

LEGAL REGULATION OF OTHER FORMS OF DIRECT DEMOCRACY IN THE REPUBLIC OF AZERBAIJAN: CURRENT SITUATION, PROBLEMS AND SOLUTIONS

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Abstract. Freedom of assembly has several historical roots. In early times, freedom of assembly was closely linked with the right to petition, that is, the self-interest of citizens and the public good were directed against the monarch. In consultative forms of direct democracy, the use of individual institutions of freedom of assembly in public and political processes is very important. Thus, for people to be able to exercise their public rights, they can effectively influence political power through the institution of freedom of assembly, in a consultative form. This is one of the main means of balancing the activities of political power.

The freedom of assembly is guaranteed by legal guarantees and corresponding restrictions of the Constitution and international agreements. The main goal of the state is to take appropriate measures for peaceful and free assembly without weapons. The principle of equality cannot be violated in the exercise of this right to freedom. "Assembly" means a temporary gathering of several people in public places for political purposes, which may take the form of public events, rallies, pickets, tent cities, demonstrations, street processions, etc.

A person or a group of persons organizing various forms of freedom of free assembly must receive official approval in advance from the executive authority or notify them about the relevant measure. The warning should be justified by the organizers and its purpose should be explained. In holding these mass events, the will of the people should be accepted as the main factor, and the requirements of the law should be strictly followed. The development dynamics of consultative forms of democracy directly depend on the level of democratic statehood of those democratic states. One of the main factors here is the presence of civil solidarity and the state's liberal legislative system.

In the application of the freedom of free assembly, the expression of opinion and will of the people and a part of it, as one of the means of influencing the political power, these processes take place in the same direction as the process of democratic development of the state. These political institutions are one of the people's opportunities to control democratic processes and develop them continuously.

Keywords: freedom of assembly, direct democracy, manifestation, rally, street procession, demonstration, picketing, public opinion poll, public hearings, tent city, meetings, sit-ins, strikes, rallies, events or protests, both offline and online, civil society.

INTRODUCTION

Only during the French Revolution did the assembly become a form of direct expression of the democratic will of the people directed against the existing state, which was guaranteed by the Constitution of 1791 (The Constitution of 1791). These rights and freedoms are enshrined in Article 20 of the Universal Declaration of Human Rights adopted by Resolution 217 A (III) of the UN General Assembly of December 10, 1948 (Universal Declaration of Human Rights, 1948). Article 11 of the Rome Convention for the Protection of Human Rights and Fundamental Freedoms of 4.XI.1950 (European Convention on Human Rights, 1950); articles 21 and 22 of the International Covenant on Civil and Political Rights, adopted by resolution No. 2200 A (XXI) of the UN General Assembly of December 16, 1966 (International Covenant on Civil and Political Rights, 1966); /C 326/02. Article 12 of the Charter of Fundamental Rights of the European Union of December 18, 2000 (Charter of Fundamental Rights of the European Union, 2000); in the context of national legislation - in Articles 47 and 49 of the Constitution of the Republic of Azerbaijan; In the Law of the Republic of Azerbaijan "On Freedom of Free Assembly" dated November 13, 1998 No. 537-IQ (The Law of the Republic of Azerbaijan on Freedom of Assembly, 1998); and other normative legal acts. Among direct democratic institutions, consultative democracy is a relatively new institution in the practice of Azerbaijan, therefore, despite the consolidation of the relevant norms on freedom of assembly in the former Constitutions of the USSR, the practical application of these rights and freedoms was a serious problem. Only after the implementation of the propaganda program in the USSR, picketing was first adopted as a form of demonstration by the decision of the Plenum of the Supreme Court of the USSR dated July 28, 1988 No. 4 "On the rules for conducting and organizing marches and demonstrations in the USSR". However, mass meetings in the USSR never took shape as a practical institution.

