

Guaranteeing the Right of Association in the Republic of Azerbaijan: Current Situation and Perspectives

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Received date: November 20, 2017; Accepted date: March 13, 2018; Published date: March 22, 2018

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Abstract

At the present, 55 political parties and more than 4,300 civil society organizations (NGOs) are closely involved in the socio-political, cultural and scientific life in Azerbaijan. These organizations are established under the Constitution of the Republic of Azerbaijan, the Law of the Non-Governmental Organizations on Republic of Azerbaijan (Public Unions and Funds), the Law of the Republic of Azerbaijan "On Political Parties", the Law of the Republic of Azerbaijan "On Trade Unions", the Law of the Republic of Azerbaijan "On State Registration of Legal Entities" and act according to the Civil Code, the Law on Grants, and decisions of the Cabinet of Ministers of Azerbaijan Republic. The number of these organizations, which are the main subjects of civil society in the country, is increasing year on year. Their sphere of activities is expanding, while some of them stop functioning, become non-functional due to different reasons. This article examines the real situation with and future expectations from associations which come from the freedom of establishing associations based on Article 11 of the "European Convention on Human Rights", and which form the palette of public life in the Republic of Azerbaijan.

Keywords: Public administration; Investigation; Human rights; Democracy; Civil and political rights

International Legal Bases of the Right to Association

In our modern world building and developing civil society idea is one of the top priorities for the countries that have chosen the path of democratic development. Formation of civil society is primarily related to the right of association or freedom of association [1]. In accordance with international legal standards, the Constitution of the Republic of Azerbaijan has also comprised a number of constitutional (legal) foundations that are new to our country. Among such foundations political diversity, multi-party system have occupied one of the central positions [2]. It is possible to say that the same situation is typical for all other post-Soviet countries, and in general, it is true for other world states, which are relatively new in the democratic development path. It is known that the international community recognizes the right of association as a right which belongs to fundamental human rights category [3]. International instruments comprise quite multiple aspects of the right of association, which is due to its central position and role in the principal human rights system. Here, the issue is approached within the framework of different associations. The establishment and functioning of the most diverse public associations in the society is observed. Reflection of the different aspects of the right of association in various international instruments and conventions, in line with the nature of each of them, requires a more sensitive and serious approach to the problem [4]. Thus, it would not be right to consider the existence of numerous international documents in which the separate aspects of the right of association have been expressed as a positive sign. However, it should be taken into account that such diversity often leads to uncertainty and contradictions. From this view point, conducting scientific research in the chosen research topic allows to find answers to practical questions along with many theoretical questions. It also makes certain recommendations [5]. Thus, the more specific and

precise reflection of the right of association within the framework of both national and international legislation can provide clearer and well-established ideas. For example, if we pay attention, we can see that in practice, the right to association has been expressed indirectly in Articles 18 and 20 of the Universal Declaration of Human Rights. Thus, Article 18 of the Declaration states: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance [6]." This is a means of realizing other civil, economic, political and social rights. To recognize that the rights to freedom of peaceful assembly and of association play a decisive role in the emergence and existence of effective democratic systems as they are a channel allowing for dialogue, pluralism, tolerance and broadmindedness, where minority or dissenting views or beliefs are respected [7]. In Article 20 of the Universal Declaration of Human Rights, the right to association is defined more accurately and clearly. It is stated in paragraphs I and II of Article 20 of the Declaration: "Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association [8]." Religious freedom has been reflected in the Convention on Human Rights and Fundamental Freedoms. While this is stipulated in Article 10 of the Convention, Article 11 provides that everyone has the right to freedom of peaceful assembly and to freedom of association with others. Also, according to the International Covenant on Civil and Political Rights adopted on 16 December 1966, everyone shall have the right to freedom of association with others. In general, our research has revealed that in the modern period, the right of association has been identified as a separate article in the constitutions of the most world countries. Such a situation is evident in the constitutions of European countries. For example, Article 9 of the Constitution of the Federal Republic of Germany states that all Germans have the right to form their own associations and societies. It

should also be noted that, the same Article has a provision concerning the restriction of the right to association. Thus, the right of Germans to association is realized if such association does not contradict legislation and constitutional structure. Otherwise, it is forbidden to establish any unions or associations [9]. There are similar provisions in the constitutions of other European countries. In general, we have determined in our research that the right to association has been identified on the basis of no single, but several articles of international documents. The existence of common features in all of them appears as a result of research and analysis. From this point of view, the importance of scientific research in this direction is quite significant.

