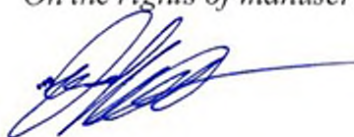


**THE REPUBLIC OF AZERBAIJAN**

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**ABSTRACT**

of the dissertation for the degree of Doctor of Science

**LEGAL PROTECTION MECHANISM OF THE  
CONSTITUTION IN THE REPUBLIC OF AZERBAIJAN:  
THEORETICAL AND PRACTICAL PROBLEMS**

Specialty: 5607.01 - "Constitutional law; municipal law"

Field of science: Law

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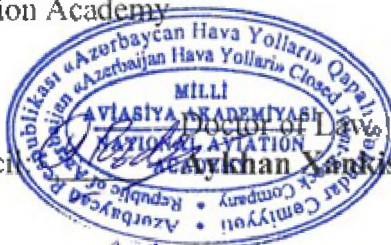
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## GENERAL CHARACTERISTICS OF THE WORK

**The actuality of the topic and the level of elaboration.** Legal protection of the Constitution is one of the important legal institutions. Thus, the Constitution is the main and decisive instrument that determines the specific traditions and areas of regulation of public relations, their protection and defense. Moreover, the "specific value" of the Constitution in the general system of normative legal acts is constantly increasing.

The Constitution has a purposeful direction. Thus, in this legal document, social interests are expressed in a concentrated form. The Constitution has a mandatory (general) character for everyone. By reflecting social interests in a concentrated form, the Constitution acts as the main regulator of public relations, the guarantor of civil rights and freedoms. The Constitution serves as an important tool for changes in economic, social and other areas, and at the same time contributes to the stabilization and sustainability of social conditions.

Traditionally, the features that determine the main place of the Constitution in the system of normative legal acts include its adoption in accordance with a previously established special procedure. The Constitution is adopted by referendum (nation-wide voting). The determination of a special procedure for the adoption of the Constitution, the establishment of its main elements in the Basic Law, in any case, emphasizes the special importance of the Constitution among other normative legal acts. The supremacy of the Constitution, the principles of constitutional legality do not materialize by themselves. The rule of law cannot be fully ensured without strict compliance with the constitutional legality regime, without effective means of protecting the Constitution, without the implementation of its provisions by all legal subjects and without ensuring the close interaction of all branches of government in this process. The main role here belongs to the legal protection of the Constitution.

It is known that in modern times, the activities of the individual, society, the state and its institutions are based on the Constitution. This also applies to the constitutional norms that establish the rights and freedoms of the individual. Since fundamental rights and free-

doms are enshrined in the Constitution as a system, the legal protection of the Constitution also includes the protection of human and civil rights and freedoms. According to the first part of Article 12 of the Constitution of the Republic of Azerbaijan, ensuring human and civil rights and freedoms, a decent standard of living for citizens of the Republic of Azerbaijan is the supreme goal of the state.

Decisions made by all state bodies must be based on the Constitution and other laws. One of the important conditions for resolving these issues is ensuring the supremacy of the Constitution in the legal system of the Republic of Azerbaijan. In order to ensure the supremacy of the Constitution, legal protection of the Constitution is implemented by applying specific constitutional-legal means (methods). Various bodies and individuals participate in the implementation of legal protection of the Basic Law.

The supremacy of the Constitution - is the main principle aimed at ensuring a democratic, legal and social state, protecting its sovereignty, ensuring legality and the rule of law, protecting the rights and freedoms of man and citizen. At the same time, the Constitution determines the content of the public order (ordre public) in the Republic of Azerbaijan by establishing the foundations of the legal status of society, the state, and the individual. In this context, the legal protection of the Constitution is of significant relevance.

The problem of the legal protection mechanism of the Constitution has not been the subject matter of independent scientific research in the national legal doctrine. Until now, only the issue of legal protection of the Constitution in the national legal doctrine has been studied by Z.O. Alekperov (Issues of legal protection of the Constitution in transitory states (on the example of the Republic of Azerbaijan)).<sup>1</sup> This research work touches upon the general issues of legal protection of the Constitution on the example of the Republic of Azerbaijan.

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<sup>1</sup>Alekperov, Z.O. Issues of legal protection of constitutions in transitory states (on the example of the Azerbaijan Republic) / Z.A. Alekperov. - Baku: East-West, - 2007. - 180 p. (in Russian)

In the national legal doctrine, separate aspects of the issue of legal protection of the Constitution are touched upon in the direction of studying the problems of constitutional proceedings (F.S.Abdullayev)<sup>2</sup>, general jurisdiction of the Constitutional Court (C.Y.Garajayev)<sup>3</sup>, consideration of individual complaints in the Constitutional Court (A.Kh.Rustamzade)<sup>4</sup>. At the same time, this issue is touched upon at the level of the Constitutional Law textbook (Z.A.Asgarov)<sup>5</sup>.

