

SPORTS REGULATION IN THE CONSTITUTION OF AZERBAIJAN: RIGHT OR OBLIGATION?

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This article analyzes the constitutional regulation of sport in Azerbaijan, focusing on whether sport is conceptualized as an individual right or as a state obligation. It begins with a clarification of the legal meanings of sport, right, and obligation, supported by statutory definitions and constitutional theory, particularly the notion of human dignity derived from Kantian philosophy. The study then examines the historical development of sports regulation in Azerbaijani constitutional law, demonstrating that earlier Soviet constitutions addressed sport indirectly, primarily within the framework of freedom of association and state policy. The 1995 Constitution, despite its comprehensive rights catalogue, does not explicitly recognize sport as a fundamental right, instead emphasizing state assistance in related social fields. An analysis of the Law on Physical Education and Sport and relevant Constitutional Court jurisprudence highlights the application of proportionality and equality principles in sports-related regulation. The article concludes that, in the absence of explicit constitutional recognition and sustained state support, sport cannot effectively operate as a social right.

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1 Explanation of Terms

In order to answer the question addressed in this article, it would be appropriate to examine the terms right, obligation and sport in legal terminology.

Sport – The equivalent of this word in Azerbaijani Turkish is the Arabic word ‘idman’. Its dictionary meaning is ‘physical movements aimed at developing and strengthening the human body’.¹

According to the legislator, it is part of physical education aimed at regularly developing a person's physical fitness through a complex of various physical movements, participating in competitions at all levels, and achieving high results. This is the definition of sport provided by Article 1.0.2 of the Republic of Azerbaijan's Law on Physical Education and Sports Act², which we will discuss extensively in our research.

The concept of obligation is defined in Black's Law Dictionary as »*a legal or moral duty to do or no do something*«. ³ The concept given by the British refers to an obligation arising from a legal or moral debt. Obligation is the necessary standard of behaviour established by law that a person must fulfil for their own benefit and that of society and the state.⁴ In constitutional law, obligation refers to the responsibilities borne by the individual, society or the state. These responsibilities are actions taken for the general good.

There are two different definitions in legal theory for determining whether a term constitutes an obligation:⁵ The first is that the obligated person has a duty to take active, positive actions for the benefit of the other persons involved in the legal relationship. The second is that the obligation is a duty to refrain from actions prohibited by legal norms. Obligations related to sport are consistent with the first definition. The state has active and positive obligations towards individuals, without which the legal realisation of sport would be impossible.

¹ Əliheydər, 2006, p. 504.

² Bədən tərbiyəsi və idman haqqında, Act. Retrieved from: <https://e-qanun.az/framework/18303>.

³ Garner, 2009, p. 1179.

⁴ Əsgərov, 2011, p. 265.

⁵ Xrapanyuk, 2014, p. 221-222.

The above explanations permit sport to be considered an obligation. Now, however, it is necessary to determine the scope of sport as a right. From a positive perspective, for a right to be a constitutional (human) right, it must be specified in the constitution.⁶ For sport to be considered a human right, it must be substantiated. Therefore, we must consider the issue of substantiating human rights. The Azerbaijani doctrine on this subject is only explained in a translated book on the foundation of human rights. The theories presented in the book are, in order, 'between utility and rights', 'rights' as 'trumps' and 'rights and justice'.⁷ However, as the author points out, these are contemporary theories.⁸ The Azerbaijani constitution, on the other hand, accepts the more fundamental theory of 'human dignity'.

Article 24/I of the Constitution of Azerbaijan⁹ states that 'human dignity is protected and respected'. The fundamental issue addressed in the basis of human rights is 'human dignity'. To explain this issue, we will use Kant's formula for justifying human rights. Kant explains this with three principles: the autonomy of the individual will, the principle of universality, and the prohibition of objectification.¹⁰ Regulations in the field of sport must be voluntary and in accordance with the will of the individual; if coercion is involved, it is not a right. For sport to be a universal right, it must not pose a threat to human health and physical integrity. The realisation of sporting activities must prevent people from being treated as objects. Sport, as a right, must serve a purpose. This purpose can be fundamental to the rights outlined above.