Realization Forms of the Right to Association in the Azerbaijan Republic

While analyzing the current state and perspectives of the right to association in the Republic of Azerbaijan, of course, it is necessary to analyse the state of the civil society again. Thus, progress in securing the right to association is directly related to formation of civil society. The establishment of civil society has been defined as an important aspect of development from the early years of Azerbaijan's independence. For Azerbaijan has demonstrated its commitment to selecting democratic development and tried to achieve all the necessary values for it. And an important element of a democratic society is the existence of civil society. There's no ground to speak about the existence of democratic values in the absence of civil society. Civil society serves, first and foremost, as an essential condition for the protection of social justice. For civil society is characterized by the emergence and activity of different public associations. Naturally, it is required to establish regulatory framework for ensuring the right of association as prerequisites for the establishment of such associations. At present, there is an inseparable connection between the development trends of the establishment and functioning of public associations, i.e., non-governmental organizations and provision of the right to association in the Republic of Azerbaijan. Active civil society building is going on in Azerbaijan. The central pillar of the civil society is the different public organizations established on the basis of the right to association.

Non-governmental organizations

The Law of the Republic of Azerbaijan on non-governmental organizations (public associations and foundations) [9], adopted on June 13, 2000, is the most comprehensive document in this regard. There are strong indications that the adopted law meets the relevant provisions of the international treaties and conventions. Thus, in Article 9, called "Founders of the non-governmental organizations", the right of association is applicable to all persons without any discrimination. The sub-paragraphs of the mentioned Article 9 are as follows:

9.1 - Founders of public organizations can be legal entities (except for bodies of state power and institutions of local government) or physical persons who have reached 18 years of age (and 16 years of age for youth public organizations).

9.1-1 - Foreigners having permanent residence in the Republic of Azerbaijan and people having no citizenship may be the founders and legal representative of a non-governmental organization on the territory of the Republic of Azerbaijan.

9.2 - Founders of public organizations have equal rights [10].

The current Law also contains specific provisions to ensure operational efficiency in the establishment of NGOs. Here, both the specific actions of parties have been particularly formulated and the responsibilities of the Ministry of Justice which registers NGOs have been stipulated in details. In order to justify our idea, we would like to point out Article 15 and Article 16 of the mentioned Law. Article 15, called "The notice on establishment of a non-governmental organization" states:

15.1 - Notice on establishment of a non-governmental organization implemented by the written reference to the applicable executive body not later than 30 days after acceptance of the law on establishment. Reference signed by the leaders of a non-governmental organization must include the protocol of association/incorporation.

15.2 - On the day of obtaining the notice about establishment of a public union by the applicable executive body, the document confirming the receipt of the notice is handed or mailed to the representative of public union.

The mentioned in Article 16 of the "State registration of non-governmental organizations":

16.1 - state registrations of non-governmental organizations is implemented by the applicable executive body according to the law of Azerbaijan Republic on State Registration of legal entities in Azerbaijan Republic.

16.2 Non-governmental organization receives the status of a legal entity only after state registration.

16.3 - If it is discovered that there are inconsistencies between the legislation and articles of association of non-governmental organizations and branches or representations of foreign non-governmental organizations, respective executive authority body requires those organizations to adjust articles of association to the legislation.

16.4 - Non-governmental organizations and branches or representations of foreign non-governmental organizations can apply for temporary suspension of their activities to relevant executive authority body.

The mentioned law also reflects the grounds for refusing the registration of NGOs. Article 17 of the law is dedicated to this issue. The Article titled "Refusal of State Registration" contains the following:

17.1 - State registration is refused in case if there is a non-governmental organization with similar name; if submitted documents contradict the Constitution of Azerbaijan Republic, this and other laws of Azerbaijan Republic.

17.2 - Decision on refusal in state registration containing the reasons for refusal, violation of regulations and articles of the law made upon submission of association documents is presented to the representative of a non-governmental organization in writing.

17.3 - Refusal in state registration, after all deficiencies have been removed, cannot prevent repeated submission of documents for state registration.