It should be noted that the issue of the mechanism of legal protection of the Constitution has been the subject of research in the legal doctrine of the countries being parties of the Commonwealth of Independent States: the Russian Federation, Ukraine, and the Kyrgyz Republic.

Scientific works of the following authors who conducted research on this problem: T.Y.Khabriyeva, L.B.Tiunova, A.A.Kulmanbetova, A.H.Mahammədov, A.N.Stankin, I.A.Kravech, Y.Y.Ter-yukova, F.S.Samatov, Y.T.Todika, Y.Y.Jerebchova, QGA.Hacıyev, V.P.Kashepov, N.M.Kolosova, B.S.Krılov, B.S.Ebzeyev, A.V.Bez-rukov, A.D.Bolekhivskaya, Y.L.Shuljenko, M.V.Teslenko, T.M.Pryakhina, A.A.Belkin, L.N.Plekhanova, D.A.Basangov, V.Y.Chirkin, L.V.Lazarev, V.A.Kryajkov, O.V.Brejnev, Y.Y.Ki-reyeva, M.A.Mityukov, A.A.Klishas, D.S.Korovinskikh, Y.B.Be-rezin, N.A.Boqdanova, A.A.Petrov, etc. were used as a theoretical basis.

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<sup>2</sup>Abdullayev, F.S. Theoretical and practical problems of constitutional implementation in the Republic of Azerbaijan / F.S.Abdullayev. - Baku: Elm, - 2009. - 396 p. (in Azerbaijani)

<sup>3</sup>Garajayev, D.Y. Constitutional Court of the Republic of Azerbaijan: Theory and Practice / D.Y. Garajayev. - Odessa: Helvetica Publishing House, - 2016. - 400 p. (in Russian)

<sup>4</sup>Rustamzadeh, A.Kh. Legal bases of consideration of individual complaints in the Constitutional Court of the Republic of Azerbaijan and its improvement / dissertation of candidate of legal sciences / - Baku, 2009. - 165 p. (in Azerbaijani)

<sup>5</sup>Asgarov, Z.A. Constitutional law / Z.A. Asgarov. - Baku: Baku University Publishing House, - 2011. - 760 p. (in Azerbaijani)

**The object and the subject matter of the research.** The object of research is the constitutional legal relations that ensure the supremacy of the Constitution of the Republic of Azerbaijan and its norms.

The subject matter of the research is the provisions of the Constitution and other laws envisaging the legal protection of the Constitution of the Republic of Azerbaijan, the issues arising in practice in connection with the protection of the Basic Law.

**Goals and objectives of the research.** The goals of the work are to study scientifically and comprehensively the issues related to the legal protection mechanism of the Constitution, to identify problems that arise in the implementation of the protection of the Constitution and to suggest solutions. In order to achieve these goals, the dissertation sets the following objectives:

- to analyze the theoretical aspects of the legal protection of the Constitution;
- to study the main features of the supremacy of the Constitution and its legal force;
- to analyze the concept, forms and tasks of legal protection of the Constitution;
- to define the concept and main elements of the legal protection mechanism of the Constitution;
- to analyze the practice of countries with Anglo-Saxon legal system in the field of legal protection of the Constitution;
- to consider the practice of the countries of the continental legal system in the field of legal protection of the Constitution;
- to analyze the practice of post-socialist countries in the field of legal protection of the Constitution;
- to analyze the practice of the states where the "Amparo procedure" is applied and the countries belonging to the Islamic legal system regarding the legal protection of the constitution;
- to consider the establishment of the system of legal protection of the Constitution in the Republic of Azerbaijan in historical development;

- to make specifically additions and amendments to the Constitution as an element of the legal protection mechanism of the Constitution;
- to determine the place of human and civil rights and freedoms in the mechanism of legal protection of the Constitution;
- to determine the place of civil society institutions in the mechanism of legal protection of the Constitution;
- to declare that the Milli Majlis of the Republic of Azerbaijan is one of the subjects of legal protection of the Constitution;
- to note that the President of the Republic of Azerbaijan is one of the constituents of legal protection of the Constitution;
- to consider law enforcement bodies as subjects of legal protection of the Constitution;
- to analyze the main directions of the activity of the Constitutional Court of the Republic of Azerbaijan on legal protection of the Constitution;
- to determine the main directions of the activity of general and specialized courts on legal protection of the Constitution;
- to make proposals for the purpose of improving the judicial mechanism of legal protection of the Constitution in the Republic of Azerbaijan.