As a consistent result of this process, after the independence of the Republic of Azerbaijan, consultative democracy from the category of political rights in the Constitution provided forms of institutions not only at the constitutional but also at the legislative level. However, for a comparative analysis, it is necessary first of all to turn to European experience in this area. Freedom of peaceful assembly began its main expansion in Europe in the 50s and 1960s. Not only that potential activism regarding the freedom of peaceful assembly not matured in Europe, but also in FRG, even the Constitutional Court of Germany (BverfGE-69, 315, 343) adopted the second "classical" decision of a consultative-democratic nature called Brockdorff later (Tschentscher, Axel (2022). Although the debate about freedom of peaceful assembly in Europe was at a very low level in the first decades of the previous period, since the 1970s, the construction of nuclear power plants, the deployment of long-range missiles, and the expansion of airports in Europe have become the focus of heated debate. However, the compensating role of the media in the dynamics of the development of freedom of assembly in Europe is indisputable, since the main place in the popularization of this activity was occupied by modern media and social networks. Today, freedom of free assembly is considered one of the fundamental and dynamic rights and freedoms, including at the stage of "mass communications". This institution not only helps the consistent realization of the rights of minorities and the political will of the opposition

but also, in other words, plays a “valve function” in integrating the spectrum of ideas and words of the distorted minority. and the minority (more precisely, the meeting participants (Höfling, Friauf. 2021: 12).

MATERIALS AND METHODS

However, the position of the extreme right was not accompanied by any significant developments regarding freedom of assembly. From the precedent experience of the Constitutional Courts of several European countries and the ECHR, it can be concluded that several parties and groups that have chosen an unconstitutional position, but whose activities have not been abolished, can violate the law by approaching the necessary publicity from an inflammatory position that cannot be prevented, buying and canceling this activity is required. The second interesting wave of freedom of assembly occurred as a result of reforms in the de facto federal states, which transferred the power to regulate freedom of assembly from the federal government to the states. This has been accompanied by the enforcement of strict rules on freedom of assembly in some states. But the problem is that. in practice, due to the unified case law, the constitutional courts of several states cannot make serious decisions (Scheidler, Alfred. 2008: 151-153). They occur when, in the course of a free assembly, demands, and programs are flexibly changed by political actors and replaced by other political demands.

RESULTS AND DISCUSSION

“Freedom of free assembly” and “guarantor of freedom of assembly” in the CIS and other post-Soviet countries’ constitutions. Thus, the term “freedom of assembly” is used to define the right to organize and participate in public events in half of the constitutions of post-Soviet countries. For example, the Constitution of the Republic of Azerbaijan (Article 49), Article 39 of the Constitution of Ukraine from 1996 (Constitution of Ukraine, 1996), the Constitution of Moldova (Article 40) has “freedom of assembly”, the Constitutions of Latvia (Article 103) (The Constitution of the Republic of Latvia, 2014), Belarus (Article 35) (Constitution of the Republic of Belarus, 1994), Turkmenistan (Article 43) (The Constitution of Turkmenistan, 2016), Kyrgyzstan (Article 34) (The Constitution of the Kyrgyz Republic, 2021) and declared as “guarantees of freedom of assembly” in legislative acts. The constitutions of Kazakhstan, the Russian Federation, Ukraine, Estonia, Tajikistan, and Uzbekistan establish norms that express only general political rights, including freedom of assembly, which is similar to the style of the constitutions of many states. We believe that the Constitutions, specifying the constituent elements by indicating the name of the norm, show a more correct format, so that the criteria for understanding political freedom are more specific and concise since the documents adopted by the majority of international and regional organizations include “peaceful assembly” or “free assembly of the minority”. For example, “freedom of peaceful assembly”.

Freedom of assembly as a consultative democracy is provided for in Article 49 of the Constitution of the Republic of Azerbaijan. In part I of article 49 “Everyone has the right to freely assemble with others” and in part II “Everyone has the right to peaceful, unarmed meetings, meetings, meetings with other persons, provided that they do not violate public order or public

