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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**COMMENTS**

**OF THE INSTITUTE OF LEGISLATION AND COMPARATIVE LAW  
UNDER THE RUSSIAN FEDERATION GOVERNMENT**

**ON**

**THE FEDERAL LAW OF THE RUSSIAN FEDERATION  
ON POLITICAL PARTIES**

### **Conditions of Registration of Political Parties**

**1. What conditions it is necessary to observe currently and in future in the process of registering any new political party? Will the well known draft laws aimed on decrease of requirements to political parties and their liberalization apply to all new applications for establishment of political parties?**

**Answer:** Currently according to Para 2 of Article 3 of the Federal Law dated July 2001 No. 95-FZ "On Political Parties" (hereinafter referred as Federal law On political parties) a political party shall meet the following requirements:

- a) a political party shall have regional departments in more than one half of the subjects of the Russian Federation, provided that in a subject of the Russian Federation there may be only one regional department of a political party;
- b) political party shall have no less than 40 000 (forty thousand) members, provided that in more than one half of the subjects of the Russian Federation regional departments will have no less that 400 (four hundred) members. In other regional departments the quantity of each department shall be no less than 150 (one hundred fifty) members;
- c) governing and other organs of political parties, their regional departments and other structural units shall be located in the territory of the Russian Federation.

Article 9 of the Federal Law On political parties contains a number of restrictions on establishment and activities of political parties:

- The establishment and activities of political parties pursuing extremist aims or actions are prohibited (Para 1 Art. 9);
- The establishment of political parties on grounds of professional, racial, national or religious belonging is not permitted (Para 3 of Article 9);
- Political party may not be composed on persons of one profession (Para 3 of Article 9);
- It is not permitted to establish structural units of political parties in organs of state power and local self-government, in Military Forces of the Russian Federation, in other state bodies, in state and non-state organizations (Para 5 of Article 9);
- The establishment and activities in the territory of the Russian Federation of political parties of foreign states and their structural units are prohibited (Para 6 of Article 9).

Besides the aforesaid requirements, the Federal Law On political parties contains a number of other requirements mainly of procedural and technical nature which shall be observed in the establishment and activities of political parties.

On the 23d of December 2011 the President of the Russian Federation has introduced the draft law N. 1471-6 "On Amendments to the Federal Law "On Political Parties", aimed at reducing the number of requirements imposed on the establishment and activities of political parties. In particular, the draft law proposes to decrease starting from the 1<sup>st</sup> of January 2013 the minimal number of members of political parties required for their establishment and activities up to 500 (five hundred) members. It is also proposed to eliminate the requirements which are currently imposed on the minimal number of regional departments in no less than one half of the subjects of the Russian Federation. It is presumed that such requirements may be prescribed by the political party itself.

It is appropriate to note that the Constitution of the Russian Federation does not contain any requirements pertaining to the minimal number of political parties, as well as other requirements on their formation and functioning. These conditions are laid down by the Federal law On political parties. In this regard it is necessary to take into account that the issue pertaining to the quantity of a political party in the whole and of its regional departments has in the main political and not a legal nature. The Constitutional Court of the Russian Federation in the Decision dated February 1, 2005 N. 1-P has outlined that law-makers while deciding on the issues of quantity of political parties on federal (all-state) and regional levels possess a significant degree of discretion, taking into account that this issue is considerably connected with political reasonability. This is witnessed by different approaches to the legal regulation in foreign countries (the requirements to the quantity of political parties may be higher or lower than it is prescribed by the Federal law On political parties), which are determined, on one hand, by the tasks which have to be solved by legislative means in the development of the political system, and on the other hand, by the quantity of the population of appropriate state. So, the choice of this or that option of quantity composition of a political party and its reflection in the Federal law On political parties depends on concrete tasks which have to be solved for the development of political system and ensuring that it is adequately correspond to the principles of the constitutional order of the Russian Federation. Such a choice shall be made by the representative organ – Federal Assembly of the Russian Federation according to established rules of legislative procedure.