**Research methods.** Both general legal methods and special scientific methods were used when writing the dissertation.

**The main provisions provided for the defense are as follows:**

1. It is proposed to give a broad definition of the supremacy of the Constitution, which is an independent constitutional principle ensuring the unity and completeness of the legal system of the state: "The supremacy of the Constitution means that any legal act, any action of the authorities or their officials must comply with the norms of the Constitution and not contradict its instructions. When there is a conflict between norms, public relations are regulated by constitutional norms. The supremacy of the Constitution stems from the need to ensure the unity, completeness and consistency of the entire legal system. In the legal system as a whole, including normative legal acts, the su-

premacv of the Constitution is its democracy, the expression of the will of the people, i.e. its adoption by popular vote, ensuring the legal succession of statehood traditions, as well as the establishment of universally accepted principles and norms of international law due to the positive practice of foreign countries in the field of constitutionalism".

2. The direct legal force of the Constitution is the imperative regulation of the status of rights and obligations of the subjects of public relations within the framework of the constitutional norm, and the content has a determining meaning for normative acts with the characteristic of high normativity.
3. It is considered expedient to define the legal protection of the Constitution as following: "Legal protection of the Constitution is determined by legislation in order to ensure the immutability and permanence of the basic principles of organization of society and the state (supremacy of the constitution, guarantee of human and civil rights and freedoms, separation of powers, universal suffrage, etc.). In a broader sense, the legal protection of the Constitution means the creation of the necessary conditions to ensure the legal force of constitutional norms, the development of relevant guarantees and the improvement of legal means and methods. In the narrow sense, the legal protection of the Constitution implies the application of specific constitutional-legal means (methods) in order to ensure the supremacy of the constitution in the legal system".
4. The peculiarity of the legal protection of the Constitution is that all state bodies must ensure compliance with constitutional norms. Virtually all the people of Azerbaijan can be considered the subject of protection of the Constitution, because the Constitution was adopted by referendum. Thus, we consider that the main subjects of legal protection of the Constitution are: the President of the Republic of Azerbaijan; The National Council; Cabinet of Ministers; Law Enforcement Agencies; Constitutional Court; Supreme Court, Courts of Appeal, general and specialized courts, and the Commissioner for Human Rights (Ombudsman).

5. It is proposed to give the following definition of the interpretation of the Constitution: "Interpretation of the Constitution means the interpretation and clarification of the content of the Constitution by a body authorized by the legislature without the creation of a new norm, strictly adhering to the principles of legality, objectivity, fairness, humanism and universality of certain norms of the Constitution. In this case, the name of the Constitution as a whole and its chapters cannot be the object of interpretation".
6. Comparative legal analysis states that in post-socialist countries, the Constitutional Court in 23 countries, the Constitutional Review Court in 1 country, the Constitutional Council in 1 country, the Constitutional Tribunal in 1 country, the State Court in 1 country, protect the constitution. Only from post-socialist countries, legislative acts of Turkmenistan do not provide for the establishment of an institution of constitutional control. According to the Constitution of Turkmenistan, the Parliament of Turkmenistan determines the compliance of normative acts of the legislative and executive bodies with the Constitution and laws. The State Court of the Republic of Estonia, as the highest court, also exercises constitutional review. The Judicial Board for Constitutional Control operates in the State Court of the Republic of Estonia. The Chairman of the State Court of the Republic of Estonia is also the Chairman of the Judicial Board for Constitutional Control. The Constitutional Court of the Republic of Belarus is the only national body in the world that protects the constitution and has the right to review the constitutionality of acts of international bodies.
7. The possible improvement of the Constitution in force, in other words, its improvement by making additions and amendments to it in a special way, must be carried out on the basis of a whole concept balanced, substantiated and discussed by the public in order not to reduce the power of the constitutional system of the rule of law. As a result of amendments and additions to the constitution, which are an element of the legal pro-

tection mechanism of the Constitution, both the stability of the Basic Law and the changing demands of society are ensured. It is also important to adhere to the constitutional culture when making additions and changes to the constitution.