morality, with prior notification of the relevant state authorities, have the right to hold rallies, demonstrations, street processions, pickets (The Law of the Republic of Azerbaijan on freedom of assembly, 1998)". In Article 32 of the Constitution of the Russian Federation, freedom of assembly is formulated more succinctly: "Citizens of the Russian Federation have the right to peaceful, unarmed assemblies, meetings, rallies and demonstrations, street processions and pickets." According to Article 8, Part I of the FRG, "all Germans have the right to peaceful and unarmed assembly without prior notice or permission." In Part II, "an outdoor assembly may be restricted by law or the Basic Law." This provision demonstrates an almost appropriate modification in Article 47 of the Estonian Constitution: "Everyone has the right to peaceful assembly and assembly without prior consent" (The Constitution (Basic Law) of the Republic of Estonia, 2015-2023). We believe that the Basic Law of FRG has identified more favorable and easily implemented opportunities for citizens regarding freedom of assembly. In the French Constitution, to establish "rights and freedoms" at the constitutional level, mainly articles 4.5.10, 11 of the "Declaration of the Rights of Man and the Citizen" on August 26, 1789, and other acts as an annex to the French Constitution of 1958 and other regulated acts. The fact is that freedom of assembly is one of the fundamental political rights. These rights and freedoms are taken into account in international universal and regional documents, as well as in national legislation at the constitutional level; on the other hand, freedom of assembly, compared to the two main forms of direct democracy, "elections and referendum", freedom of assembly can require citizens to express their views and intellectual judgments in the context of the public power of the people, as well as to take serious and immediate measures (Blankenagel A., Levin I. G. 2013: 55). Dr. Herzog, who led the development of the Charter of Fundamental Rights of the European Union in 1999-2000, mixed all the provisions and built an almost unified mechanism. In the end, he concluded that the right to freedom of assembly is the right to assemble, formed by the trade union, which acts as the driving force for this activity in the process of organizing public associations and political parties. Brian Berkusson confirms this position and shows that, even though Article 12 of the Charter contains broad and controversial questions about the right to freely associate with colleagues, these rights do not bring full clarity to the norm (Bercusson, B. 2006: 145).

Article 49 of the Constitution of the Republic of Azerbaijan guarantees that everyone should be able to enjoy the freedom of peaceful assembly. Thus, the current law "On freedom of assembly" should be interpreted in terms of this "constitutional presumption" in favor of freedom of public assembly. The right to peaceful assembly should not be subject to unnecessary restrictions either directly or indirectly (Guidelines for the Implementation of the Law on Freedom of Assembly of the Republic of Azerbaijan, 2008-2023). According to the decision of the Plenum of the Constitutional Court of the Azerbaijan Republic on the interpretation of Article 49 of the Constitution of the Azerbaijan Republic dated October 21, 2005, the Plenum of the Constitutional Court of the Azerbaijan Republic concludes that "part two of Article 12, part two of Article 24 of the Constitution of the Azerbaijan Republic, part two of Article 71, part two of Article 72, Article 155, Article 3 of the Constitutional Law "On the Regulation of the Exercise of Human Rights and Freedoms in the Republic of Azerbaijan" and Article 11 of the Convention for the Protection of Human

Rights and Fundamental Freedoms In terms of the provisions of Part II, the right to freedom of assembly, provided for in Article 49 of the Constitution The Republic of Azerbaijan may impose restrictions necessary in a democratic society and established by law.” At the same time, the Constitutional Court of the Republic of Azerbaijan, guided by Part IV of Article 130 of the Constitution of the Republic of Azerbaijan, Articles 52, 62, 63, 65-67, and 69 of the Law “On the Constitutional Court”, the Plenum of the Constitutional Court of the Republic of Azerbaijan decides, based on the above normative components, that the limits of a citizen’s freedom may be limited by the relevant legislation (Constitutional Court of the Republic of Azerbaijan, 21 October 2005). This shows that in most post-Soviet states, judicial practice defended in its decisions the relative nature of freedom of assembly.

However, to be able to characterize the constructive significance of free assembly, it is necessary first of all to pay attention to the activities in the field of public assemblies and the principles that are considered basic in regulating these relations. In the OSCE 2007 Guidelines for Freedom of Assembly; There are 6 basic principles of freedom of free and peaceful assembly: 1) presumption in favor of holding assemblies; 2) obligations of the state to protect peaceful assemblies; 3) legalism; 4) non-compliance with the conditions; 5) the necessary administrative regulation, transparency of the decision-making process and the possibility of going to court; 6) prevention of separate elections (Guidelines on Freedom of Peaceful Assembly, 2007) Since any of the institutions of consultative democracy at the level of political rights is considered freedom of assembly, political pluralism and freedom of assembly allow citizens to express their political positions, opinions of a political, economic, social, cultural and political public nature. express their objections to the course of processes, especially against the political strategy of the state that does not satisfy a certain group of the population, against the long-term plan and program, management and decisions made, as well as boycott decisions made by the state or criticize state power at various political and legal levels. Freedom of peaceful assembly implies that the political activity of citizens is realized in three main directions; 1) political parties, using critical moments (political, economic, social crisis, etc.) to mobilize citizens of opposition political parties and blocs against political power by various protest actions and types; 2) certain specific social groups protesting against the decisions made against their rights, freedoms and interests or seeking to make decisions that directly satisfy their interests (for example, students, socially disadvantaged groups of the population, etc.); 3) a single or individual protest action, which can be personal, political, economic, social and cultural for various reasons (Volker, Epping. 2021: 14).

