LEGAL ISSUES AND REGULATION OF POLITICAL PARTIES IN LITHUANIA DURING THE INTER-WAR YEARS

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Abstract

**Purpose** – The research discusses the compounds of social – political parties, their development and legal regulation.

**Design/methodology/approach** – The research is based on qualitative research, which helps to identify and define the problems of legal regulation of political parties. Method of data and documents analysis, content analysis, and historical method are used.

**Findings** – The research tries to avoid considerations of political issues, but legal and historical issues are discussed. It concentrates on the general legal principles of the formation of political parties and associations and their changes. It considers the development of party system regulation and studies the practical problems of legal and factual reality mismatches. In order to carry out a comprehensive scientific study the existing *de jure* legal framework and the consequent *de facto* reality is reviewed. The research proves not only that there were some differences between existed legal framework and *de facto* reality. Also, it defines the requirements to the general principles of regulation of political parties and determines correspondence of existing legal regulation to basic democratic standards.

**Research limitations/implications** – Documents are the most important form of available data. Documents can contain data recorded in monographs, journals, magazines, articles, acts, judgments, official documents etc. Documents can also make up part of records maintained by various individuals and institutions such as libraries, archives, the police etc. The existing judgments, reports and circular notes of Seimas of the Republic of Lithuania, the Ministry of Interiors Affairs, chiefs of staff of districts and police are scientifically significant. However, it should be noted that not all documents have been maintained.

**Practical implications** – The research pays attention to the changes of legal regulation of political parties and its dependence on regime. Moreover, it compares legal regulation in different periods of development of the regime of the Republic of Lithuania.

**Originality/Value** – It should be noted that the political aspect of the party system in Lithuania has received a lot of attention but the historical—legal aspect has been examined quite superficially by the clerisy of Lithuania. Separate authors highlight one or another historical period of Lithuania’s statehood. Most relevant to subject of the research were studies conducted by E. Šileikis (“Politinių partijų instucionalizavimas”, 1997), where he analyzed the development of the political parties from the ancient Greece to the present day. Moreover, he presents the
historical development of regulation of political parties in Lithuania, and outlines more extensively the significance of modern political parties.

**Keywords:** association, political party, party system, legal regulation, assembly.

**Research type:** research paper.

**Introduction**

After the First World War, when Lithuania regained its independence, a favourable legal situation to regulate political parties in Lithuania has arisen for the first time in history. It is generally agreed that a political party is perhaps the only social unit so closely related with the State and its governance. Maybe that's why its significance is extremely important for the states with a democratic system. This article discusses legal regulation of one of the social units, i.e. political parties.

Given the fact that the policy pursued by the State is directly dependent on the prevailing political system which consists of all political parties in the State, it is important to consider not only legal acts which were in force at that time, but also administrative acts enacted on their basis and their influence on political parties in order to properly evaluate legal regulation of the political parties.

This article describes the first attempts to regulate political parties in the independent Lithuania, prerequisites for the development of multiparty system; it analyses the regulatory changes after the Nationalists’ takeover, which took place in 1926, providing foothold for one-party system in the country.

1. **Legal framework for political parties in Lithuania in 1919–1926**

   P. Leonas has stated that political parties are formed “...only where there is a minimum guarantee of political freedom”, because “…dictatorship <...> cannot exist alongside political freedom”. The real demand for political parties comes to light when there is freedom of thought, freedom of assembly and association. The Constitutionalists tend to unanimously agree that it is the regime that directly affects the regulation of political parties, margins of their freedom of action and responsibilities, the individual rights and obligations. The margins of political parties’ activities are established in the legislation, which is directly related to the political regime, which determines the margins of freedom of action of the political parties.

   In order to regulate public organisations, the Interim Government adopted the Law on Societies on 10 October 1919. The Law on Societies, which regulated the activities of public organisations, assigned their supervision to the interior affairs authorities. The first article of the Law on Societies laid down a definition of the society: “A society (union,
party, etc.) is a group of several persons who have set some clear objective of common work and are working in concert with each other under certain statutes to attain this objective.”