8. As human and civil rights and freedoms play an important role in the legal protection mechanism of the Constitution, the protection of the Basic Law should take into account the existing and future mechanisms necessary to ensure the inviolability and stability of constitutional provisions and principles. The supremacy and protection of the Constitution, as well as the protection of the norms enshrined in the Basic Law on human and civil rights and freedoms, manifests itself and is formed as a constitutional regime for the activities of all government institutions. It covers the entire legal system and is accompanied by the strengthening of constitutional guarantees, as well as the obligations of the state to society, citizens and individuals. The state of Azerbaijan is capable to take appropriate measures to ensure strict observance of the norms provided for in the Constitution, including the norms related to human and civil rights and freedoms, and to ensure the rule of law in all spheres of activity.
9. The legislation of Azerbaijan recognizes the existence of a phenomenon such as civil society, together with all its existing features. We consider that, taking into account the growing prestige of civil society institutions, it would be expedient to include a separate article in the Constitution of the Republic of Azerbaijan denoting the concept of civil society. In our opinion, it would be appropriate to give such a more comprehensive definition of civil society institutions: "Civil society institution is understood as an anti-totalitarian society independent from the state, but in close and constant contact with it, having the same stage of development of the rule of law, which develops and forms the social basis of any democratic state, takes a leading position in the protection of human and civil rights and freedoms, promotes the realization of citizens' rights and prioritizes their education"

10. The role of civil society institutions as a non-governmental structure in the mechanism of legal protection of the Constitution is vital. Thus, in order to prevent the normative legal acts to be adopted from contradicting the Basic Law, they are widely discussed in civil society institutions. The Heydar Aliyev Foundation, a civil society institution, made great tribute to this work. In general, the functions of civil society institutions in Azerbaijan include the following: participation of citizens in the law-making process; control of civil society institutions over state bodies; participation of citizens in the political life of the country; awareness function; protection of environment, to prevent citizens from committing legal violation, to realize the citizen's rights, etc. The realization of the abovementioned works constitute the mechanism of legal protection of Constitution.
11. The Milli Majlis has a great responsibility for the legal protection of the Constitution. The leading role of the Milli Majlis in the system of state power predetermines its activity in resolving the issues of legal protection of the Constitution and leaves certain traces on its powers in this regard. The Milli Majlis actively uses the opportunities provided by the Basic Law for the legal protection of the Constitution and consistently expands this area of activity. In order to ensure the legal protection of the Constitution, the Milli Majlis shall first of all adopt norms establishing liability for violation of the provisions reflected in the Basic Law. The decisions of the Constitutional Court also prove the need for the legal protection of the Constitution by the Milli Majlis. Thus, 27 appeals to the above-mentioned Court so far have been directly related to the verification of compliance of some articles of normative legal acts adopted by the Milli Majlis with the Constitution of the Republic of Azerbaijan. The decision of the Constitutional Court made on the basis of 13 appeals is consisted of that the normative legal acts adopted by the Milli Majlis are in compliance with the Constitution of the Republic of Azerbaijan. At the same time, unfortunately, in 14 cases, some articles of the laws adopted by the

Milli Majlis, which is one of the subjects of legal protection of the Constitution, were considered invalid by the decision of the Constitutional Court due to non-compliance with the Constitution.

12. The President of the Republic of Azerbaijan has a priority in the implementation of legal protection of the Constitution. The President of the Republic of Azerbaijan carries out legal protection of the Constitution by strictly observing all the norms reflected in the Constitution and never abusing his position. From the first day of his office, the President of the Republic of Azerbaijan demonstrates his intention to use all the powers at his disposal to contribute to its full implementation and comprehensive protection of the Constitution. Since that time, the President's legal work has been clearly focused on the implementation of constitutional norms. Overall perspective of the legal protection of the Constitution, which is one of the areas covered by the activities of the President of the Republic of Azerbaijan, show that this work was accepted by him and important work was done to ensure a high level of protection of the Constitution. The head of state of the Republic of Azerbaijan is the guarantor not only of the legal protection of the Constitution, but also of public peace and political stability. Azerbaijan's strong presidential model has significant advantages, given the unicity of the Azerbaijani statehood at the current stage of development.
13. The legal definition of law enforcement agencies as one of the subjects of legal protection of the Constitution is not reflected in the legislation of the Republic of Azerbaijan. In our opinion, it would be expedient to define law enforcement agencies as follows: "Law enforcement agencies are state bodies, the activities of which are based on the norms reflected in the Constitution and other legislative acts of the Republic of Azerbaijan and subject to certain procedural rules, the rule of law, protection of human and civil rights and freedoms, protection of state and public interests, ensuring the prevention of violations and

applying state coercive measures against the person who has committed an illegal act"