Simultaneously with the aforesaid draft law, the President of the Russian Federation introduced to the State Duma of the Federal Assembly of the Russian Federation a draft law N. 1476-6 “On Amendments to Several Federal Laws of the Russian Federation in Connection with Discharging Political Parties from Gathering Signatures of Electors During the Elections of Deputies of the State Duma of the Federal Assembly of the Russian Federation, of the Organs of State Power of Subjects of the Russian Federation and Organs of Local Self-Government”. The draft law proposes to discharge political parties from collecting signatures of electors as required for the registration of list of candidates nominated by political parties for the elections of deputies State Duma of the Federal Assembly of the Russian Federation, organs of state power of subjects of the Russian Federation and for elections of organs of local self-government. So, the draft law contemplates that during all elections at different levels, with the exception of the President of the Russian Federation, all political parties will be discharged from the collecting of signatures of electors. At the same time it is presumed that during the election of the President of the Russian Federation the existing requirement on collecting the signatures of electors by the political parties which are not represented in the State Duma of the Federal Assembly or in legislative (representative) organs of state power of subjects of the Russian Federation in no less than one third of subjects of the Russian Federation.

The draft law proposes to decrease the number of signatures collected by such political parties in the support of the proposed candidate for the office of the President of the Russian Federation from 2 000 000 (two million) to 100 000 (one hundred thousand) signatures. At the same time, in a separate subject of the Russian Federation there will be not more than 2 500 (two thousand five hundred) instead of current 50 000 (fifty thousand) signatures and not more than 2 500 (two thousand five hundred) signatures of electors residing beyond the territory of the Russian Federation. Besides, the draft law proposes to decrease from 2 000 000 (two million) to 300 000 (three hundred thousand) signatures of electors in the support of oneself nomination for the office of the President of the Russian Federation. In this case in one subject of the Russian Federation and beyond the borders of the Russian Federation may be collected not more than 7 500 (seven thousand five hundred) signatures of electors (currently it is required to collect fifty thousand signatures of electors).

The draft law decreases also the number of signatures necessary for nomination of candidates at regional and local elections. It is established by a law of a subject of the Russian Federation and may not exceed 0,5 % (currently two percents) from the number of electors registered in the territory of the appropriate election district.

## **2. What will be the Role of the Minister of Justice in this Process?**

**Answer:** According to Para 1 of Article 12 of the Federal law On political parties for the preparation, convocation and conduct of the constituent assembly of a political party citizens of the Russian Federation having the right to be members of the political party shall form and organization committee composed of not less than 10 (ten) persons. The organization committee notify in a written form the Ministry of Justice of the Russian Federation about the intent to establish a political party indicating its proposed name. Together with the notification it shall present to the Ministry of Justice of the Russian Federation:

- a) information about not less than ten members of the organization committee (family names, names, patronymic, dates of birth, citizenship, contact telephones);
- b) protocol of the meeting of the organizational committee indicating the goal of its formation, term of powers (not more than one year), location, the order of using financial means and other property of the organizational committee, the information about the member of the organizational committee entitled (hereinafter referred to as authorized person) to open settlement account for collecting means of the organizational committee and to conclude civil law contracts for provision of its activities (family name, name, patronymic, date of birth, citizenship, number of the passport or other document substituting the passport and contact telephone).

The Ministry of Justice of the Russian Federation on the day of filing the notification and other abovementioned documents gives to the authorized person of the organizational committee a document certifying their receipt (Para 3 of Art. 12).

It would be appropriate to note, that the organizational committee determine independently the procedure of its activities. During the term of its powers the organization committee held a constituent congress of the political party. With this aim the organization committee, in particular, opens through its authorized person the settlement account in one of the credit organizations of the Russian Federation and informs about this the Ministry of Justice of the Russian Federation.

The documents necessary for the state registration of the political party shall be filed in the Ministry of the Russian Federation not less than six months after the constituent congress of the political party or the congress of all-Russian public association or all-Russian public movement which has decided to transform it into political party.

The Ministry of Justice of the Russian Federation or its territorial unit, provided it certifies the conformity of the filed documents to the requirements of the Federal law On the political parties, enacts a decision about state registration of the political party or its regional unit and transfer to the registration organ the information and documents necessary for exercising the function of maintaining the uniform register of corporate persons. On the basis of the aforesaid decision, enacted by the Ministry of Justice of the Russian Federation or its territorial unit and provided data and documents, the organ of registration within five working days from the date of receiving data and information makes recording in the uniform register of corporate persons of the political party or its unit and not later than one working day after making recording inform the organ which has made the decision on state registration of the political party or its regional unit.