The Law on Societies established general safeguards of a democratic legal State. For example, Article 28 prohibited the participation in the activities of unregistered societies; Article 29 forbade setting up of the societies whose aim was contrary to the State criminal laws. The country governor and the Citizen Protection Department of the Ministry of the Interior were able to suspend the activities of any organisation if its activities were against the laws of the Republic of Lithuania, whereas the said Commission was able to close the organisation if it did not comply with the statutes. The Law did not elaborate on what would be considered as non-compliance with the statutes in legal sense, leaving the right to judge on this issue to the law enforcement officers.

It should be noted that only declaratory constitutional provisions guaranteeing freedom of societies and unions applied until the Law on Societies came into force. In the absence of legal act adopted which regulated the possibilities of exercising this right, the right de facto would have been “dead”. It follows that this Law created a legal mechanism, which established the procedures for setting up political parties, created legal conditions to formalise the setting up of the first Lithuanian political parties.

In conclusion, the Law established one of the fundamental principles of a democratic state – a principle of free setting up of political parties. Moreover, the established regulations laid down the principles of a multiparty democratic political system and a parliamentary republic; whereas the principles of organising the highest state authority by way of general election, the highest authorities, supremacy of civil representation – the Parliament – and the division of power were established together with legal acts regulating elections. The Law provided equal conditions for all to set up political parties in accordance with the legislation in force and to participate in the political struggle for power under the defined and predictable rules. The adopted legal acts could be considered as a legal basis for the elections of the Constituent Seimas which were held in April 1920; while political parties established on the basis of such legal acts and fighting for power in democratic elections formed in the country “...a multiparty system which was a tool to

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1 The Law on Societies. Official Gazette. 1919, No. 15 · 249.
secure democracy”¹, i.e. such a system where more than two parties could actually compete for the right to form the government. Despite the said, this Law has been characterised by highly liberal regulation on constraints to the freedom of societies and unions: the administrative staff and officials of the interior affairs system retained a wide discretion to make decisions on constraints to the freedom of societies and unions.

It should be noted that all constitutions of the inter-war Lithuania somehow provided for the possibilities to restrict the constitutional human rights and freedoms. They prescribed on the constitutional level for the imposition of emergency rule which was a key instrument to restrict the citizens’ democratic rights and freedoms. A possibility to impose the emergency rule and principle consequences of such imposition were included in the base laws of the country: Article 16 of the Provisional Constitution of Lithuania of 10 June 1920 prescribed for a freedom of press, expression, assembly, associations for all citizens of Lithuania; however it also established that during war, or to remove the imminent threat to the State the constitutional guarantees may be suspended by way of laws: Article 32 of the Constitution of Lithuania of 1922 established that a President of the Republic may impose martial law or any other emergency rule not only in case “of war, armed uprising”, but also in case of “other dangerous upheavals” and this act must be approved by the Seimas. The Extraordinary State Protection Statutes² of 5 March 1919 regulated the status of martial law in a more detailed way: however the scientists criticised this act for its broad regulations which actually provided grounds for war commandants’ “arbitrary behaviour in using administrative coercive measures and denying the proclaimed <...> democratic rights and freedoms”³. War commandants were empowered not only to use coercive measures against individuals, but also against press, societies, industry and trade offices, i.e. to suspend press publications, ban meetings, close offices. Exercising their right to issue binding orders, war commandants published the rules which entitled them to control the activities of societies and organisations.

Such legal situation was caused by the fact that the Extraordinary State Protection Statutes have been full of rules with vague hypothesis that gave the commandants the so-called discretionary power, i.e. allowed discretion. According to the Supreme Tribunal, the Extraordinary State Protection Statutes “only generally indicate that war commandants may resort to repression against all and everything that is dangerous for public order or for the army, and a war commandant is assigned to judge about such danger himself”⁴. Broadness and generality of the provisions in the Statutes made it possible for war commandants to supplement and specify the provisions through their orders in accordance with the “tasks” set at that moment.

⁴ Vyriausiojo Tribunolo 1924 – 1933 metų visuotiniųjų susirinkimų nutarimų rinkinys. 1933. Volume XII, Kaunas.
Martial law in the country was imposed regularly. Such regular imposition of martial law made it possible to lawfully limit the legitimate constitutional rights and freedoms, including free setting up of political parties, their operation and political rights. On the other hand, how many such opportunities were caught de facto depended only on the officers who possessed broad discretion to decide on what would happen with these rights in future. It must be recognised that although the officers possessed extensive powers they were not likely to abuse the rights held.