In order for sport to be recognised as a right, it is necessary to determine people's social perspective on sport. When we look at Turkish society, we see that Turkish peoples have been successful in many areas such as horse riding, archery and wrestling. We can cite the Dede Korkut epic,¹¹ which is the common heritage of Turkish societies, as written evidence of this. According to the sociological information in this epic, women had considerable freedom in choosing a spouse.

⁶ Henkin, Neuman & Orentlicher, 2008, pp. 98-104.

⁷ Classical theories: Natural law/natural rights, human nature, human subjectivity, self-ownership, human dignity, freedom of conscience, utility and religion. For detailed information on this subject, see Erdoğan, 2019, pp. 37-57.

⁸ Henkin, Neuman & Orentlicher, 2008, p.103.

⁹ For the official English translation of the Constitution of the Republic of Azerbaijan. Retrieved from: <https://president.az/en/pages/view/azerbaijan/constitution> (accessed: January 28, 2026).

¹⁰ Məhərrəmov, 2024, p. 311.

¹¹ Əlizadə, 2017.

Before marriage, women wanted their husbands to be better at horse riding and wrestling than themselves. They did not marry men who were not good at these sports.

Although sport may be considered a right, it will emerge as a social right at this time. At this time, the state will automatically be faced with increasing positive obligations. We believe that unless the state largely accepts these obligations, it will be impossible for sport to be recognised as a human right. At this time, it will remain merely a right on paper.



Figure 1: The image of a horse race between a woman and a man in the Dede Korkut epic ¹²

In a society with such a background, what is the place of sport in the constitution?

2 The History of Sport in Azerbaijani Constitutional Law

Since becoming a republic in 1918, Azerbaijan has had five constitutions, including the latest one adopted in 1995, before reaching its centenary.¹³ Although four of these constitutions were socialist, they still form our constitutional history. Initially, Azerbaijan was granted a small window of independence. Therefore, when the first constitution was adopted in 1921, it had a different structure. The 1921 constitution

¹² Rza et al., 2000, p. 454.

¹³ We would like to make a brief note here. Many constitutional projects were prepared in Tsarist Russia, but none of them came into force. For drafts on this subject, see: Medushevsky, 2010. The first constitution adopted in Russia dates back to 1906. This constitution applied to the entire Tsarist Empire, meaning it was also applied to Azerbaijan.

had a structure that was outside the common scope of Soviet constitutions. Shortly after Lenin's death, a new constitution was drafted to revoke even the small amount of independence we had.

The 1927 constitution, which had been drafted, removed all windows and created a similar constitution for all Soviet countries. Looking at both the 1921 and 1927 constitutions, we do not encounter any articles related to sport. The same attitude is seen in the Soviet constitutions themselves.

When we come to the 1937 constitution, we encounter a provision relating to sport. According to Article 133 of the constitution¹⁴, in accordance with the interests of workers and with the aim of developing the political activities of the masses through organised initiative, citizens of the Azerbaijan Soviet Socialist Republic are granted the right to join public organisations, trade unions, cooperative associations, youth associations, sports and defence organisations, and cultural, technical and scientific communities. The most active and conscious citizens from the working class and other strata of labourers, as the vanguard of the labourers' struggle to consolidate and develop the socialist order, take their place in the Communist Party of the Soviet Union (Bolsheviks), which forms the core of the management of both social and state institutions.

The 1937 Soviet Constitution, a fundamental document reflecting the political and social structure of the Soviet Union, defined the rights and duties of citizens.¹⁵ In particular, Article 126 guaranteed citizens the right to participate in various public organisations with the aim of protecting the interests of the working masses and strengthening the organisational initiative of the people.

¹⁴ Article 126 of the Soviet Socialist Constitution is slightly different: In conformity with the interests of the working people, and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the U.S.S.R. are ensured the right to unite in public organizations - trade unions, cooperative associations, youth organizations, sport and defence organizations, cultural, technical and scientific societies; and the most active and politically most conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and state. For the English text, see Stalin, 1978, p. 231–232.

¹⁵ Towe, 1967, p. 1252.

