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## **LEGAL LIABILITY OF POLITICAL PARTIES BUILDING THE RULE OF LAW**

Political parties are a current topic of scientific debate, being at the confluence of several sciences such as law, sociology, political sciences etc.

In opinion of I. Muraru, the parties are organizational forms by which citizens participate in the government process and as such, are subjects of the constitutional law [5, p. 298].

The political parties' institutionalization process in European countries started in the first half of the twentieth century, while the representative democracy in the Republic of Moldova is a relatively new phenomenon, being outlined at the end of the twentieth century. Currently, political parties are treated as collective subjects of law, being under the confluence of state and society.

They include elements of the public and private laws. Thus, political parties comprise rights and obligations, actions which are not limited to the provisions of constitutional law, but have expanded considerably as well as other areas including administrative, financial, labor, civil, criminal, etc.

Following the above, we believe that social-political associations should be treated as complex institutions, involving several forms of legal liability.

Moreover, it is very difficult to diminish their role within a state with a political instability, which is developed in a form of early elections, recount of votes or holding referendums for overcoming constitutional deadlock.

It is therefore necessary to review the current status of the political parties in modern society, but also their political and juridical responsibility toward the citizens.

The numerous activities organized by political parties requires an amply study of their development under the following aspects: the political party relationship - the state power, the role of political parties within society and political party itself.

In the process of association between these relationships and forms of liability arising in case of breach, we conclude that the regulation of political party's legal regulations within the society falls under the legal rules.

The relation of political party and state power regulation involves constitutional (the state's government exertion). Political parties are always competing for access to power and for applying policies and programs following the doctrine.

In this regard, political parties are under constitutional control.

In their relation with the society, political parties appear as collective subjects (legal entity) are being entitled to sign contracts of rent, purchase - sale, loan, lease, mortgage, etc.

In Max Weber opinion, the essence of the parties is found in their organizational structure. In this context, the role of parties is resumed in mobilizing citizens into political parties or social organizations. In addition to these ideas is included the statement that political parties are children of democracy, of universal suffrage, of the need to recruit and organize the masses [6, p.73].

As a matter of fact to impose legal responsibility of a political party consists of committing a breach regulation.

The delinquency is an action or inaction of political party members which comes in contradiction with legislation in force.

The penalty is put into action upon its execution according to the contravention code and criminal or employee disciplinary or material liability of the employer.

Forms of liability of political associations depend on the legal nature of violations committed by them.

Thus, for example, the breach of the political party's statutes may result in administrative responsibility and sanctions imposed by the labor code. In exceptional cases, members of political parties can be punished criminally.

It is also important to note that it is not foreseen by national legislation for a political party to be attracted to criminal or administrative liability, but in this regard, it is important to take in consideration the fact that in the Moldovan political parties law they are defined as voluntary associations with legal entity status, and legal codes provide that the legal person supports tougher sanctions than the individual [2, Art.1].

Several known authors have investigated the above mentioned problem and have made their contribution in this field.

Among them we underline Baltag Dumitru Gheorghe Avornic, M. Badescu, A. Bloşenco, M. Costin, N. Vitruc, G. Vrabie Ion Deleanu J. Muraru, S. Tanasescu etc.

Commentaries on definition, classification and calling to the constitutional responsibility of political parties is supported also by A.H. Кокотов who, besides defining the political parties, mentioned that political parties are created freely and without the approval of state organs or persons in charge "[7, p. 111].

Dumitru Baltag refers to the following types of legal liability:

1. constitutional responsibility
2. administrative responsibility
3. material liability
4. civil liability
5. criminal liability
6. disciplinary liability[4, p. 240].

Today the constitutional liability is recognized as a form of legal liability only by some authors, without being supported by any detailed scientific analysis which would argue its existence [4, p. 140].

Also we affirm with certainty that the constitutional responsibility is a form of legal liability arising from the facts for which are to which the legal status subjects are involved.

The purpose of the constitutional legal responsibility is to protect and guarantee the effective exercise of public power by the authorities empowered by constitution and constitutional laws.

Current constitutional legislation assigned the following measures constitutional responsibility:

- suspension from the office of the state president and other high-ranking officials(article 89 from the constitution);
- dismissal / resignation of the Government or government's reshuffle(art.98 of the Constitution);
- the right to carry a motion of no confidence (Article 106 of the Constitution);
- deprivation of powers of the person chosen as deputy, prohibition in holding certain positions [4, p. 264];

It should be noted that the criminal liability is treated differently in different states, depending on the seriousness of the committed actions. Thus, in the United States of America there is criminal liability of legal persons.

Initially, the criminal sanction was provided for legal persons in trade unions and trusts. In their case was imposed a fine. Later, these sanctions were extended to other NGOs.

According to Russian Constitutionalists the practice was regarded as undemocratic one. However, during the 80s, as a result of deepening of social problems, the bringing to account of legal persons has become an evident problem.

In 1978, the European Committee for the problems of crime urged the European states to recognize the collective right as subject held by criminal liability [8, p. 179-180].

So, the criminal responsibility of the political parties assumes the offense committed by a member of it in cases stipulated expressly by the Russian Criminal Law (art. 239 of RFPA provides criminal penalties for attempting to citizens rights, for falsifying documents during the referendum, and breach of vote secrecy (initiative group members are being involved) [3].

The art.278 of the Criminal Code provides for criminal liability for the usurpation attempt of the state power against the RF Constitution and for attempt to change the constitutional regime by force.

Such actions can only become subjects of the collective right, in other words by the political parties.

Administrative responsibility is one of the most common forms of electoral sanction. It requires amending of the actions or inactions of political parties for the activities that contravene the contravention code. In most cases they are fined for impeding the access to the polling station, foreign funding, prevention of the electoral body work, showing the electoral information in unauthorized places, the application of multiple voting and violations with or without the intent of the legislation by a board election [1].

In conclusion we would like to remark that in Moldova are legal provisions aimed to control and penalize political parties, but the penalty is considered insignificant if it comes to fighting for the accession to power.

Hence, amendment implies administrative sanctions for the electoral candidates from 200 to 2.000lei that allows most of them to violate the national law. In this regard, the Romanian legislature applies criminal penalties in priority that provides both fines and imprisonment.

We also come with the proposal to allocate more power to the Supreme Election Board to penalize the electoral candidates.

### **Bibliography**

1. Codul Contravențional al Republicii Moldova nr. 218, adoptat la 16.01.2009, în Monitorul Oficial, nr. 3-6, din 31.05.2009.
2. Law of political parties nr. 294-XVI from 21.12.2007. Monitorul Oficial nr.42-44 from 29.02.2008
3. Федеральный закон от 13 июня 1996г. № 63-ФЗ// Собрание законодательства РФ, 1996, № 25, ст. 2954. Далее -УК;
4. Baltag Dumitru. Teoria răspunderii și responsabilității juridice. Ch: „Tipografia Centrala”. 440 p.
5. Muraru I. Drept constituțional și instituții politice. București. Lumina Lex. 2001. 398p.
6. Zăpârțan L.P. Repere în știința politicului. Ed. Iași. 1992. 156 p.
7. Кокотов А.Н., Конституционное право России. Курс лекций: учеб. Пособие.- М: ТК Велби, Изд-во Проспект, 2008. 296 с.
8. Наумов. А.В. Российское уголовное право. Москва . 1997г . 580с.