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CONSTITUTIONAL RIGHT OF FREEDOM OF ASSEMBLY AND ITS IMPLEMENTATION IN RUSSIA AND THE USA

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Abstract

The article is focused on the analysis of the laws and legal instruments devoted to the freedom of assembly in the USA and Russia. The author believes that if freedom of assembly is understood as license for doing whatever a person wants, it confronts with freedoms of other citizens. The author also supposes that the best solution to this problem is not only new enactments but legal consciousness and legal awareness of the lay audience as well.

Key words: freedom of assembly, freedom of speech, human rights, demonstrations, constitution, the USA, the Russian Federation.

1. Introduction

Needless to say that freedom of assembly in democratic countries of the world is one of the main ways to implement freedom of speech - the fundamental human right [9]. By resolving different forms of expression of will, legal systems of democratic states tends to define the order, ways and scope of the implementation of these fundamental rights and freedoms [8]. Admissibility of various mass events is measured by the presence or absence of aggressive, threatening or insulting, as well as violent forms of expression. Thus, it is advisable to consider existing forms of regulation of this most complicated problem that have emerged today in different countries.

For example, in the UK freedom of assembly is first of all associated with a Hyde Park. France, which is the cradle of liberty, has rallies almost each day. But still people worldwide associate the word 'freedom' of every possible way with the USA. How could it happen?

2. The USA

Consider the sources of law governing freedom of assembly in the United States. First Amendment to the US Constitution, which establishes freedom of assembly. It says that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances [2]. As we can see, it is only about federal laws and solely about the right to conduct peaceful processions. If violent acts are committed during mass

demonstrations of citizens, it is possible to apply criminal legislation (federal and state) aimed at suppressing such actions and punishing the perpetrators.

The second source is the decision of the US Supreme Court in the case of «Cox v. Louisiana». In this case the US Supreme Court has established that the state can not use the law on riots against protesters participating in peaceful demonstrations that can provoke violence [3]. In the US, the legislative regulation of mass events varies noticeably in different states and municipalities. For example, the duration of approval process of application for demonstration is 45 days in New York, 40 days in Los Angeles and 15 days in Washington, D.C. Some cities prohibit holding rallies in close proximity to government and administrative buildings and somewhere there are restrictions on the length of the route of the procession and somewhere to get permission, you have to pay \$ 300.

At the same time, almost everywhere the duration of the demonstration or rally is required to obtain a special permit based on a corresponding application, the form of which is placed on the official websites of local police departments. In the absence of a permit or in case of violation of one of its provisions, local authorities have the right to stop the event, including the use of special means for this purpose, and detain its participants. Unauthorized actions fall under the definition of "public unrest" that endanger public peace. The police then have the right to break up manifestations and arrest the most active participants. In most cases, the protesters are fined administrative fines for creating obstacles to people's moving and transportation (the maximum fine is \$ 3000). Though in Texas you can go to jail for up to 6 months for such actions. In addition, the maximum penalty that can threaten participants of unauthorized demonstrations is 10 years of imprisonment.

3. The Russian Federation

Speaking about the Russian laws regulating rallies, one can mention first of all the Constitution of the Russian Federation. It guarantees that citizens of the Russian Federation shall have the right to assemble peacefully, without weapons, hold rallies, meetings and demonstrations, marches and pickets. In other words, the state secures freedom of assembly. However, there can be some limitations of this right. It says that the rights and freedoms of man and citizen may be limited by the federal law only to such an extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defense of the country and security of the State [1].

Moreover, there is a Federal law on Assemblies, Meetings, Demonstrations, Processions and Pickets. It establishes that:

- In order to authorize a public speech (except for a single meeting and picketing), the protest organizer must submit a notification to the local government / executive authority of the subject of the Russian Federation. The deadline for submitting a notice is not earlier than 15 and not later than 10 days before the day of the public event, failure to do so may cause its termination [4].

- The law also stipulates that the procedure for notifying a public event may be established by the Russian Federation's subjects itself.

- Also, it is prohibited to hold public speeches near certain objects of importance to the state (for example, nuclear power plants, court buildings).

Thirdly, the Federal law "On Police" constitutes that police may use riot control weapons to prevent mass riots and other breaking-law actions during rallies [5].

Finally, take the Code of Administrative Offences of the Russian Federation. According to it, the maximum penalty for participation in an unauthorized protest can vary depending on state of offender. For example,

- it shall entail the imposition of an administrative fine in amount of 150 000 to 300 000 rubles / community service for a term up to 200 hours / administrative arrest for a term of 30 days for individuals;
- administrative fine in amount of 200 000 to 600 000 rubles for officials
- administrative fine in amount of 500 000 to 1 000 000 rubles for legal bodies.
- All of these are provided for repeated administrative violations of law.

4. Conclusion

To conclude with, all constitutions prescribe the right to freedom of assembly, but it is strictly regulated in practice. Freedom of gathering should not be understood as permissiveness, otherwise it will create discomfort for other people, violate any rules (for example, if you organize a rally wherever you want). The whole complexity of the issue is to ensure the rights of some people without violating the rights and freedoms of others. In addition, a state should not abuse the right to abridge freedom of assembly, explaining this by taking care of another part of the citizens.

In our opinion, these problems can be closer to their solution with creation of various federal programs on the issue, increase of sense of justice among both officials and ordinary citizens, feeling for law and order among the population and fighting forms of legal deformation.

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НЕКОТОРЫЕ ПРАВОВЫЕ ПРОБЛЕМЫ ВЪЕЗДА ИНОСТРАННЫХ ГРАЖДАН НА ТЕРРИТОРИЮ РОССИЙСКОЙ ФЕДЕРАЦИИ

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На сегодняшний день правовые проблемы, связанные с вопросами въезда на территорию Российской Федерации иностранных граждан, требуют особого внимания в виду своей специфики содержания, возможности оперативного разрешения возникающих споров по этому поводу, особенностей правового регулирования данных отношений нормами российского права, а также нормами международного права. Всё большая необходимость в обеспечении надлежащей реализации норм, регулирующих въезд в Российскую Федерацию иностранных граждан появляется в результате активного пребывания таких граждан в страну с различными целями, такими как осуществление трудовой, предпринимательской, иной деятельности на территории Российской Федерации. У государства в свою очередь появляется потребность в защите своих интересов в сфере миграции. В результате появляется необходимость изучения норм права и практики их применения в сфере миграции и миграционной политики государства [1]. Это необходимо для решения возникших проблем и предупреждения новых спорных ситуаций.

К числу федеральных законов, регулирующих отношения, возникающие в данной сфере, относятся следующие: ФЗ «О правовом положении иностранных граждан в Российской Федерации» [2], ФЗ «О порядке выезда из Российской Федерации и въезда в Российскую Федерацию» [3].

Проблемы въезда иностранных граждан в Россию часто связаны с обстоятельствами, на основании которых такой въезд может быть запрещен. Расширяя перечень ограничений при въезде в страну, российское за-