According to this article, USSR citizens could become members of the following organisations:¹⁶

- Trade unions – associations protecting workers' labour rights and providing social protection.
- Cooperatives – civil society organisations for joint economic and production activities.
- Youth organisations – associations promoting the social and political activities of young people.
- Sports and defence organisations – institutions established for physical education and patriotic activities.
- Cultural, technical and scientific associations – public associations aimed at developing scientific knowledge, technical skills and culture.

This legal framework and structure reflected the Soviet state's policy of encouraging social and political activism. The main objective was to ensure the participation of the working class in the management of society and to support their social, cultural, scientific and physical development. At the same time, Article 126 transformed the active participation of citizens under the leadership of the party, one of the fundamental principles of Soviet ideology, into a legal form.

Thus, Article 126 played a crucial role as a legal framework that both enabled public initiative among citizens and facilitated the development of socialist society.

In Stalin's view¹⁷, the 1937 constitution, considered the most democratic constitution in the world, did not regulate sport as a right but under a different category of rights. As can be seen, sport was not defined as an individual right. When we encounter sports law directly in the constitution, we see it under the scope of freedom of assembly. At this time, practising sport was not presented as a right. In a way, membership of sports organisations was guaranteed.

¹⁶ Towe, 1967, p. 1269.

¹⁷ Although Stalin described the constitution drafted under his leadership as the world's most democratic constitution, it has gone down in history as the first 'fake constitution'. See Oder, 2018, p. 25.

Thus, for the first time in the history of Azerbaijani constitutional law, we encountered the term 'sport'. However, the regulation is so incomplete that it is impossible to say what rights or obligations it entails. What can be understood from the article is that there were sports organisations in the Soviet Union and that people were invited to become members. This is a differently categorised form of freedom of association.

According to Article 24 of the 1978 Constitution, *»The state encourages co-operatives and other public organisations to provide all types of services for the population. It encourages the development of mass physical culture and sport.«*¹⁸ Before explaining this article, it is necessary to explain the technique of constitutional drafting. Although the 1937 Constitution is referred to as the Stalin Constitution, the 1978 Constitution was a more liberal constitution. The constitutional drafting technique used in this constitution, which is still inherited and continued in the Azerbaijani constitution, continues to be used. The constitution is divided into Parts, Sections and Articles. These divisions have no particular significance for implementation, but they are illuminating for the positioning of the articles. They become valuable when systematic interpretation is applied. We will use systematic interpretation below.

The first part of the 1978 Constitution is entitled 'Fundamentals of the Social Order and Politics'. This part includes a section on 'social development and culture'. This section is mentioned in Article 24. In this section, sport is presented not as a right but only as an obligation that the state must fulfil for its citizens.

When we come to the explanation of the article, Article 24 of the 1978 Azerbaijan Soviet Constitution formed an important legal basis for the development of social welfare and public activities during the Soviet period. This article specified the state's obligation to raise citizens' living standards, strengthen social security, and encourage mass physical, cultural, and intellectual activities.

2.1. Development of Social Systems

The fundamental aim of the article was to ensure the development of social institutions supporting citizens' lives (health services, social protection, trade, the service sector, and public services). This approach is considered a manifestation of

¹⁸ Constitution, 1982, p. 22.

the social state principles of the Soviet model. The expansion of the healthcare system, the strengthening of social assistance mechanisms, and the adaptation of daily services to the needs of the people were considered one of the state's fundamental social duties. The article also envisaged the planned development of social infrastructure and the protection of citizens' welfare.¹⁹

2.2. Encouragement of Public Organisations

The Constitution supported citizens' participation in social life not only through state structures but also through public organisations. This article encouraged cooperatives, public service organisations, and other social organisations. This approach aimed to increase citizens' initiative and strengthen the culture of collective action and cooperation. The article also formally recognises the role of public institutions in social and economic life as part of the state's strategy to base its social policy not only on bureaucratic foundations but also on mass foundations.