In accordance with Para 5 of Art. 15 of the Federal law On political parties the Minister of Justice of the Russian Federation or its territorial organ not later than three working days after receiving from the registration organ information about recording in the uniform register of corporate persons of political party or its regional unit, give to the authorized person of the political party or its regional unit a document confirming its recording in the uniform register of corporate persons. If there is no decision on refusing the recording of the political party or its regional unit, the aforesaid document shall be provided not later than one month from filing the application for state registration.

In the event the political party failed to register its regional units in more than one half of the subjects of the Russian Federation, the document of state registration of the political party shall be deemed expired, and such political party and its regional units shall be excluded upon the decision of the Ministry of Justice of the Russian Federation from the uniform register of corporate persons by making appropriate notes.

In addition to the aforesaid powers, the Ministry of Justice of the Russian Federation is obliged to provide the Central Election Commission of the Russian Federation a certified copy of the charter of the political party in a printed and electronic forms within five days from the date of the state registration of the political party or the changes made to its charter (Para 7 of Art. 19).

### ***Grounds for Rejecting the Registration of Political Parties***

#### ***3. In which cases the provisions of the charter of the political party mayor have been regarded as the grounds for rejecting the registration of the political party?***

***Answer:*** In accordance with clause “a” of Para 1 of Art. 20 of the Federal law On political parties, the political party may be refused in the state registration in the event the provisions of the charter of the political party contravene the Constitution of the Russian Federation, federal constitutional laws, Federal law On political parties and other federal laws. The requirements directly pertaining to the charter of the political party are laid down in Art. 21 of the Federal law on political parties. In particular, according to Para 2 of Article 21 of the Federal law On political parties the charter of the political party shall contain the provisions specifying:

- a) goals and tasks of the political party;
- b) the name of the political party, including the abridged name, and the description (if any) of its symbols;
- c) the conditions and the procedure for obtaining and losing the membership in the political party; rights and obligations of its members;
- d) the order of record keeping of members of the political party;
- e) the procedure for establishment, reorganization and liquidation of the political party, its regional units and other structural departments;
- f) the procedure for electing governing and controlling and revision organs of the political party, its regional units and other structural departments, the term of powers and the province of the aforesaid organs;
- g) the procedure for changing and amending the charter of the political party and its program;
- h) the rights of the political party, its regional units and other structural departments in managing finances and other property, financial responsibility of the political party and the procedure for accounting of the political party, its regional units and other structural departments;
- i) the procedure for nomination by political party of candidates (lists of candidates) to the deputies and other elected offices in the organs of state power and local self-government, including reelection and additional elections;
- j) grounds and the procedure for recalling by political party, its regional units and other structural departments having the right to participate in the elections candidates, registered candidates to the deputies and other elected offices in the organs of state power and local self-government; the procedure for excluding candidates from the list of candidates proposed by

political party, its regional units and other structural departments having the right to participate in the elections;

k) the procedure for nominating by the political party to the office of the supreme official of the subject of the Russian Federation (head of the executive power of the subject of the Russian Federation) in the events as specified in Art. 26.1 of the Federal law On political parties.

The abovementioned enumeration of the requirements to the charter of the political party, laid down by Para 2 of Art. 21 of the Federal law On political parties has a comprehensive nature. But at the same time, certain requirements addressed to the charter of the political party are contained in other norms of the Federal law On political parties. For instance, according to Para 5 of Art. 24 of this Law the charter of the political party shall provide for the rotation of heads of collegiate and permanent acting governing organs of political party and its regional units.

The legislation does not limit by the aforesaid requirements the opportunity for political parties upon their own decision to include in their charters other provisions, provided they do not infringe the norms of the legislation of the Russian Federation. In particular, the charter of the political party may contain the provisions pertaining to its activities not contravening the legislation of the Russian Federation (Para 3 of Art. 21 of the Federal law On political parties).

#### **4. On the controversial procedure for liquidation / dissolution of political parties:**

**- The procedure applied;**

**- The role of the Ministry of Justice, the availability of judicial way.**

**Answer:** According to § 1 of Art. 41 of the Federal law On political parties political party may be liquidated by a decision of its supreme governing body - the Congress or by decision of the Supreme Court of the Russian Federation.

The list of grounds for liquidation of a political party by the decision of the Supreme Court is established in paragraph 3 of Art. 41 of the Federal Law. It should be noted that this list is exhaustive. These reasons include:

a) The failure by the political party to comply with the requirements of paragraphs 4 and 5 of Article 9 of the Federal law On political parties.