In the development of civil society, the types of free and peaceful assemblies play an important role as one of the factors influencing the maturation of the political activity of citizens. Freedom of thought and speech is at the heart of the organizational and political transformation of freedom of assembly. It is at the combination of both elements that a sharp political explosion occurs. To implement the freedom of assembly of citizens in international practice, as a rule, such institutions as manifestation, assembly, rallies, street processions, demonstrations, picketing, public polls, public hearings, tent cities, etc. are used. In practice, the use of types of meetings has a direct impact on the political consciousness and education of those joining the action, the development

of political cohesion, cohesion, national will, and ideological ideology, as well as the ability to accurately exercise their powers and obligations to political power and perform the function of public control. November 13, 1998; under Part I of Article 1 of the Law on Freedom of Assembly of 2008: "The freedom of everyone to freely assemble with others is guaranteed by the Constitution of the Republic of Azerbaijan and international treaties to which the Republic of Azerbaijan has acceded. party. The exercise and restriction of this freedom shall be determined by this Law." In Part II, "The State shall ensure the exercise of freedom of assembly and shall take appropriate measures about peaceful and unarmed assemblies organized under this Law." From this we can conclude that the basic model of freedom of assembly in the Republic of Azerbaijan is guided by the provisions and principles arising from international norms, that is, the basic model includes the possibility for citizens to use consultative democratic institutions by expressing ideas and opinions in a peaceful and unarmed manner. A peaceful and unarmed assembly means that citizens can gather (in the open air under the open sky, Art. 8 of the Basic Law for the Federal Republic of Germany), without the use of knives and firearms, without violating public order, the requirements of the Constitution and laws, as well as the safety and order of others.

The mention of international treaties in Article 1 of the Law "On Freedom of Assembly" characterizes the adherence of the Republic of Azerbaijan to international obligations and the content of harmonizing the provisions arising from these documents into the law. Thus, these sources are the basis of consultative democracy in the Republic of Azerbaijan. Article 20 of the Universal Declaration of Human Rights of the UN General Assembly of December 10, 1948 states that "Everyone has the right to peaceful assembly and association." And in the 2nd part "No one can be forced to join any association" (Constitutional Court of the Republic of Azerbaijan, 21 October 2005). According to Article 11 of the European Convention on Human Rights of 1950: "1. Everyone has the right to freedom of peaceful assembly and freedom of association with others, including the right to form and join trade unions for the protection of their interests." - "2. No restrictions may be placed on the exercise of these rights other than such as are prescribed by law and are necessary for a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals, or the protection of the rights and freedoms of others" (European Convention on Human Rights, Protocols, 2021). Article 21 of the UN International Covenant on Civil and Political Rights of December 16, 1966 states: "The right to peaceful assembly is recognized. No restrictions may be imposed on the exercise of this right, except for the restrictions that are established under the law and are necessary in the interests of the security of the state and society in a democratic society, public order, the health and morals of the population, or the protection of the rights and freedoms of others" (German Institute for Human Rights//International Covenant on Civil and Political Rights of December 19, 1966-2021). Article 12 of the Charter of Fundamental Rights of the European Union of 18 December 2000 states, that "1. Everyone has the right to freedom of peaceful assembly and freedom of association with others at all levels, especially in political, trade union and public life, which includes the right of everyone to form and join trade unions with others for the protection of their interests." "2. Parties operating at the level of the European Union influence the expression of the

political will of the citizens of the Union” (Charter of Fundamental Rights of the European Union - European Parliament (2000/C 364/01), 2022). From the provisions of these documents, one can conclude that the freedom of free assembly meaningfully retained the priority of the political rights of citizens, provided that they do not cause damage to the rights and inviolability of others. However, in the Charter of the European Union, these provisions were generalized and characterized as a single constituent element with freedom of assembly, trade unions, associations, public associations, as well as the activities of political parties.