2.3. Development of Sport and Physical Education

This article also guarantees state support for the development of mass physical education and sport. During the Soviet period, sport and physical education were seen not only as a means of health and recreation, but also as a tool for social cohesion and strengthening national ideology.²⁰ The state promoted mass sport, created sports infrastructure for all age groups, and provided state support for citizens' physical activities. This article recognises that sport and physical education are an integral part of social welfare.

2.4. The Social and Ideological Context of the Article

Article 24 is located in the section on social development and culture and reflects the idea that the state cares about the welfare of the working masses. The article served the ideological goals of communist society by encouraging collective action, public initiatives and mass sports culture, not limited to social security and services. Thus, the development of social systems and the strengthening of public initiatives

¹⁹ Alekseev, 2016, p. 123.

²⁰ Alekseev, 2016, p. 122.

became closely linked. The purpose of the article was not only to ensure individual welfare but also to ensure participation in collective social life.

The practical significance of the article: This article did not remain merely a legal document; it also had a direct impact on daily life and working conditions. Workers' weekly working hours and holiday entitlements raised living standards, while leisure time and sports facilities increased social activity and health. In line with socialist ideology, this article also served to protect the individual welfare and quality of social life of working citizens.

Conclusion: While the 1937 article focused more on political activism and party membership, the 1978 articles emphasised social welfare, service systems and the right to leisure time. These changes demonstrate that the socialist state began to place greater importance on citizens' quality of life and social security.

When we examine the 1995 Constitution, we are faced with a constitution that, in the words of our legal experts, presents the most extensive catalogue of rights. However, the second paragraph of Article 16 of this Constitution 1995 states that 'The Azerbaijani State shall assist in the development of culture, education, health, science and the fine arts, and shall protect the country's nature and the historical, material and spiritual heritage of its people.'²¹ This article is entitled 'Social Development and the State'. Although people's social development is listed, unlike in the Soviet era, sport has been left out of these areas.

Article 49 of the Constitution 1995 defines Freedom of Assembly.²² The article provides a general definition of freedom of assembly. As the definition is very general, there is no obstacle to people coming together to play sports, nor is there any mention of it.

Our constitutional history or constitutional framework has not recognised sport as a right, and if we approach this from a positivist legal perspective today, the absence of a right to sport in the 1995 Constitution indicates that it is not a fundamental right.

²¹ Azerbaijan Constitution, 1995. Retrieved from: <https://president.az/en/pages/view/azerbaijan/constitution> (accessed: January 28, 2026).

²² According to Article 49 of the 1995 Constitution, "Everyone has the right to freely assemble together with others". Azerbaijan Constitution, 1995.

3 Analysis of Sports Regulation in Azerbaijani Law

In Azerbaijani law, the broad regulation of sports is set out in the Physical Education and Sports Act.²³ Naturally, international law also plays a significant role in this area. According to Article 149/II of the Constitution of Azerbaijan, international treaties to which the Republic of Azerbaijan is a party shall be an integral part of the legislative system of the Republic of Azerbaijan. Despite the provision of the Constitution, the examination of the norms of international law in this section will not be discussed as it exceeds the scope of this article.

Article 6 of the Physical Education and Sports Act lists the rights of citizens in this area. The first right mentioned is the right to engage in sport, even professional sport. Another right is the application of freedom of assembly to sport. Any person engaged in sport who experiences health problems is entitled to medical assistance. They have the right to open sports clubs and purchase sports equipment. There are also rights specified in other laws.

Both the state and municipalities have obligations related to sport in the Physical Education and Sports Act. The state's obligations are primarily to prepare the sports strategy, prepare state programmes and find athletes to represent the Republic of Azerbaijan in international competitions.

The responsibilities of municipalities, on the other hand, are more limited and focus on smaller segments of the population.

4 A Sports Incident Referred to the Constitutional Court of Azerbaijan²⁴

The case brought before the Constitutional Court was referred to the Court by the Ombudsman as a matter of normative review. Under Azerbaijani law, students who missed more than 25% of their classes were not permitted to take final examinations. It was reported that this condition was also applied to students who were unable to attend classes for valid reasons (illness, quarantine, and other reasons), and was therefore considered discriminatory and a violation of educational rights. The right

²³ Physical Education and Sports Act, 2009. Retrieved from: <https://e-qanun.az/framework/18303> (accessed: January 28, 2026).