In this case we are talking about violations of the restrictions to create structural divisions of political parties, restrictions on the activities of political parties and their units, as well as the prohibition of interference of political parties with the educational process of educational institutions.

b) The failure to eliminate the established violations that gave rise to the suspension of political party, in term prescribed by court.

It should be noted that in accordance with Para 1 of Art. 39 of the Federal law On political parties in the event of infringement by a political party of the Constitution of the Russian Federation, federal constitutional laws, Federal law On political parties and other federal laws, the Ministry of Justice of the Russian Federation shall issue a written warning to the political party specifying violations and indication the time period for removing the violations not exceeding two months. If these violations have not been eliminated by a political party within the prescribed period of time and if the above mentioned warning has not been challenged in court, the activities of a political party may be suspended by the Supreme Court of the Russian Federation on the basis of the statement of the Ministry of Justice of the Russian Federation for up to six months. Thus, in the case of failure to eliminate violations that led to the suspension of the activities of political party, its regional unit or other structural division, the Ministry of Justice of the Russian Federation or its local department, which made a court statement to suspend the activities of a political party, its regional branch or other structural unit, initiates an action in the appropriate court for liquidation of the political party, its regional unit or other structural division.

c) Failure of political parties to participate in elections for five consecutive years. Procedure for recognition of political parties as participating in elections is set in Art. 37 of the Federal law On political parties. It provides that a political party can be treated as participating in the election in one of the following cases when the voting is taking place in elections for:

1) Registered federal list of candidates for elections as deputies of the State Duma of the Federal Assembly of the Russian Federation nominated by it and;

2) Registered candidate for the office of the President of the Russian Federation nominated by it; and

3) Registered candidates (lists of candidates) for election as deputies of legislative (representative) bodies of subjects of the Russian Federation in not less than 20 percent of subjects of the Russian Federation nominated by it; and

4) Registered candidates (lists of candidates) for election to local self-government authorities in more than half of the subjects of the Russian Federation nominated by it;

d) The absence in more than half of the subjects of the Russian Federation of regional offices of the political party, in which the number of members meets the requirement as stipulated by clause. "b" of Para 2 of Art. 3 of the Federal law On political parties.

Starting from January 1, 2012, a political party must have regional offices consisted of at least 400 members in more than half of the subjects of the Russian Federation.

e) The lack of the required number of members of the political party as stipulated by Para 2 of Art. 3 of the Federal law On political parties.

Along with other regulations this rule also provides that a political party shall consist of not less than 40 000 members since January 1, 2012.

f) Repeated failure of giving by the political party to the federal authorized body of the updated information needed to make changes in the uniform state register of corporate persons in due time, except for information on obtaining licenses.

The obligation to provide such information is set and regulated in Para 3 of Art. 27 of the Federal law On political parties.

g) A political party may also be liquidated in the procedure and on the grounds as provided by the Federal Law on July 25, 2002 № 114-FZ "On Countering of Extremist Activity".

A statement for liquidation of a political party on the above grounds is brought to the Supreme Court of the Russian Federation by the Ministry of Justice (Para. 4 of Art. 41 of the Federal law On political parties).

It should be noted that the legislator has provided some exceptions to the general grounds for the liquidation of political parties. In particular, the political party represented in the State Duma of the Russian Federation can not be liquidated on the grounds specified in clauses "g" and "d" of Para § 3 of Art. 41 of the Federal law On political parties, in which case there is a failure to comply with the requirements of the minimum number of members in the regional units of the political party or to the total number of members of the political party during five years from the date of the voting in the elections. A similar ban on the suspension of the political party activities is enshrined in Para 5 of Art. 39 of the analyzed Federal law. Besides, the liquidation of a political party is also not allowed by the decision of the Supreme Court of the Russian Federation from the day of official publication of the act to call (or to hold) elections of deputies to the State Duma of the Russian Federation, the elections of the President of the Russian Federation, till the day of official publication of the elections results, except in cases where the activities of a political party, its goals or actions are aimed at carrying out extremist activities.