17.4 - Refusal in state registration of a non-governmental organization can be appealed to court.

We would also like to emphasize that the complaint from the administrative decision to the courts is free of any charge in the Republic of Azerbaijan [11]. At present, the number of NGOs in

Azerbaijan Republic with about 10 million (9 million 850.1 thousand) population [12] is more than 4,300 NGOs [13]. Certainly, this process requires certain coordination in the area we mentioned. Due to this necessity, the National NGO Forum of Azerbaijan (NNF) was established in Azerbaijan in 1999. In general, the development of the NGO sector has led to serious quality changes in terms of ensuring the right to association. Additionally, we believe that it is necessary to pay close attention to the issue of a more comprehensive and accurate definition of the right to association in the national legislation. In some cases, bureaucratic obstacles are also encountered to realize the right of people to associate. For example, Article 15.2 of the Law on Non-Governmental Organizations (Public Associations and Funds) states that, "On a day of receipt of the notice, the relevant body of the executive power shall issue to the public association representative a document confirming the notice receipt, or shall send such document by mail." However, as a result of our observations and investigations, we have found that the requirements of the Law have been violated by the structures of the Ministry of Justice responsible for this issue (The Main Department for Registration and Notary). There, documents are received from citizens, but not registered. At the entrance to the mentioned office, a "box" is hung on the wall and people who are bringing documents are instructed to put their documents in the box. Due to the fact that the registration is not carried out in accordance with the legal requirements, documents are lost in some cases. Another gap that we found out is the violation of the Article 8.3 of the Law of the Republic of Azerbaijan "On State Registration and State Registry of Legal Entities" by the Main Department for Registration and Notary of the Ministry of Justice. Thus, the mentioned Article of the Law states: "In the event of findings of deficiencies in documents, which do not form basis for refusal in state registration, the relevant executive authority of the Azerbaijan Republic returns these documents to the applicant and sets the period of additional 20 days for resolution of these deficiencies. All deficiencies not providing basis for refusal shall be identified at once and submitted to the applicant for resolution." The similar requirement is also stipulated in Article 13 of the Federal Law of the Russian Federation on Non-Commercial Organizations [14]. However, as a result of our research, we have determined that the registration office - the Main Department for Registration and Notary of the Ministry of Justice does not explain to the citizens the gaps and shortcomings in their documents at once, as required by law. Citizens cannot get registration in some cases after submitting documents of an organization they want to establish to the Head Department. The Head Department indicates as the main reason the mistakes, shortcomings in the documents. Under the law, these shortcomings should be reported to the citizen in the first instance. Our study shows that this kind of violation by the Main Department for Registration and Notary of the Ministry of Justice causes reasonable dissatisfaction of citizens. Therefore, these disputes in some cases go to the European Court of Human Rights. As an example, the case of Ramzanova and others v. Azerbaijan at the European Court of Human Rights in 2007 can be indicated. In the case of Ramzanova and others against Azerbaijan, the court ruled out that Article 11 was infringed. The applicants founded a public association named "Assistance to the Human Rights Protection of the Homeless and Vulnerable Residents of Baku" and repeatedly applied to state bodies to register the organization. The Court stated that the major delays in the registration of the Association were due to the violation of the right of freedom to association by the applicant [15]. In order to avoid recurrence of such cases, it is advised to carry out the registration of public associations online, in a more simplified form.