During a free assembly, participants can be held administratively and criminally liable if they act contrary to the requirements of the law, violate the rules, and commit criminal acts. Therefore, for violating the rules of free assembly, appropriate sanctions are provided for both the Administrative Mistakes and the Criminal Code.

In our opinion, the limit of the fine provided for in Part 1 of Art. 169 of the Criminal Code above. We believe that the fine may be lower or higher if the purpose of the meeting and the people gathered at it is to cause special chaos and public unrest (for example, do not run over someone else’s car and do not set it on fire). This means that the fine can be higher or lower than the amount of 5000-8000. Therefore, we propose that the size of the fine and its limit be determined by the judge based on facts and evidence in the course of direct trial. This practice is similar in most European countries. As for the other type of punishment, the criminal legislation showed a fairly high level of humanism in parts 1 and 2 of Article 169, since the legislation of most European countries sets a higher limit of punishment than the sanction of the Criminal Code of the Republic of Azerbaijan. we’ll talk about that a little later. In addition, by the law, Article 180 of the Code of Administrative Offenses of the Republic of Azerbaijan provides for a fine for individuals, officials, and legal entities “for obstructing the holding of meetings, rallies, demonstrations, street processions, and pickets.” It can be concluded that the expression “do not interfere” with the assembly process in the disposition of this article is a fairly general category. Thus, obstruction of any of these institutions may mean a smaller or larger amount, depending on the severity of the administrative offense committed. Therefore, we believe that adding the phrase “and depending on the amount of damage” to the provision of Article 180 of the Criminal Code of the Republic of Azerbaijan can establish a more accurate assessment.

One of the factors in the implementation of people’s power is mass events that can be held both in the sphere of state and local self-government. Institutions covered by freedom of assembly are divided by size and penetration. These are voting institutions, public hearings, as well as consultative referendums, which were discussed in the previous paragraphs. In the legal literature, the following types of elements of a free meeting of a consultative democracy differ in form and function: 1) a rally - as a rule, is of a socio-political nature. This is a mass action directed against the state or an existing socio-political problem, for the people to exercise freedom of speech and opinion, to express public opinion, to resolve political, economic, socio-cultural relations and existing problems; 2) demonstration - here citizens demonstrate their objections and demands, their mood in expressing public opinion and opinion with the help of various posters, hangers, transparencies, boards, slogans, and other means; 3) street procession - in this case, the protesters are a form

of mass public protest and a manifestation of solidarity to form ideas and opinions among outsiders along the route established in the respective place of residence and join support; 4) picket - a form of expression of public opinion and position by one or more citizens of a static nature, without the use of loudspeakers, using posters, transparencies, hangers and other visual means. In public meetings, it is mandatory to provide information for the use of other types, except for picketing, so that if the holding of events interferes with the course of public life, the normal life of people, health, recreation, and safety, as well as public transport, the relevant executive authorities may prohibit or reschedule the meeting, they may leave or move to another location.

Public events can be classified according to the following features: 1) according to the forms of public authority; at the level of the state and local government; 2) according to the respective territorial designation; at the national, regional, and local levels; 3) according to the degree of stability; short-term and long-term; 4) by subject; political, economic, social and cultural protests highlighting the country's domestic and foreign policy strategy; 5) by subject composition; students, youth, women, war veterans, veterans, political parties, public organizations, residents of various settlements; 6) according to the forms of implementation; expression of subjective will, expression of direct democratic public opinion of a consultative nature, expression of public opinion and opinion arising from current events; 7) depending on the presence of legal grounds; legal and illegal meetings; 8) by venues; outdoors and indoors (Hufen, Friedhelm, 2009: 495).

It should be noted that in 2005 several additions and amendments were made to the law "On Free Assemblies", due to which the content of issues in several norms was clarified. The Venice Commission and the OSCE Office for Democratic Institutions and Human Rights regularly reviewed the activities of citizens in holding peaceful assemblies at the request of the Republic of Azerbaijan and in 2007 assessed the changes and additions and issued an opinion. The OSCE Office for Democratic Institutions and Human Rights and the OSCE Baku Office have agreed that they will provide the necessary assistance to the relevant state bodies in the process of developing guidelines for the implementation of the Law on Freedom of Assembly. The correct application of the Law on Freedom of Assembly is of particular importance during election campaigns, which is why the European Court of Human Rights (ECtHR) has repeatedly called on "public authorities to take appropriate measures related to the legality of demonstrations to ensure the peaceful conduct of demonstrations and the safety of all citizens the "duty to see" is based on the idea (Guidelines for the Implementation of the Law on Freedom of Assembly of the Republic of Azerbaijan; 2008-2023).