The grounds and procedure for the liquidation of regional units and other structural divisions of a political party are regulated by Art. 42 of the Federal law On political parties. This regulation is fixed as a projection on the regional level of the rule on the liquidation of a political party contained in Art. 41 of the Federal Law. It also provides that the regional unit and other structural division of the political party shall be liquidated in the case of liquidation of the political party. In accordance with Para 4 of Art. 42 of the Federal law On political parties a statement for the liquidation of regional unit and other structural division of a political party shall be brought to the Supreme Court of the republic; territorial, regional court, court of federal city, autonomous region and autonomous territory court of the Russian Federation by the Ministry of Justice or its appropriate regional department.

**- The existence / exercise of control functions after registration in order to determine whether conditions required for registration are being complied;**

**Answer:** In accordance with Art. 39 of the Federal law On Political Parties, control over observance of the Russian Federation legislation by the political parties, their regional units and other structural divisions, as well as control over the compliance of activities of the political party, its regional units and other structural divisions to the provisions, aims and objectives of the statutes of political parties, is performed by the Ministry of Justice and its territorial bodies.

Currently, the Ministry of Justice and its territorial organs are entitled to:

a) Not more than once a year get acquainted with the documents of political parties and their regional units, confirming the existence of regional units, the number of members of the political party and the number of members of each regional unit of the political party;

b) Send their representatives to participate in public events organized by the political party, its regional units and other structural divisions (including meetings, conferences or public meetings) to adopt the statute and program of a political party, to introduce amendments and additions, to elect governing and audit bodies of the political party, to nominate candidates for deputies and for other elective offices in government agencies and local government, to reorganize and liquidate a political party and its regional offices;

c) Send a political party, its regional unit or other registered structural division a written warning (specifying reasons for the warning), when their activities are contrary to the provisions, aims and objectives set out by the charter of the political party. The warning may be appealed by the political party, its regional unit or other registered structural division in the court. When a warning is addressed to a regional unit or other registered structural division of the political party, the territorial authority shall immediately notify the federal competent body and the governing body of the political party;

d) To file in the court a plea for suspension of party's activities or for liquidation of the political party, its regional unit or other registered structural division in accordance with Para 3 of Art. 39, Para 3 of Art. 41 and Para 3 of Art. 42 of the Federal law On political parties.

In addition, control over the sources and sizes of property obtained by political parties, their regional units and other registered structural divisions, in the form of entrance and membership fees and donations from individuals and legal entities is performed by the Central Election Commission of the Russian Federation, and relevant election commissions of subjects of the Russian Federation. The control over the sources of other income of political parties, their regional units and other registered structural divisions, amounts of their money received and taxes paid is performed by the Federal Tax Service and its territorial bodies.

**- The protection of fundamental rights in this process.**

**Answer:** Art. 46 of the Constitution of Russian Federation guarantees everyone judicial protection of his (her) rights and freedoms. Decisions and actions (or inaction) of state bodies, local authorities, public associations and officials may be appealed in court. These provisions of the Constitution have been widely developed in the sectoral laws, including legislation governing relations in the sphere of realization of the right of association in political parties. In

particular, the Federal law On political parties contains several provisions directly pointing on the ability of political parties to defend their rights in court. The political parties are endowed with such right, including cases of appealing actions (inaction) of the Ministry of Justice and its territorial bodies, that concern the establishment and functioning of political parties. Cases concerning appeals of decisions of the Ministry of Justice and its territorial bodies are considered in courts in the procedure, as provided by Chapter 25 "Procedure of cases concerning the appeal of decisions, actions (inaction) of state bodies, local authorities, officials, state and municipal employees" of the Civil Procedure Code of the Russian Federation. In addition, in case of disagreement of the political party with a court decision concerning the party, Para. 1 of Art. 43 of the Federal law On political parties secures the possibility of appealing a court decision suspending the activities or liquidating the political party, its regional units and other structural divisions. However, this norm has a reference nature, and therefore, it should be noted that appropriate regulation is contained in the provisions of Sec. 41 "Proceeding in the court of cassation" of Chapter 41.1 "Proceeding in the court of supervisory jurisdiction" and Chapter 42 "Revision due to newly discovered facts or new court decisions that have come into force" of the Civil Procedure Code of the Russian Federation.

In addition, each subject of law, including political parties are entitled in accordance with international treaties of the Russian Federation, to appeal to international bodies for the protection of human rights and freedoms, if all available domestic remedies are exhausted (Part 3. 46 of the Constitution of the Russian Federation).