Political parties

One of the targeted associations of citizens in the Republic of Azerbaijan is Political Parties. At present, 55 political parties are registered in Azerbaijan and they participate in the political life of the country. The Law of the Republic of Azerbaijan on Political Parties [4] was adopted on June 3, 1996. Analysis of the Law of the Republic of Azerbaijan on Political Parties shows that it also is aimed at securing the right to association, which belongs to a kind of basic human rights category. Thus, in Article I of the Law, the following is stated by explaining the political party concept: "For the purposes of this Law, political party shall mean an association of citizens of the Republic of Azerbaijan pursuing common political ideas and aims, and participating in the political life of the country" [4]. As it's obvious, political parties also serve as a public union established on the basis of the realization of citizens' right to association. Here also the principle of volunteerism serves as the main principle. This point is clearly stated in Article III of the Law. Thus, this article states: "Political parties shall be established and function on the basis of the principles of freedom of association, voluntariness, an equality of rights of their members, self-government, legality and publicity. Activities of political parties cannot be directed to restriction of the basic human and civil rights and freedoms of their members which were determined in the Constitution of the Republic of Azerbaijan, international treaties to which the Republic of Azerbaijan is a party, and other legislative acts of the Republic of Azerbaijan" [4]. As it's seen, the right to freedom of association is promoted in the creation of political parties. The law prohibits the limitation of participation in the work of political parties. Thus, it is forbidden to limit the membership of citizens to political parties for any indication. This can also be regarded as a guarantee of the right to freedom of association. If review the Law of the Republic of Azerbaijan on Political Parties, it also stipulates the possibility of limiting the right to association. Naturally, it also stipulates the possibility of limiting the activities of political parties in specific cases on grounds of the national security and interests, and the motives for ensuring sustainable development of the society. In other words, it can be considered somehow as limitation of the right to association. As we already know, international normative-legal acts also justify limitations of the right to association within certain conditions. The possibilities of restrictions in this regard are stated in Article IV of the Law of the Republic of Azerbaijan on Political Parties. Thus, Article IV of the Law states: "The establishment and functioning of the political parties whose purpose or the method of operation is to overthrow or change forcibly the constitutional order of the Republic of Azerbaijan or to violate its territorial integrity, to advocate for war, violence and brutality, to instigate racial, national and religious hatred, to perpetrate other acts contradictory to the constitutional order of the Republic of Azerbaijan and incompatible with its international legal obligations shall be prohibited. The establishment and functioning of political parties of foreign States, as well as their branches and subsidiaries in the territory of the Republic of Azerbaijan shall not be allowed" [4]. The similar standard exists in legislative acts of all states. For example, Article 9 of the Federal Law of the Russian Federation on Political Parties is about the restrictions on the establishment and functioning of political parties. Article 9.1 of this Law states: "It is prohibited the formation and activity of political parties whose aims or actions are directed toward carrying out extremist activities" [16]. This restriction was also reflected in paragraph 2 of Article 11 of the European Convention on Human Rights, which was adopted in 1950. Article 11.2 of the Convention states that, "No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law

and are necessary in 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 for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State" [17].

Article 14 of the Law of the Republic of Azerbaijan on Political Parties does not contain the rules of registration of political parties. The article points out that, "A political party shall be subject to state registration by the relevant body of executive authority in accordance with the Law of the Republic of Azerbaijan "on state registration and state registry of legal entities."

14.2 - "A political party which has not undergone state registration may not act and operate as a political party which has undergone state registration."

We believe that, it is necessary to clarify the requirement of Article 14.2. For it generally restricts the right of people to association. In this regard, the law should specify the legal relations and areas in terms of differentiation of the registration and non-registration [18].

Another point to be considered is Article 4, paragraph 3 of the Law of The Republic of Azerbaijan on Political Parties, which states that "In order to get registered, at least the membership of 1000 citizens of the Republic of Azerbaijan in a political party shall be required." We think such a requirement for registration, i.e., the membership of at least 1000 citizens restricts the activity and registration of newly emerging political groups. Because experience shows that most political parties have been founded with the idea of 10-15 people, and the number of their members and supporters has increased in their subsequent activities. There is also incompatibility between the mentioned article (4.3) and Article 14.2. On the one hand, Article 14.2 requires 1,000 members for registration as a prerequisite, while on the other hand; the activity necessary to gather so many people is restricted by the requirement of Article 4.3. We think that the contradiction between the norms that we mentioned should be eliminated.

Religious associations

Another type of association is religious associations. Throughout history, people who believe in different religions and sects have been united in religious organizations in order to share their religious feelings, accomplish religious rituals, solve problems that believers facing, and so on. Currently, religious associations representing widespread religions such as Islam, Christianity, Buddhism, as well as less spread religions such as, Judaism, Shintoism, and etc. have had a major impact on the political processes in society, the formation of political and legal culture, and the position of personality in society and state. The activities of religious organizations in the Republic of Azerbaijan are regulated specifically by the Law of the Republic of Azerbaijan "On Religious Freedom", dated August 20, 1992 [19]. According to the Law, all religious organizations can function only after being registered in the relevant executive body, i.e. the State Committee for Work with Religious Organizations, and being included in the State Register of Religious Organizations.