14. The administration of justice in the Constitutional Court has become a key and important element of the mechanism of legal protection of the Basic Law. The Constitutional Court performs a number of important legal functions, including the function of protection of Constitution. Regardless of how it performed, along with the protection of the rights and freedoms proclaimed through constitutional justice, the legal protection of the Constitution is carried out, and the general tasks of ensuring its supremacy and the principle of separation of powers are solved. The decisions of the Court help to guide other courts, as well as to prevent violations of substantive and procedural law. In modern age, the main directions of Constitutional Court of the Republic of Azerbaijan on legal protection of Constitution are: to resolve conflicts and disputes between the parties to the relationship on the basis of the constitution, other legislative acts and the case law of the European Court of Human Rights; to check the compliance of laws and other acts, actions (inaction) of various state bodies, officials with the principles and norms of the constitution; to identify gaps between existing normative legal acts and to recommend to the body exercising legislative power in order to eliminate or eliminate them; to ensure the balanced functioning of various branches of government; to protect and restore the violated rights and freedoms of citizens and other subjects of public relations.
15. Giving the general and specialized courts the right to appeal to the body exercising constitutional control is one of the progressive and democratic aspects of the mechanism of constitutional control. Thus, giving the above-mentioned courts the right to appeal to the Constitutional Court not only increases the effectiveness of legal protection of the Constitution, but also improves the system of internal protection of individuals and legal entities. Giving general and specialized courts the right to appeal to the Constitutional Court Ensuring the rule of law, le-

gal protection and stability of the Constitution, protection of democratic norms and principles enshrined in the Constitution, ensuring the established balance of powers of different branches of government, human and civil rights and freedoms protection, identification and elimination of existing contradictions in the legal and legislative system.

16. The Constitutional Court considered some cases on verification of the decision of the Supreme Court for compliance with the Constitution and laws of the Republic of Azerbaijan without the participation of the respondent, i.e. the representative of the Supreme Court. In our opinion, from the point of view of a more thorough investigation of the cases considered, it would be expedient to note in legislation to ensure the defendant's obligatory participation in the constitutional court proceedings. In order to improve the judicial mechanism of legal protection of the Constitution, we propose to add the following sentence to Article 41.5 of the Law of the Republic of Azerbaijan "On the Constitutional Court", dated December 23, 2003: "Defendants or their representatives must participate at the constitutional proceedings".
17. In connection with the judicial acts of the Supreme Court, the Constitutional Court has issued 215 (two hundred and fifteen) decisions. Most of them were related to the decisions of the Civil Chamber of the Supreme Court. Some (210 decisions) of the above-mentioned decisions state that the decision made by the Supreme Court shall be considered unconstitutional and not in compliance with the law. In our opinion, the recognition of 210 court decisions adopted by the Supreme Court as inconsistent with the Constitution and laws of the Republic of Azerbaijan creates the need to improve the activities of the Supreme Court for the legal protection of the Constitution.

**The scientific novelty of the research.** It is the first monographic research work in the Republic of Azerbaijan dedicated to the mechanism of legal protection of the Constitution. Also for the first time the theoretical aspects of the legal protection of the Constitution, foreign practice in the field of legal protection of the

Constitution, the history of the establishment and development of the legal protection system of the Constitution, judicial mechanism of legal protection of the Constitution, etc. have been investigated in the research.

**The theoretical and practical significance of the research** is determined by the fact that the theoretical proposals put forward in the dissertation can enrich the scientific base of the constitutional law institution, and the results of the research can be used in teaching the subject of Constitutional Law at law faculties.

**Approbation and application.** The main provisions and results of the dissertation research have been published in prestigious scientific journals, as well as in the materials of scientific and practical conferences held at the national and international levels. Article entitled "Legal position of the Plenum of the Constitutional Court of the Republic of Azerbaijan on local self-government" is indexed in the Web of Science scientific database // Cuba: UNIVERSIDAD Y SOCIEDAD, - 2022, - Volume 14, S1, February, - p. 134-139 (Web of Science 000761754400016, - Category: Social Sciences, Interdisciplinary, - Journal Citation Indicator (JCI) - 0.04).

Article entitled "History of the development of legislation on the Constitutional Court of the Azerbaijan Republic" // - Moscow: Issues of History, - 2020. No. 6, - p. 269-276: is indexed in the Web of Science Core Collection: Arts & Humanities Citation Index (Journal Citation Indicator (JCI) - 0.41), as well as in the Scopus scientific database.

Also the article entitled "Main activities of the constitutional court of the Republic of Azerbaijan on the Legal Protection of the Constitution" is indexed in the Web of Science, as well as in the Scopus scientific database // Cuba: UNIVERSIDAD Y SOCIEDAD, - 2023, - Volume 15, Number 2, March-April, - p. 442-447: (000761754400016 - Category: Social Sciences, Interdisciplinary, - Journal Citation Indicator (JCI) - 0.04).

**Name of the organization the dissertation work is performed at.** The dissertation work was carried out at the depart-

ment of "Constitutional Law" of the Faculty of Law of Baku State University.