By Article 513 of the Code of Administrative Offenses of the Republic of Azerbaijan, the legislation provides for various administrative penalties under parts I and II of the norm for violation of the rules for organizing and holding free meetings. Thus, in article 513.1 of the law, the fine provided for violation of the rules established by law for organizing and holding a free assembly by a meeting participant is from 1,500 to 3,000 manats, for individuals - from 3,000 to 6,000 manats. manats on officials, and on legal entities a fine for fifteen thousand to thirty thousand manats is imposed. "or, depending on the circumstances of the case, taking into account the personality of the offender, public works from two hundred to two hundred and forty hours or

administrative arrest for a term of up to two months are applied.” Article 513.2 toughens the penalty for participation in an assembly not organized according to the law. Thus, a fine is provided in the amount of three hundred to six hundred manats, “or, depending on the circumstances of the case, taking into account the personality of the offender, from one hundred and sixty hours to two hundred hours of community service.” or administrative arrest for up to two months. We believe that in this norm, the sanction is more severe, applied not only to the violation by the organizer of the rules for holding an assembly but also to participation in unorganized types of free assemblies. In both cases, the sanction provided for in Article 20.2 of the Law on Administrative Offenses of the Russian Federation is a lighter fine and limit of punishment compared to the sanctions provided for by the Criminal Code of the Russian Federation, as long as the Russian Federation is a sufficiently large country compared to the Russian Federation, and here the number of violations of the law in the field of freedom of assembly includes conflicts, which may be accompanied by more frequent and more severe consequences in the Russian Federation per population (The Criminal Code of the Russian Federation, № 63-FZ of June 13, 1996; 2022) It can be said that these sanctions also determine a lighter administrative penalty in the Law of the Republic of Kazakhstan on administrative offenses. For example, for violating the rules of a meeting, administrative arrest for ten days is applied (Article 288) (The Code of the Republic of Kazakhstan On Administrative Violations, 1995-2023). We believe that in the context of organizing and holding meetings, violations of the rights, as well as corresponding violations of participants in public meetings, can be identified, for which the organizer cannot be directly responsible. The OSCE Office for Democratic Institutions and Human Rights defines the following “protection from others” criteria: “This positive obligation protects participants in a peaceful assembly from any person or group (saboteurs and others) who seek to disrupt or prevent it in any way, including demonstrators) requires protection” (Venice Commission: Council of Europe (revised July 2014); 2014-2019). Indeed, “the duty of the state concerned to protect a peaceful assembly is of great importance to those holding or attempting to hold a relevant assembly to support any non-mass opinion, as this may increase the likelihood of a violent confrontation.” (Venice Commission: Council of Europe (revised 2014-2019). This issue is clearly stated in Art. 488 part 2 of the Law of the Republic of Kazakhstan on administrative offenses, or rather, the participant may be fined according to the indicator of twenty-month reporting or subjected to administrative arrest for ten days (The Code of the Republic of Kazakhstan On Administrative Violations; 1995-2023) However, under Article 212.1 of the Criminal Code of the Russian Federation, the amendments introduced in 2014 provide for tougher sanctions, as they provide for a fine of one million rubles and imprisonment for a period of 3 to 5 years for those who repeatedly violate the rules of a peaceful assembly (The Criminal Code of the Russian Federation, № 63-FZ of June 13, 1996-2022). In our opinion, this sanction is more severe than the legislation of the Republic of Azerbaijan, since this factor is provided for in the legislation of the Russian Federation only for repeated violation of the rules of an assembly.