783 religious institutions have been registered since the start of the process of re-registration of religious organizations (01.09.2017). From confessional point of view, 755 of them have been Islamic, 28 non-Islamic (Christian - 17, Jewish - 8, Krishna - 1, Bahai - 2). 10 religious education institutions have been registered in the country since the beginning of state registration of religious education institutions

(colleges) in 2017. There are 2246 mosques in the country, 136 of which are located in Baku. There are 14 churches and 7 synagogues in the country. Also there are 748 sacred places and sanctuaries in the country, 25 of which are in the Baku-Absheron region [20].

Trade Unions

One of the organizations where people realize their right to association in the Republic of Azerbaijan are the Trade Unions. Trade unions are the largest form of association in Azerbaijan for both their members and coverage. There is a specific law, i.e., the Law of the Republic of Azerbaijan "On Trade Unions" [5], which regulates the activities of trade unions in the Republic of Azerbaijan.

The Law of the Republic of Azerbaijan "On Trade Unions" is sufficiently comprehensive and can be regarded as a document conforming to the European standards. The document clearly illustrates the options for association of workers around common interests and goals. Article 22 (1) of the International Covenant on Civil and Political Rights also provides similar content. The International Covenant stipulates that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests." Similarly, the Labour Code of the Republic of Azerbaijan also contains a specific provision for the right to association. Articles 19 and 20 of the Labour Code of the Republic of Azerbaijan refer to relevant associations of employees and employers.

When analyzing the situation of the "Trade Union" movement in the Republic of Azerbaijan, it is necessary to look at the activities of the Azerbaijan Trade Unions Confederation. Because the most prominent trade union in the Republic is the Azerbaijan Trade Unions Confederation. First of all, it should be noted that the Azerbaijan Trade Unions Confederation was established in February 1993. Indeed, there are grounds for considering the Azerbaijan Trade Unions Confederation as the most successful realization of the right to association. Thus, the Azerbaijan Trade Unions Confederation covers and coordinates the activities of the 17400 initial (local) trade union organizations [19]. The presence of such a large-scale union in the Republic of Azerbaijan promises better prospects for the protection of human rights, in particular the right to association. The existence of such a confederation allows easier coordination of efforts to protect the rights and interests of employees in different activity areas. It should be borne in mind that the existing 26 trade unions in the Republic of Azerbaijan have been associated in the Azerbaijan Trade Unions Confederation and have 1600,000 members in total [20]. The Azerbaijan Trade Unions Confederation is actively involved in a broad international cooperation system for the protection of workers' rights. Thus, the ATUC has been a member of the International Trade Union Confederation since 2000. Currently, Chairman of the ATUC Board Sattar Mehbaliev is the Vice President of the International Trade Union Confederation. The most important point to be mentioned is that the Azerbaijan Trade Unions Confederation has been represented in the International Labour Organization since 1992. Of course, the boundaries of the ATUC's international cooperation are not limited to what we have mentioned. Taking all this into consideration, we want to reaffirm that the current scope of ATUC's activities also creates a full picture of the state of the right to association in the Republic of Azerbaijan. In other words, the right to association in the Republic of Azerbaijan is now ensured in accordance with the principles and requirements set forth in international treaties and the ILO Conventions. As we have already mentioned, the Republic of

Azerbaijan by joining international conventions, has taken relevant obligations to ensure the enjoyment of human rights and freedoms, as well as the right to association. These obligations are related to the creation of a regulatory framework, as well as the steps necessary to take practical steps. It is clear from the points we have already considered in the previous sections that the situation in these areas is sufficiently satisfactory and all necessary bases are created for future actions. There are some problems in the trade union system along with the positive activity mentioned. This is due to the lack of more effective mechanisms for the defence of the members of the Association. Experience has shown that in many cases, a trade union cannot ensure the rights of its members, and disputes go to the employer and courts. Such case, of course, causes dissatisfaction among the members of the association. Only within one year, 143 out of 823 appeals related to employment reinstatement were resolved positively. During this period, the jobs of 4211 people were saved [21-23].