**The structure of the dissertation.** The dissertation consists of an introduction, 16 (sixteen) paragraphs, five chapters, a conclusion and a list of references. Excluding the list of used literature, the total volume of the dissertation consists of 424059 characters without spaces. The volume of separate structural units of the dissertation is as follows:

- Title page - 355 signs;
- Contents - 3548 signs;
- Introduction - 24295 signs;
- Chapter one - 66226 signs;
- Chapter two - 101648 signs;
- Chapter three - 93550 signs;
- Chapter four - 56723 signs;
- Chapter five - 47291 signs;
- Conclusion - 30422 signs.

## **MAIN CONTENT OF THE RESEARCH WORK**

**The introduction** substantiates the relevance of the chosen topic, highlights the degree of its scientific development, defines the goals and objectives of the research, forms the main provisions for defense, explains the theoretical and practical significance of the work.

The first chapter of the dissertation studies "**Theoretical aspects of legal protection of the Constitution**". The first paragraph of this chapter, entitled as "**The supremacy of the Constitution as the object of legal protection of the Constitution**", states that a clear differentiation of constitutional provisions is of great importance in order to ensure the supremacy of the Constitution. For this, it is necessary to ground the law-making activity, first of all, on the concrete provisions of the Basic Law in the activity of the legislative bodies of the state power. Confirmation of the supremacy of the Constitution in the legal system of the country is conditioned by objective factors determined by the legal

nature of this normative legal act, its social basis and content. One of the basic provisions of the constitutional law is the understanding of the Constitution as the normative legal act occupying the highest position in the legal system of the state, as the basic law of the state. The supremacy of the Constitution not only characterizes its position in the hierarchy of legal acts, but also regulates and establishes the process of legislative acts, acting as a basis for the development of all areas of law.

In the national legal system, the supremacy of the Constitution acts as a universally accepted postulate in relation to all other legal acts. It differs from laws and other normative legal acts due to the high degree of importance of public relations regulated by the Constitution. The Constitution defines the main institutions of the state, the status of citizens, affects the content of all law-making activities. According to the applicant, the supremacy of the Constitution, which is an independent constitutional principle that ensures the unity and integrity of the legal system of the state, can be broadly defined as follows: "The supremacy of the Constitution means that any legal act, any action of the authorities or their officials must comply with the norms of the Constitution and not contradict its instructions. When there is a conflict between norms, public relations are regulated by constitutional norms. The supremacy of the Constitution stems from the need to ensure the unity, completeness and consistency of the entire legal system. In the legal system as a whole, including normative legal acts, the supremacy of the Constitution envisages its democracy, the expression of the will of the people, i.e. its adoption by popular vote, ensuring the legal succession of statehood traditions, as well as the establishment of universally accepted principles and norms of international law due to the positive practice of foreign countries in the field of constitutionalism".

The legal force of the Constitution, which occupies a high position in the hierarchy of normative legal acts, applies to the entire system of public relations. The supremacy of the Constitution in the system of normative legal acts, its direct legal force is one of the principles of the organization and activity of the rule of law.

The Constitution, being the basic, supreme law of the state, has the highest legal force in its entire territory.

The second paragraph of the first chapter of the dissertation analyzes "**The definition, forms and objectives of legal protection of the Constitution**". It is noted here that any system of protection operates on two levels. At the first level, protection is aimed at preventing all possible violations, and at the second level, at restoring the violated norms and bringing the perpetrator to justice. A similar situation occurs with the institution of legal protection of the Constitution. Analyzing the definitions of legal protection of the Constitution by scholars, the author came to the conclusion that these definitions do not fully cover all areas of legal protection of the Constitution, and therefore considered it expedient to define the legal protection of the Constitution as follows: "Legal protection of the Constitution is determined by law in order to ensure the immutability and permanence of the basic principles of organization of society and the state (supremacy of the constitution, guarantee of human and civil rights and freedoms, separation of powers, universal suffrage, etc.). Legal protection of the Constitution is a complex system of legal measures related to ensuring the proper implementation of constitutional norms and strengthening the constitutional legislation. In a broader sense, legal protection of the Constitution means the creation of the necessary conditions to ensure the legal force of constitutional norms, the development of appropriate guarantees and the improvement of legal means and methods. In the narrow sense, the legal protection of the Constitution implies the application of specific constitutional-legal means (methods) in order to ensure the supremacy of the constitution in the legal system".

It is mentioned in the ongoing paragraph that the following forms of legal protection of the Constitution by different public authorities can be distinguished:

a) warning - aimed at warning and preventing violations of constitutional provisions;

b) protective- aimed at restoring the violated norms of the Constitution and punishing the subjects who violate the constitutional law.