It follows that although constitutional acts indirectly declared free setting up and operation of political parties, this legislation should not be considered in isolation, without taking into account the entire system of legal acts of the Republic of Lithuania that were in force at that time. As a result, despite the legislature’s attempts to establish the principles of setting up political parties and their operation consistent with the minimum standards of democracy, a regular imposition of emergency rule and incompletion of its legal regulation as well as regulation of political parties in force should be seen as at least at the first glance complying with the minimum standards of a democratic state but not preventing potential abuse of rights.

2. Legal framework for political parties in Lithuania in 1926–1940

After the takeover on 17 December 1926, the power was concentrated in the Nationalists’ hands who were active opponents of a multiparty system and called “...to break all ties with the unfortunate practice of the past”, when “not people but the Central Committees of Parties govern”.1 Respect for the principle of freedom in the country was slowly lessening by down-grading its significance; this principle was regarded as synonymous with the splitting and confrontation of the nation. The President publicly declared his dissatisfaction with the multiparty system. In his view, a multiparty system harmed the unity of the nation, whereas its deficiency led to all of the major woes of the country. The Seimas protested against decisions of the Nationalists’ Government. Therefore A. Smetona, using his constitutional right (the 53 article of the Constitution) to do so, dissolved the Seimas. The Third Seimas was dissolved on March 12, 1927 and new elections were not called until 1936.

Despite the fact that the Constitution of 1922 has actually ceased to have effect from the turn of the takeover organised on 17 December 1926, the Nationalists avoided to suspend the Constitution ex lege. Having fully ignored the legitimate procedures for amending the Constitution, on 25 May 1928 the Nationalists’ Government officially issued a document approved by the President’s decree which was called the Constitution2 and which had a form typical for democratic constitutions. Despite its adoption circumstances, the issued Constitution repeated provisions of the Constitution of 1922, which proclaimed freedom of speech and freedom of the press, freedom to assembly and freedom of associations and unions. Although the Nationalists’ Government after the

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1 Lietuvių tautos valia. 1 February 1927, p. 3.
takeover did not make immediate decisions on radical changes in the legal system (the Constitution of 1922 and other key legislation de jure remained in force), still the country has experienced changes that have been achieved by the institute of emergency rule, subtly manipulating incomplete legal provisions. Martial law, which was continuously imposed, also contributed to such a situation.

The situation has even more changed when the Seimas adopted a new Constitution\(^1\) without any debate on 11 February 1938. This Constitution was characterised by full exclusion of the citizens from participation in the State governance process, strengthening of the executive power, especially the power of the President, which meant constitutional legalisation of leadership. The Constitution of 1938 did not promote the freedom of association, of assembly, freedom of the press but, on the contrary, it emphasised the obligation of a citizen towards the State: Article 17 of the Constitution provided that the citizen enjoys his/her freedom without prejudice to any other rights and always remembers his/her duties towards the state. Thus, the obligation of a citizen to be faithful to the State was established on the constitutional level. In addition, Article 25 of the Constitution declared that the State protects citizens’ freedom of public action, especially in the press, associations and assemblies, by watching if such an action is not following the direction harmful for the State. The Constitution of 1938, bringing to the fore the State interest instead of the human interest, has, in the main, denied one of the basic principles of a democratic state which was prescribed in previous Constitutions of Lithuania, i.e. the State is made to serve man. Criticising such constitutional framework, K. Račkauskas said that “What is harmful to the State, and, especially, what is the direction of action that is harmful to the State are vague and non-legal concepts. It is difficult to find two people who had the same opinion on these concepts. The content of these notions depends on what worldviews have the President, the Minister of the Interior and even the local police chief. Imposing such too general concepts and obligations, the powers that are enabled to behave arbitrary and the idea of the rule of law is killed.”\(^2\) In summary it should be noted that the constitutional rule per se did not negate democratic rights and freedoms but bringing to the fore the State primacy instead of that of man’s, limiting the powers of parliament and restricting the participation of the nation in the governance created favourable conditions to limit the democratic rights and freedoms.