It is known from the legislation of the Republic of Azerbaijan that, according to Article 169.1 of the Cabinet of Ministers of the Republic of Azerbaijan, the freedom of public meetings is only the organization, holding

and participation in meetings in cases prohibited by law (hence, it applies to an entity performing any action considered contrary to the law); Article 169.2, as an aggravating circumstance of the participants, the use of firearms and cold weapons, explosives and devices, as well as the wearing of substances and objects that do not pose a danger to the life and health of third parties, that is, the same sanction for everyone, regardless of the subject composition of the participants, however, in Article 513.1 of the The Code of the Azerbaijan Republic On administrative violations, the main criterion is that, despite the application of administrative fines and penalties for violation of the rules of the organizer of mass events, the possibility of violation of the rules of peaceful assemblies by other participants is not provided, since this is provided for by the legislation of a number of states, including liability participants is established by a separate paragraph of the legislation of Kazakhstan. In our opinion, the types of consultative democracy, considered as one of the types of constitutional and legal guarantees, may have a special biased approach of the participants in public meetings, which in no case can be identified with the political will of the organizer, and such cases are individual, i.e. subjective character. Therefore, we consider it expedient to add to Article 513.1 of The Code of the Azerbaijan Republic On administrative violations the words “participant who committed an administrative offense” and “other participants in the meeting”. However, it is clear from the description of Article 513.2 that participation in the organization of illegal assemblies, contrary to the rules established by the legislation of the Republic of Azerbaijan, as follows from the disposition, implies the direct participation of both the organizer of the assembly and the participants, which does not have a balance in the legal balance of the norm. Article 180 of the Code of the Azerbaijan Republic On Administrative Violations, defines only administrative fines for external entities, individuals, officials, and legal entities that violate the rules of free assembly. We consider it necessary to apply administrative detention to this category of persons, since this case may be important in preventing administrative errors as an alternative method of punishment. We are talking about a violation of deliberative democratic rights, which is one of the urgent forms of constitutional and legal protection of citizens.

In our opinion, both in the Code On Administrative Violations and in the Criminal Code of the Republic of Azerbaijan, the sanction, including an administrative fine and the limit of punishment, for committing administrative and criminal actions during the use of types of public meetings should be carefully evaluated; 1) the use by citizens of the institutions of public will and deliberative opinion and freedom of speech. This means that the rally participants are not criminals and shows the public will solve socio-political, economic, and social problems in the country; 2) Since the public goal is not always individual, but collective, the implementation of collective requirements and interests shows a deliberative public position. Thus, the formation of criminal elements and intentions in these interest groups is maximally excluded; 3) the subjective goal is important, positive (financial), and negative (administrative offense and criminal actions). Thus, the subjective goal in the implementation of direct democratic measures is the abuse of the relevant types of gatherings (socio-political confusion, destruction, arson, damage to private and state property, robberies, barricades, robberies, causing grievous harm by hiding in the crowd, etc.) consists of actions and inactions, accompanied by criminal desires and

desires (p. 2; 7) (United Nations, International Covenant on Civil and Political Rights, 17 September 2020). Since freedom of assembly is a peaceful public phenomenon, any action against the law must be carefully investigated by the legislature and the judiciary. The fact is that the subjective position of the protesting crowd, whose demands are not met and suppressed, is not the same as that of those who came to the rally with criminal ambitions. This means that violations of rights and criminal acts committed by citizens who are unable to achieve their political goals, and during mass protests, should be qualified as mitigating circumstances since the public goal and motivation are aimed at a political goal, so the participants of the action do not think about objective factors, as long as they are publicly considered the driving forces of the assembly (p. 36) (United Nations, International Covenant on Civil and Political Rights, 17 September 2020; Council of Europe, Venice Commission). In modern times, the electronic registration of democracy in the Republic of Azerbaijan, and the development of computer technologies allow citizens, voters, as well as state and municipal bodies to directly use the constitutional guarantees of democratic institutions. The goal is for the dynamic development of civil society to directly influence both constitutional guarantees and democratically

One of the important issues is the clarification of the legal mechanism for picketing by a person alone or jointly with other persons during mass events. According to Part V of Article 9 of the Law of the Republic of Azerbaijan "On freedom of assembly", "the number of pickets should not exceed 50 people". It is also necessary to determine the minimum and maximum number of participants. If only one person came to the picket, then he does not need to obtain special permission, because the minimum limit for picketing alone in the Republic of Azerbaijan is not defined, and when we talk about a mass event or rally, we are talking about a gathering of two or more people. For example, in Spain, a minimum of 20 participants is required to hold a public event (Council of Europe, Venice Commission, 826/2015 - 22/03/2021). This rule is the minimum limit of 3 people in the state of Schleswig-Holstein of the Federal Republic of Germany (State case law database, Schleswig-Holstein, 2023). From this, we can assume that the minimum number of participants in the picket, according to the legislation of the Republic of Azerbaijan, includes two or more people.