The peculiarity of the legal protection of the Constitution is that all state bodies must ensure compliance with constitutional norms. Virtually all the people of Azerbaijan can be considered the subject of protection of the Constitution, because the Constitution was adopted by referendum. Almost all state authorities are also involved in the legal protection of the Constitution in one way or another. The applicant states that, when we divide the legal protection of the Constitution into its constituent elements, we see that the main subjects of legal protection of the Constitution in the Republic of Azerbaijan are:

- 1) Azerbaijani people;
- 2) President of the Republic of Azerbaijan;
- 3) Milli Majlis of the Republic of Azerbaijan;
- 4) Cabinet of Ministers of the Republic of Azerbaijan;
- 5) Law enforcement agencies of the Republic of Azerbaijan;
- 6) Constitutional Court of the Republic of Azerbaijan;
- 7) Supreme Court of the Republic of Azerbaijan;
- 8) Courts of Appeal of the Republic of Azerbaijan;
- 9) General and specialized courts of the Republic of Azerbaijan;
- 10) Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan.

The third paragraph of the first chapter of the research paper entitled "**The definition and main institutions of the legal protection mechanism of the Constitution**" consists of two items. The first item called "Features of the legal protection mechanism of the Constitution" indicates that the legal protection of the Constitution is carried out by various methods and means (sometimes these methods and means are also called institutions). Together, they form the legal protection mechanism of the constitution. In practice, the principles of legal protection of the Constitution can be violated for various reasons. It is to prevent or eliminate such cases that the institution of the legal protection mechanism of the Constitution was formed. The legal protection mechanism of the

AR Constitution is a set of special legal measures aimed at the implementation of constitutional norms and the protection of constitutional legality.

The method of protection of the Constitution is the action or system of actions applied by the state authorities when the legal protection of the Basic Law is carried out. First of all, the special procedure for the preparation, adoption and amendment of the Constitution applies here. It must meet two main interrelated requirements: ensuring the stability of the constitution and the possibility of its change. Such an approach is conditioned by the need to ensure the stability of the constitutional structure and, at the same time, the possibility of taking into account possible changes in society.

There is no unified position in the scientific literature regarding the number of methods and means of legal protection of the Constitution. However, the author supports the views of those scholars who consider the following methods and means of legal protection of the Constitution:

- 1) The special procedure for preparing, adopting and changing the Constitution;
- 2) Self-protection mechanism of the Constitution;
- 3) Interpretation of the Constitution;
- 4) Constitutional control.

The method of protection of the Constitution is the action or system of actions applied by the state authorities when the legal protection of the Basic Law is carried out. First of all, the special procedure for the preparation, adoption and amendment of the Constitution applies here. It must meet two main interrelated requirements: ensuring the stability of the constitution and the possibility of its change. Such an approach is conditioned by the need to ensure the stability of the constitutional structure and, at the same time, the possibility of taking into account possible changes in society.

Organizational-legal guarantees do not ensure absolute legal protection of the Basic Law. It is for this reason that its self-protection mechanism is provided for in the Constitution itself.

Due to its legal nature, the Constitution has the characteristic of stability, which is the basis of its self-protection mechanism.

Based on the analysis, the researcher comes to the conclusion that the interpretation of the Constitution can be defined as follows: "The interpretation of the Constitution is the interpretation of its content by the body authorized by the legislative body without creating a new norm, strictly following the principles of legality, objectivity, justice, humanism and comprehensiveness of only certain norms of the Constitution, explanation and precise clarification is understood. In this case, the Constitution as a whole and the name of its chapters cannot be the object of interpretation".

The second item of the third paragraph of the first chapter is entitled "Constitutional control as a means of legal protection of the constitution". In the said paragraph, it is stated that the functioning mechanism of constitutional control is ensuring the supremacy, legal protection and stability of the constitution, protection of democratic norms and principles established by the constitution, ensuring the established balance of powers of various branches of government, protection of human and civil rights and freedoms established by the constitution, law and legislation (normative legal acts) aimed at revealing and eliminating contradictions in the system.

The central place in the legal protection of the Constitution is occupied by constitutional control. In modern times, it is considered one of the most effective means. In a broad sense, the main purpose of constitutional control is to reveal normative legal acts and actions of officials that do not conform to the Constitution and to take necessary measures to eliminate those inconsistencies. In other words, constitutional control includes any form of checking the constitutionality of acts and activities of state authorities, as well as public associations performing public functions. Constitutional control is a system of relations between state authorities, in which the control bodies (for example, the parliament, the head of state, the constitutional court) have the right to make a final decision on controversial issues, as well as to annul acts con-

sidered unconstitutional. The necessity of constitutional control is primarily related to the hierarchical nature of legal norms.