Moreover, the constitutional changes, in fact, enforced on the constitutional level everything what has already been created by other legislation and administrative measures. For this reason, the Law on Societies of 1919 was in force until Article 69 of the Law on Societies\(^3\) as of 1 February 1936 repealed it, i.e. for almost ten years after the takeover. The Nationalists’ administration made use of the institute of emergency rule, its poor regulation, also ambiguity of legal definitions in the Law on Associations and too broad disposition of rights which were in hands of administration enabling to use their

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1 The stenograph of the Seimas, IV session, 69 plenary Sittings of the Seimas. 11 February 1938, p. 35-42.
3 The Law on Societies. Official Gazette. 1936, No. 522-3626.
convenient methods of ruling in the country, and thus avoiding the need to adopt new legislation governing activities of the associations immediately after the takeover.

Almost the majority of discussions were held on the articles of the Law expanding the list of data that must be specified in the statutes as compared with the analogous third article of the Law on Societies as of 1919, and, on this pretext, imperatively prescribing to revise the statutes of societies pursuant to the law requirements and to submit them to Minister of the Interior by 1 April 1936. Under the cover of such formal requirements, it was established that in case the society fails to submit the revised statutes on time, or in case it submits the revised statutes but it is not issued the authorization of the Minister of Interior to act by 1 July 1936, the society was deemed to be closed. Theory emphasises that such recognition of political parties is caused by new legal framework in the country which obliges political parties to communicate their needs and activities resulting in not only legal recognition of the State, but also paying attention to the permit for political parties to engage in their activities. With the help of such, at first sight, small correction of the Law the state administration was permitted to close all the societies which did not cater for the power.

Unfortunately, despite the declarative provisions on the freedom of association, the new Law on Societies expanded the opportunities to suspend activities of the society. Article 46 of the Law established that the county governor has the right to warn or suspend the society or its branch when the society or its branch does not comply with statutes or fails to fulfil the requirements prescribed by the Law on Societies. In such a case, the society or its branch is suspended until the reason for suspension is removed. If such a reason is not removed within six months, the Minister of the Interior acquired the right to close the society or its branch. In addition, Article 47 of the Law on Societies granted the right to the Minister of the Interior to close a society in case the society or its branch did not have a legitimate management. Furthermore, in accordance with Article 48 of the Law, the Minister of the Interior has the right to suspend the society or its branch for half a year, or close the society or its branch in consideration of security of the State or nation, or “in consideration of other State or nation needs”.

It should be acknowledged that although the newly adopted Law was full of declarative provisions about the freedom of association and political attitudes on freedom, after lifting the veil of declarative statements one could see that actually there were not any safeguards prescribed; whereas a new legal framework on societies developed the mechanisms allowing public administration to exercise greater control over activities of the societies and to close those societies which goals opposed the state governance, or refuse them a permission to act. Moreover, the legal regulatory model selected has created convenient legal and administrative tools that allowed to eliminate unfavourable political parties, which criticised the current government, and to prevent the establishment of potential opposition, thus providing grounds for the formation of one-party system. In view of the foregoing and the fact that a new version of the Law mainly focused on regulation of the control exercised over the activities of the society and its

liquidation, and, given the current political circumstances, these changes acquired an “anti-democratic touch”.

In this context, remembering the fact that martial law imposed by the Nationalists on 17 December 1926 was permanently in force on the entire territory of Lithuania, it is natural that there is a reasonable doubt as to real enforcement of the constitutional rights and freedoms, including political ones, in Lithuania. Taking into account the above-mentioned circumstances, it is not surprising that with the emergency rule in the country the Minister of the Interior exercised his right granted by the Law on Societies to stop activities of the societies to half a year, or to close them “in consideration of security of the State or nation, or in consideration of other State or nation needs”. In preparation for the elections to the Seimas in 1936, the Nationalists gradually moved to the one-party system: on 7 November 1935 the press reported that state security authorities observed that “... the Central Committees of the Lithuanian Popular Peasants’ and the Lithuanian Christian Democrats, i.e. the parties in opposition, making use of the disturbances of public peace in some places caused lately by the anti-state element, began to act in the direction adverse for the state. <...> The war commandant <...> by Resolutions No. 627, No 628, has suspended the operation of the Lithuanian Christian Democrats and the Lithuanian Popular Peasants’ parties for the entire period of martial law from 6 November this year.”¹ Just a few months after this message, the Lithuanian News Agency issued another message reporting that in 1936 “... pursuant to the decisions made, the Lithuanian Christian Democrats Party, the Social Democratic Party of Lithuania, Lithuanian Popular Peasants’ Union, the Lithuanian Youth Union and the organisation “Lithuanian Farmers’ Unity” with all branches of the organisations in Lithuania were closed on 6 February”². Such decision of the Government was based on its struggle against “fragmentation harmful to the nation and the state”; it was claimed that the organisations closed were acting against “the existing order in the country”, “not only did not assisted the government in the important work of building the unity of the nation, but in various ways hindered this work”; they were accused of “seeking to undermine the authority of the national government, to discredit it in the eyes of the public by secretly distributing open proclamations against the government, or by disseminating various disturbing rumours and fabrications”. Attempts were made to prove that “the organisation <...> has degenerated in its oppositionism”, and it is, therefore, necessary to close these organisations which do much harm to the society and the State; it is argued that “closure of the organisations trespassing the margins of loyalty (Loyalty to whom? To the existing de facto legislative requirements adopted in breach of the principles of the democratic state? Author’s remark)” must be understood as the attempt to maintain harmony, unity in Lithuania. By appealing to the nationalism and the country’s independence, it was explained to the public that the means chosen was in the nation’s interest: “... we, being a small nation, have to take care of not using our resources for