²⁴ Spor Case, 2025.

of student athletes to take final examinations is reserved, regardless of their attendance rate.

The fundamental reason for the public ombudsman's objection is that, according to the regulations, it is impossible for other students who have attended less than 75% of their classes to master the theoretical part of the course, yet this rule does not apply to student athletes. This practice applies not only to students pursuing undergraduate degrees in sports but also to students pursuing degrees in other fields who are athletes. The objection is based on the fact that such a practice causes inequality.

The essence of the Constitutional Court's decision is actually based on the principle of proportionality. *»When there is no objective and reasonable basis for differential treatment, or when there is no reasonable proportionality between the means used and the legitimate aim pursued, such treatment constitutes discrimination. However, the right to equality does not preclude the legislature from granting exceptions and privileges to persons in different categories. Such differences are only considered contrary to the right to equality if they are not reasonable, objective and proportionate.«²⁵*

The Constitutional Court made a call at the end of its decision. In general, the Constitutional Court's decision stated the following:

1. Compulsory Reasons for Accommodation: The Court considered that more appropriate arrangements were necessary to ensure that the educational rights of students unable to attend classes for compelling reasons were not restricted. To this end, alternative measures (e.g., the opportunity to retake the course or participate in online classes) should be considered in cases where attendance is not possible.
2. The Constitutional Court recommends that the Council of Ministers improve the relevant regulations and take appropriate legal measures to safeguard the right to education of students who are unable to attend classes for valid reasons.

²⁵ Spor Case, 2025.

3. The decision emphasises that the application of special exemptions regarding the attendance of student athletes in national teams is not contrary to the legislation. Granting such privileges to student athletes is deemed necessary for them to participate in international competitions and serves the public interest.

4 Conclusion

Today, Azerbaijan hosts major events. Having begun its journey with Eurovision in 2012, it will also host several matches of the upcoming European Volleyball Championship, in addition to events such as the European Games, Islamic Games and Formula 1.

The constitutional regulation of sport has not fared particularly well in Azerbaijani constitutional law. Even now, it is not easy to distinguish whether sport is a right or an obligation. Defining sport as a right means that it is a social right. Therefore, it is impossible for individuals alone to realise this right. Unless the state implements projects in many areas, there will be no significance in recognising sport as a right.

Therefore, even if the law stipulates that the state has certain obligations in this area, this is not sufficient. The state is expected to do more in this regard. In other words, state support for sport is necessary for sport to be accessible as a right. Without state support, it would be impossible for sport to be realised as a right.

At the same time, we must point out that it is not necessary for every right to be enshrined in constitutions. In fact, such a regulation is impossible. For this reason, we believe it would be better to include events that enable more people to engage in sport in the annual programmes of states related to sport. Society should be encouraged to come together through small competitions and to increase the number of events organised within the scope of municipalities.

Legal Sources, Case-law

Azərbaycan Respublikası Nazirlər Kabinetinin 2013-cü il 24 dekabr tarixli 348 nömrəli Qərarı ilə təsdiq edilmiş “Ali təhsil müəssisələrinin bakalavriat və magistratura səviyyələrində, əsas (baza ali) tibb təhsilində kredit sistemi ilə tədrisin təşkili Qaydaları”nın 3.2.23-cü, 2013-cü il 26 dekabr tarixli 354 nömrəli Qərarı ilə təsdiq edilmiş “Orta ixtisas təhsili müəssisələrində kredit sistemi ilə tədrisin təşkili Qaydaları”nın 3.2.24-cü və 2022-ci il 9 mart tarixli 72 nömrəli Qərarı ilə təsdiq edilmiş “Peşə təhsili müəssisələrində yüksək texniki peşə təhsili səviyyəsi üzrə tədrisin kredit