It should be noted that the presence of highly-qualified trade unions in the Republic of Azerbaijan is reflected in legislative acts. We would like to present our idea in one example. Article 80 of the Labour Code which is the main document regulating the labor relations in the Republic of Azerbaijan:

Agreements when Employment Contracts are terminated by Employers:

A labour agreement concluded with an employee, who is a member of the trade union, shall, on the grounds specified in Article 70, items b) and q) of this Code, be terminated by an employer by obtaining prior consent of the trade union functioning at the enterprise.

An employer intending to terminate a labour agreement concluded with an employee, who is a member of a trade union, in connection with one of the cases provided for in paragraph 1 of this article, shall apply to the trade union of the same enterprise with a well-grounded application. Evidencing documents shall be attached to the application. The trade union shall provide their well-argued written decision at least within ten days of the date of receiving such application to the employer [21].

We would like to state that Article 70 (b) and (d) of the Labour Code of the Republic of Azerbaijan has the following content:

An employment contract may be terminated at the employer's initiative in the following cases:

(b) There are staff lay-offs at the enterprise;

(d) The employee does not fulfill his job description or fails to perform his duties as defined by the employment contract and gross violation of job description as indicated in Article 72 hereof without valid reason;

The circumstances listed in article 72 of the Labour Code of the Republic of Azerbaijan are as follows:

If an employee:

- Is absent from work for a whole day without good reason, except in the case of his own illness or a close relative's illness or death;
- Comes to work under the influence of alcohol, narcotic drugs and psychotropic agents, or other intoxicants or drinks or takes these substances at work;
- Causes material damage to the owners as a result of his activities or lack thereof;

- Violates the procedures on protection of labour as a result of his improper activity (inactivity) and causes damage to his co-worker's health or they get killed for above reasons;
- Intentionally fails to maintain the confidentiality of state, production and commercial secrets or fails to fulfill his obligations on keeping of above secrets confidential;
- Causes serious damage to employers, enterprises or owners legitimate interests as a result of his gross negligence or the infringement of the law during his employment activity;
- Breaches the job description a second time within six months, regardless of the disciplinary fine imposed by the employer;
- Commits administrative offences or crimes creating a public menace during working hours and causes serious damage to employers, enterprises or the owner's legal interests. He shall be considered to have committed a gross violation of his job description.

By referring to the above-mentioned points that we found out based on our research, we can say that the measures taken to improve the overall situation in ensuring the right to association in the Republic of Azerbaijan also serve as a driving force for the civil society development. In other words, effective access to the right to association creates more realistic opportunities for the establishment and operation of non-governmental organizations that form the core element of the civil society. The non-governmental sector consisting of various public associations, foundations and non-governmental organizations has been formed in the Republic of Azerbaijan thanks to the real guarantees of right to association. As you can see, the dynamics of establishment and development of non-governmental organizations and the development in the area of ensuring the right to association complement each other.

It should be borne in mind that one of the strategic points outlined in the "Azerbaijan 2020: Look into the Future" development concept is related to the development of the civil society. Hence, it is envisaged to implement new effective legal reforms to ensure the right to association, respectively. Thus, the thesis that civil society is a driving force of general development is supported in the Republic of Azerbaijan. In the civil society, restrictions by the government, unreasonable interference in the life of citizens are minimized. By exercising their right to association in the civil society, citizens have not only the opportunity to engage in joint activities to protect their common interests and achieve their goals, but also participate directly in the management process. Hence, the civil society building in the Republic of Azerbaijan is also aimed at the formation of a constructive state-society dialogue, initial start of which is the right to association. At present, the civil society building in the Republic of Azerbaijan gives reason to think optimally about the right to association prospects.

The issue of the effective realization of the establishment of public associations and the right to association has always been a top issue for the Azerbaijani State. International experience in this regard is constantly studied by relevant agencies. The seminar on "International Standards for Establishment of Non-Governmental Organizations" held by the OSCE Office for Democratic Institutions and Human Rights, OSCE Office in Baku and the Council of State Support to Non-Governmental Organizations under the President of the Republic of Azerbaijan in December 2010 can serve as an example. During the two-day seminar, discussions were held on domestic and international law in which the right to association was established [24]. Furthermore, an event entitled "The right to association and ways for

its implementation" was organized by the Democracy and Human Rights Resource Centre in June 2011. In the event, detailed information on the right to association was provided and exchange of views was made. Also, information on means for establishment of non-governmental organizations was provided. These facts prove once again that the right to association and the establishment and functioning of public associations are among the issues that are actively discussed.

