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FREEDOM OF ASSOCIATION IN POLITICAL PARTIES: A COMPARATIVE LEGAL ANALYSIS OF CONSTITUTIONS OF UKRAINE AND EUROPEAN COUNTRIES

The most modern democracies enshrine the right to freedom of association at the constitutional level. However, many of them are characterized by the allocation of this common law and securing it as a special kind of freedom of association in political parties.

The basic laws of Azerbaijan, Georgia, Estonia, Latvia, Lithuania, Macedonia, San Marino, Serbia, Slovakia and France enshrine this right by means of special instructions that the right to freedom of association includes the right of the formation of political parties.

The constitutions of Albania, Andorra, Belarus, Bulgaria, Spain, Italy, Moldova, Germany, Poland, Portugal, Turkey and Hungary include provisions for the formation and activities of political parties in separate articles.

The constitutions of Armenia, Romania, Croatia, the Czech Republic and Montenegro provide this right in the rules on freedom of association, and in the other regulations.

In some European countries limits on the formation of political parties and participation in their activities are enshrined at the constitutional level. At the same time, the basic laws of Armenia, Belarus, Georgia, Moldova, Romania, Serbia, Slovenia, Turkey and Montenegro besides the foreseen limitations also restrict certain categories of citizens.

In view of this, we believe it is necessary to optimize the formulation of legal structures of articles 36 and 37 of the Constitution of Ukraine, joining them in a single article (Article 36). We also propose to distinguish the provision on the

right to freedom of association in political parties as a separate article (Article 37), which will enable more detailed regulation of their activities. The proposed article would be consistent with Article 36 as general and special regulation.

The proposed Article 37 has to include Part 1, 2 of Article 36 and Part 3 of Article 37 of the current Constitution of Ukraine. At the same time, it is necessary to clearly formulate provisions on freedom of association in political parties and ban the formation and activities of organizational structures of various government and other bodies other than established in the current text of the Constitution of Ukraine. In part 3, article 37 of the Constitution of Ukraine, the term "shall not be permitted" shall be replaced by the term "prohibited", which we believe will significantly enhance this provision.

Therefore, we put article 37 of the Constitution of Ukraine as follows:

"Citizens of Ukraine have the right to freedom of association in political parties that promote the formation and expression of political will to take part in the elections.

Restrictions on membership in political parties are established exclusively by this Constitution and the laws of Ukraine.

The creation and activity of organizational structures of political parties shall be prohibited within bodies of executive and judicial power and executive bodies of local self-government, in military formations, and also in state enterprises, educational establishments and other state institutions and organisations. "