrained to be part or not be part of a political party¹². Each political party must have its own political status and program¹³.

⁷ Art. 1 of the Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

⁸ Art. 2 of the Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

⁹ See the following articles from the Romanian Constitution: art. 30 paragraph (7), art. 40 paragraph (2) and art. 40 alin (4).

¹⁰ Art. 7 of the Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

¹¹ Article 8 paragraph (2) of Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

¹² Article 8 paragraph (5) of Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

¹³ Art. 9 of the Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

Obligatory, the statute of the political party comprise¹⁴:

- a) full name and abbreviated name;
- b) description of the permanent sign;
- c) the permanent sign in black- white and color graphic form;
- d) headquarters;
- e) the express mention that it pursues only political objectives;
- f) the rights and obligations of members;
- g) disciplinary sanctions and procedures by which can be applied to members;
- h) the procedure for the election of the executive bodies and their competencies;
- i) the competence of the general meeting of members or their delegates;
- j) bodies empowered to submit candidatures in local, parliamentary, European and presidential elections;
- k) the competent body to propose the reorganization of the party or to decide the association in a political alliance or other forms of association;
- l) the conditions under which they stop their activity;
- m) the manner of administration of the patrimony and sources of financing, established according to the law;
- n) body representing the party in relations with public authorities and others;
- o) other mentions that are obligatory according to this law.

Political parties may have territorial organizations, which have the minimum number of members provided by the statute.

Members have the right to resign from the party at any moment, with immediate effect. The election of members of the leadership of the political party and of the leadership of its territorial organizations is made by secret vote¹⁵.

In order to record a political party the following documents are submitted at the Bucharest Law Court:

- a) the request for registration, signed by the head of the executive body of the political party and by at least 2 founding members;
- b) the statute of the party, drafted according to the provisions of art. 10;
- c) party program;
- d) the constitutive act, signed by at least 3 founding members;

¹⁴ Article 10 of Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

¹⁵ Article 17 paragraph (2) of Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

- e) a statement regarding the headquarters and the patrimony of the party;
- f) the proof that a bank account has been opened.

The request for registration is posted at the Bucharest Law Court for 15 days. Within 3 days from the date of filing the request for registration, the notice about this shall be published by the applicant in a central newspaper of large circulation.

The list of the founding members' signatures must include the first and last name, date of birth, address, type of identity document, series and number and also the signature. Founding members of a political party may only be citizens with voting rights.

The list will be accompanied by a declaration on his own responsibility of the person who drafted it, declaration which attests the authenticity of the signatures, under the sanction provided in art. 326 of the Criminal Code¹⁶. The list must include at least 3 founding members¹⁷.

The political party has legal personality from the date of the final decision of the court on the admission of the request for registration. The political parties whose requests for registration were admitted will be registered in the Register of Political Parties. Political parties can associate themselves on the basis of an association protocol, constituting a political alliance.

In order to record a political alliance the following documents are submitted at the Bucharest Law Court:

- a) a) the request for registration of the political alliance, signed by the executive management of the political parties;
- b) b) association protocol;
- c) c) full name and abbreviated name of the political alliance;
- d) d) description of the permanent sign;
- e) e) the permanent sign in black- white and color graphic form.

The political alliances whose requests for registration were admitted will be registered in the Register of Political Alliances. If the political alliance will participate in elections with common lists, the candidates must be part of a political party, member of the alliance.

A political party stops its activity by:

- a. dissolution, by a decision pronounced by the Constitutional Court, for violation of art. 30 par. (7) and Art. 40 par. (2) and (4) of the Romanian Constitution, republished;

¹⁶ Article 19 paragraph (2) of Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

¹⁷ Article 19 paragraph (3) of Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

- b. dissolution, by a decision pronounced by the Bucharest Court;
- c. self-dissolution, decided by the competent bodies provided by the statute;
- d. reorganization, in the situations provided by art. 39 par. (3), art. 40 par. (4) or art. 42 para. (2) of the Political Parties Law.

The inactivity of a political party can be ascertained in the following situations:

- a. did not take any general meeting for five years;
- b. did not nominate candidates, either alone or in alliance, in two successive electoral campaigns.

The Registry of Political Parties is the legal instrument for the record of political parties in Romania¹⁸. The institution with the right to operate in the Register of Political Parties is only the Bucharest Law Court. Data from the Registry of Political Parties are considered to be information of public interest.

The registration and deletion of political parties, operated in the Register of Political Parties, shall be published in the Official Gazette of Romania, Part I.

Existing political parties at the time of their entry into force continue to operate on the basis of the legal registration documents valid at the time of their establishment.

Citizens of the European Union who do not have Romanian citizenship and are domiciled in Romania have the right to join in political parties under the same conditions as Romanian citizens.

3. Fiscal register of political parties

The Permanent Electoral Authority will keep a fiscal register of political parties in which the following information's will be passed:

- a) the first and last names, personal numerical codes, addresses and contact details of the persons responsible for the administration of political party funds, at national and county level;
- b) the addresses of the headquarters, of the territorial organizations and of the internal structures of the political parties stipulated in art. 4 par. (4) of the Law no. 14/2003, republished;
- c) surname and first name, personal numerical codes, addresses and contact details of persons entitled to represent political parties at central and county level;
- d) data on the annual revenues and expenditures of political parties;
- e) data on the political parties electoral revenues and expenses;
- f) type and amount of sanctions applied.

¹⁸ Article 51 paragraph (1) of the Law no. 114/2015 published in the Official Gazette of Romania no. 346/20.05.2015.

The Permanent Electoral Authority shall also keep a register of independent candidates with the following informations the names and forenames, personal numeric codes, addresses and contact details of the candidates, the financial activity data of the electoral campaigns and the sanctions applied.

Conclusions

The inequality of the candidates' financial resources of which depends largely the success of the campaign and implicitly the success in the elections is combated in the vast majority of modern democracies through the legislative regulation of the public and private financing of the electoral campaign.

Thus, is assured the independence of the political parties which propose candidates in the elections as against to the economic pressure groups as well as the transparency of the use of financial resources during the campaign, in which civil society and, implicitly, the electorate have access to the accounts of political parties and their sources (Nica, 2010)

The principle of transparency in the financing of electoral campaigns is legally guaranteed in the Romanian system¹⁹.

Bibliography

Books

1. Leicu, I., (2002), *Introducere în politologie*. Cluj-Napoca: Risoprint.
2. Muraru, I., (2005); *Alegerile și corpul electoral*. București: All Beck.
3. Nica, E.M., (2010), *Drept electoral*. Craiova: Sitech.
4. Roș, N., (2003), Rolul și locul tinerilor din România în viața politică locală, județeană și națională în perioada de tranziție. *Probleme actuale ale cercetării economice, juridice, politice și sportive*. Cluj-Napoca: Risoprint.
5. Roș, N., (2015), *Îndrumar practic legislativ pentru candidații la alegerile locale*. Cluj-Napoca: Risoprint.

Report

Report on the organization and conduct of elections for the local public administration authorities from June 2012, elaborated by the Permanent Electoral Authority.

Legislation

1. Law of political parties no. 14/2003, published in the Official Gazette of Romania no. 25/17.01.2003.
2. The Charter of Fundamental Rights of the European Union was proclaimed by the European Commission, the European Parliament and the Council of the European Union at the Nice European Council from 7 December 2000.
3. Law no. 114/2015 published in the Official Gazette of Romania no. 346 / 20.05.2015.

¹⁹ Article 1 paragraph (2) lit. c) of Law 334/2006 on the financing of the activity of political parties and electoral campaigns, republished in the Official Gazette of Romania no. 446/23.06.2015.