In public meetings, it is mandatory to provide information for the use of other types, except for picketing, so that if the holding of events interferes with the course of public life, the normal life of people, health, recreation, and safety, as well as public transport, the relevant executive authorities may prohibit or reschedule the meeting, they may leave or move to another location.

There are 3 steps to consider for public meetings. 1) the stage of preparation for mass events; the rights and powers of the participants of the event, the place and time of the event and informing the relevant state bodies, taking all organizational and preventive measures for holding rallies; outreach and educational activities among the participants of the meeting. 2) The subject composition of the meetings, the organization, the mechanism for conducting and holding such meetings; on the holding by the organizers and participants of the events of the general event under the program, on the performance by state bodies of the necessary functions, as well as on the strict observance by the subjects of their rights, duties, and responsibilities. 3) the result obtained at a public event; Appeal to the necessary authorities for the

filing and implementation of joint applications, decisions, and requirements (Hufen, Friedhelm, 2009: 508-509).

One of the most important issues in holding public events is the coordination of decisions and appeals made as a result of the implementation of consultative-democratic institutions with state bodies, otherwise, there is no point in holding public events. In several European countries, appeals received as a result of a rally are addressed directly to the government and are sometimes discussed by commissions. (for example, France). We consider it important to take into account this provision in the law "On freedom of assembly" since it serves to coordinate socio-political issues between the government and the people with civil society, to put them on the road or find a consultative solution. Because consultative democracy is one of the basic constitutional political freedoms of citizens. Although the legal mechanism of the institutions of deliberative democracy used in the post-Soviet space is defined in the constitution and legislative acts, there are still several problems in the systematic holding of public meetings under the standards. In many cases, as a rule, artificial barriers to events, unjustified detentions by the police, beatings, threats, actions, and inactions leading to the dissolution of the meeting, etc. Cases like this are practical. It can be said that such a specific approach exists not only in certain cases in Europe but also in all post-Soviet states. Serious coercive and repressive actions against mass events lead to the disruption of political relations between society and the state and directly to the weakening of public power, and after certain periods to the degradation of the activities of these institutions, i.e. the isolation of the active activity of the people in political processes. The only way to solve this problem is for the state to strictly enforce the law in the process of holding mass events and not allow artificial restrictions (for example, police brutality, disruption of mass events programs, expulsion of demonstrators, beatings and tearing slogans, banners and signs that create open demands and political resonance breaking or taking from hands, etc.). we think so. Public meetings are an opportunity for citizens to exercise their constitutional political rights in the process of forming a civil society, which is considered one of the important indicators of the dynamics of the development of the state in the performance of democratic political functions. In our opinion, the implementation of the institutions of consultative democracy in the exercise of public power is as follows.

CONCLUSION

From this point of view, based on the content of the text studied above, we can come to the following conclusions about the constitutional guarantees of freedom of assembly in the Republic of Azerbaijan.

1) "Freedom of free assembly" is important as one of the forms of ensuring the political rights of citizens in the constitutional and legal context. Therefore, the types of mass meetings and the rules for their conduct require further improvement in the legislation.

2) It is advisable to change several parameters, including the disposition of Article 180 of the Code of the Azerbaijan Republic On administrative violations. So, this practice is used in most European countries. The fact is that free meetings have a collective and individual character. At the same time, the number of persons who have committed administrative offenses may be

different, as well as the administrative offenses committed by them may have different consequences. That is, the amount of the fine can be less or more. However, the imposition of a fine in the prescribed amount for obstructing the conduct of events by individuals, officials, and legal entities should be considered a direct violation of the constitutional political rights of citizens participating in events;

3) In Article 513.1 of the Code of the Azerbaijan Republic On administrative violations, it is advisable to add the words organizer and “other participants in the meeting” who have committed an administrative offense. Thus, in this context, an administrative offense can be committed by both the organizer and the participants. Therefore, we consider it important to accurately determine the content of the violation.

4) Clashes during public events, both with the police and as a result of a conflict of public interests and demands, and their consequences should be considered as mitigating circumstances. Because the violations of the law that occur in this area are objectively and subjectively not committed intentionally (for now, it is necessary to find out the position of the person and political demands.

5) For registration of public decisions taken as a result of holding public meetings, it is important to send them to the relevant state authorities and take adequate measures

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