²Partijos uždarytos. Lietuvos aidas. 7 February 1936, the first edition, No. 60 (2676), p. 1.
internal party bickering and even more for fighting against disturbance of peace and order, which can destroy our independence"¹. Attention should be drawn to the fact that, regardless the situation that the closed organisations were considered to disturb the unity of the nation, to endanger security of the State and the nation, it was declared that setting up of organisations itself and their activities are not harmful; even more, they are tolerable and welcome provided that these organisations are loyal and “contribute to the creative work of the state and the nation”. In such a way, in accordance with Article 48 of the Law on Societies the Minister announced the closure of all parties, except for the Nationalists’ Unions on 6 February 1936.²

It follows that every new wording of the Law on setting-up political parties and regulating their activities made it easier to restrict the constitutional rights and freedoms, enabling to expand the scope of such restrictions. The executive and military government has concentrated more and more powers in its hands. It is therefore not surprising that imposing the emergency rule in the inter-war Lithuania raises reasonable doubts about the soundness and adequacy of the extent of such rule. It must be recognised that although before the Nationalists’ takeover this institute made it possible to quickly respond to the unstable situation after the First World War, both domestically and externally, after 1926 it seemed not to protect the nation and the state security any longer but strengthened powers of the head of the state, protected these powers and restricted political rights. Making use of statutory provisions, which at least complied with the minimum standards of democracy but which had too broad and ambiguous definitions and did not prevent potential fraudulent misuse of the law, the state government made decisions, which essentially denied the essence of a legal State as a form of democracy and reaffirmed that nudum jus does not have any real effect. Since after the Nationalists’ takeover a legal system was created, which lacked sufficiently developed legal safeguards to ensure compliance of the government with the law, the principles of political freedom, freedom of setting-up societies and political parties, and their operation were denied making use of incomplete and imperfect legislation and extremely broad discretion right concentrated in the hands of administrative officials. This resulted not only in preventing rise of any possible opposition but it destroyed namely the fundamentals of the party system and legal State, though de jure it was not prohibited.

Conclusions

All legal acts regulating elections, setting-up of political parties and their activities providing a foundation for the development of multiparty system in the country were enacted before the elections to the Constituent Seimas, which took place in 1920. Although the legislature’s choice of regulatory model could be regarded as complying with the regulatory standards of a democratic State (statutory free setting up of political

¹ Ibidem.
² Ibidem.
parties and their operation; regulated access to the political struggle for power), it should be recognised that the democratic regime in Lithuania was compromised by regular imposition of emergency rule.

In the period of 1926-1940, legal framework for political parties has little by little moved away from the regulatory standards of a democratic state, gradually creating legal environment for the activities of only one political party. The political parties in opposition were eliminated from participation in the political struggle for power.

In the period of 1919-1940, legal framework for political parties is characterised by incompleteness, i.e. rules governing the issues of closing political parties or suspending their activities, frequently had a vague hypothesis, which was ambiguously defined, or was too much abstract, therefore granting a broad disposition right to the political machinery staff to make decisions, which affected the scope of protected human rights in the country.

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