- sistemi ilə təşkili Qaydası”nın 3.2.25-ci yarım bəndlərinin Azərbaycan Respublikası Konstitusiyasının 25-ci maddəsinin I, III–V hissələrinə, 41-ci maddəsinin I hissəsinə, 42-ci maddəsinin I hissəsinə, 71-ci maddəsinin I və II hissələrinə və 149-cu maddəsinin I, III və V hissələrinə uyğunluğunun yoxlanılmasına dair. Constitutional Court of the Republic of Azerbaijan. 22 september 2025. Retrieved from: <https://constcourt.gov.az/az/decision/1481> (accessed: January 28, 2026). (It is abbreviated as a 'Sport Case' in references).
- Constitution (Fundamental Law) Of the Union of Soviet Socialist Republics.* (1982). Adopted at the Seventh (Special) Session of the Supreme Soviet of the USSR, Ninth Convocation on October 7, 1977. Moscow: Novosti Press Agency Publishing House.
- Physical Education and Sports. Act of the Republic of Azerbaijan [original title: Bədən tərbiyəsi və idman haqqında]. 2009. Retrieved from: <https://e-qanun.az/framework/18303> (accessed: December 20, 2025).
- The Constitution of the Republic of Azerbaijan. 1995. Retrieved from: <https://president.az/en/pages/view/azerbaijan/constitution> (accessed: January 28, 2026).

References

- Alekseev, S. (2016). History of Regulation of Physical Culture and Sport in the USSR. *Pravo i Qosudarstvo: teoriya i praktika*. 6(138), 122-125.
- Erdoğan, M. (2019). *İnsan Hakları: Teorisi ve Hukuku*. 7th edn. Ankara: Hukuk Yayınları.
- Əliyev, O. (ed). (2006). *Azərbaycan Dilinin İzəbləli Lügəti*. Vol. 2. Bakı: Şərq-Qərb nəşriyyatı.
- Əlizadə, S. (compiler). (2017). *Kitabi Dədə Qorqud*. Bakı: Qanun nəşriyyatı.
- Əsgərov, Z. (2011). *Konstitusiya Hüququ*. 2nd edn. Bakı: Bakı Universiteti nəşriyyatı.
- Garner, B. A. (eds). (2009). *Black's Law Dictionary*. 9th edn. USA: West a Thomas business.
- Henkin, L., Neuman G. L., & Orentlicher D.F. (2008). *İnsan Hüquqları*. Bakı: Adiloğlu.
- Medushevsky, A. N. (compiler & commentar) (2010). *Constitutional Projects in Russia in the 18th – Early 20th Centuries*. Moscow: Russian Political Encyclopedia (ROSSPEN). [book's original title: КОНСТИТУЦИОННЫЕ ПРОЕКТЫ В РОССИИ XVIII – начала XX века].
- Məhərrəmov, R. (2024). 'İnsan Hüquqlarının Əsaslandırılmasında Kant Fəlsəfəsi' IN Məmmədova, D. (eds). *Azərbaycan Respublikası Ümummilli Lideri Heydər Əliyevin anadan olmasının 101-ci ildönümünə həsr olunmuş "XXI əsrdə insan hüquq və azadlıqlarının müdafiəsi sahəsində müasir nəzəri və praktiki yanaşmalar"* mövzusunda keçirilmiş elmi-nəzəri konfrans. Bakı: Şərq-Qərb nəşriyyatı, 308–313.
- Oder, B. E. (2018). Anayasa nedir? Anayasacılık nedir?. IN Kaboğlu, İ. Ö. (eds). *Türkiye'nin Anayasa Gündemi*. 4th edn. İstanbul: İletişim Yayıncılık, 23–27.
- Rza, A., Axundov, A., Vahabzadə, B. & Nəbiyev, B. (eds). (2000). *Kitabi-Dədə Qorqud Ensiklopediyası*. Vol. 2. Bakı: Yeni Nəşrlər Evi.
- Stalin, J. V. (1978). *Works*. Vol. 14 (1934-1940). London: Red Star Press LTD.
- Towe, T. E. (1967). Fundamental Rights in the Soviet Union: A Comparative Approach. *University of Pennsylvania Law Review*, Is. 115, 1251–1274.
- Xrapanyuk, V. N. (2014). *Dövlət və Hüquq Nəzəriyyəsi*. M. Dəmirov (trans). 4th edn. Bakı: »MBM«.

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