While analyzing the current situation and perspective of the right to association in the Republic of Azerbaijan, it is important to pay attention to the referendum on amendments to the Constitution of the Republic of Azerbaijan, which was held on September 26, 2016. It should be noted that the intended amendments to the Constitution of the Republic of Azerbaijan has been mainly in two directions: (1) strengthening the protection of human rights and freedoms; (2) improvement of public administration.

According to the referendum act, a number of major changes have been envisaged to protect the human rights. This means that the human rights issue is a central issue. Thus, the phrase "Human dignity is protected and respected" has been added to Article 24 of the Constitution of the Republic of Azerbaijan. Furthermore, the provision on non-admission of human rights abuses was also added thereto. It should be noted that the human rights related amendments and supplements approved by the referendum to the Constitution of the Republic of Azerbaijan expands the possibilities for more secure protection of the human rights. One of the key points to pay attention is that, certain amendments to the right of association have been confirmed by the referendum act. Mainly restrictive aspects have been envisaged concerning the right to association. Thus, it was proposed to read the first sentence of Article 59 of the Constitution of the Republic of Azerbaijan as follows: "Associations for the purpose of overthrowing the legitimate state power in all or any part of the Republic of Azerbaijan, for other purposes which are regarded as offenses or which use criminal methods are forbidden" [25]. Apparently, this amendment implies the limitation of the right to association. As it's known, the European Convention on Human Rights also points out the possibility of limiting the right to association within specific conditions. Thus, Article 11, paragraph 2, of the Convention provides for the possibility of restricting the right of association in specific cases. Such restrictions are important in terms of the provision of security, protection of public order, protection of morals, and so on. Based on these points, it can be noted that the proposed amendment to Article 59 of the Constitution of the Republic of Azerbaijan for restriction of the right to association is not contradictory with the European Convention on Human Rights [26].

Conclusions

Based on our analysis, it can be noted that the real formation and development of the civil society directly depends on the right to association;

In addition to the following the human and civil rights and freedoms, it is essential to have well-developed civil society institutions in a legal state; Traditionally, there are the following association forms concerning the civil society institutions in the Republic of Azerbaijan according to international standards:

- Political parties
- Trade unions
- Public associations

- Mass media
- Family
- Religious
- Business, etc.

Restriction of the right to association in the Republic of Azerbaijan is legally admissible by Article 11 of the European Convention on Human Rights. Such restrictions may generally apply to certain categories of people. For example: Military; [1].

- Police
- Administrative bodies' staff.

Based on the analysis of the current situation and prospects for the right to association in the Republic of Azerbaijan, it can be said that the Republic of Azerbaijan is fulfilling its commitments arising out of the international conventions, which were ratified by the Republic of Azerbaijan concerning the right to association. Thus, all the necessary steps have been taken to form the regulatory framework for the protection of the right to association. Also, practical measures in this regard are in the focus of attention. The success made in the civil society development also indicates a good level of the right to association. Efforts to study the best international practice in the field of the right to association, the seminars and conferences organized provide a better prospect for ensuring the right to association in the Republic of Azerbaijan.

During the study, it was reaffirmed that the regulatory framework of the right to association in all former Soviet countries is very similar with very small differences.

Recommendations

- The practice for restriction of the right to association in the Republic of Azerbaijan is consistent with the relevant provisions of the international conventions. Based on the results of our research, it can be said that, there is a need to define more precisely the principles and mechanisms of restricting the right to association in Azerbaijan.
- Legislation for legal regulation of the right to association in the Republic of Azerbaijan, as well as in most countries of the world, is not systematic enough. Thus, the right to association has been expressed both in the Constitution and in many other legislative acts. This can sometimes lead to certain contradictions. There is a need to create a universal database that will be applied to all aspects of regulating the right to association legally. It would be more expedient to regulate the establishment and operation of all public associations on the basis of a single legislative act.
- We believe that the existence of a single system of classification of public associations and non-profit organizations can have a positive impact on the development of the civil society in the country.

We believe that electronic mechanisms of the state registration of public associations should be developed. In this case, the relationship between the founders and the registering government agency may be more transparent and procedure can be simpler.

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