The demand for constitutional control is determined by the real reality in society. Practice shows that in some cases unconstitutional acts are adopted, and controversial situations arise in the field of application of the constitution and applicable legislation. At this time, the resolution of such problems is attributed to the authority of the constitutional control bodies.

The second chapter of the dissertation examines **"Features of the legal protection of the Constitution in different legal systems"**. The first paragraph of the same chapter, entitled **"Practice of states with Anglo-Saxon legal system regarding the legal protection of the constitution"**, states that each country has a legal system that takes into account national and spiritual values, historical traditions and socio-cultural development. The process of globalization, which is widespread in the modern world, intensifies relations between countries. As it is important to establish relations between the countries, it is especially important to study the existing legislation of foreign countries, to identify their similarities and differences.

The practice of countries with the Anglo-Saxon legal system such as England, Northern Ireland, Singapore, Wales, United States, Canada, Australia, New Zealand, Ghana, etc. shows that general and specialized courts play a very important role among the bodies exercising constitutional control. In each of the countries of the Anglo-Saxon legal system, constitutional control has undergone a long historical development. In the United States, for example, the institute has a two-hundred-year history.

Prior to independence, the Anglo-Saxon legal system, including the United States, was highly influenced by the British Empire, and their legal system was similar to that of the United Kingdom. That is why the Supreme Court has a special role in these countries. However, the constitutional principles of the United States have developed significantly, and the current US model of constitutional review is so characteristic that there is no doubt that this control is independent and highly developed.

In countries with the Anglo-Saxon legal system, the protection of the constitution is based on the principle of the rule of law, and in these countries various methods have been identified to ensure the priority of the constitution over laws and other legal acts. Constitutional control in these countries is aimed at protecting human rights. The courts of the Anglo-Saxon legal system can hear not only issues related to the constitution, but also any case that is not related to these issues. Therefore, the Supreme Courts of these countries cannot be characterized as a specialized organization of constitutional control. In these countries, the issue of constitutionality cannot be taken to court as a separate case. This issue can arise only when a specific legal dispute is resolved in court. The decision of the court, including the Supreme Court, does not repeal the unconstitutional norms, but simply allows those norms not to be applied to the cases considered in the courts.

Based on the analysis of the second paragraph of the second chapter of the dissertation entitled "Practice of countries with continental legal systems in the field of legal protection of the Constitution", the applicant states that in countries with a continental legal system, as in the Anglo-Saxon legal system, the protection of the constitution is based on the rule of law. Except for post-socialist countries, in countries with Continental legal system constitutional protection is exercised as the following:

Constitutional Court in 33 countries, "Constitutional Council" in 15 countries, "Constitutional Tribunal" in 3 countries, Supreme Constitutional Court in 2 countries, "Special Constitutional Court" in 1 country, "State Court" in 1 country, "Special Supreme Court" in 1 country.

In countries such as Denmark, Switzerland, Finland, Iceland and Norway, constitutional control is exercised by courts of general jurisdiction, and in Sweden by the Legislative Council. After the emergence of a special state body of jurisdiction in most countries of the continental legal system, it was organizationally separated from the judiciary and gained the exclusive power to consider and resolve constitutional disputes. Since then, courts of gen-

eral jurisdiction have been deprived of the right to resolve constitutional issues independently.

The issue of its objects has a special place in the mechanism of constitutional control in the countries of the continental legal system. In most of these states, the following acts are subject to the objects of constitutional control: constitutional projects; amendments to the constitution; acts violating constitutional principles; laws; law enforcement acts; other normative acts; international agreements; court decisions; decisions of local self-government bodies; decisions of parties; decisions of public organizations.

The third paragraph of the second chapter of the dissertation studies **"The practice of post-socialist countries in the field of legal protection of the Constitution"**. In this paragraph, the author states that all post-socialist countries are states with a continental legal system. Constitutional control is exercised in post-socialist countries as the following: The Constitutional Court in 23 countries, the Constitutional Review Court in 1 country, the Constitutional Council in 1 country, the Constitutional Tribunal in 1 country, and the State Court in 1 country. Only the legislation of Turkmenistan, being the post-socialist country, does not provide for the establishment of the institution of constitutional control. According to the Constitution of Turkmenistan, the Parliament of Turkmenistan determines the compliance of normative acts of legislative and executive bodies with the Constitution and laws. The State Court of the Republic of Estonia, as the highest court, also exercises constitutional control. The Judicial Board for Constitutional Control operates in the State Court of the Republic of Estonia. The Chairman of the State Court of the Republic of Estonia is also the Chairman of the Judicial Board for Constitutional Control.

In some post-socialist countries, Constitutional Courts (Tribunals) exercising constitutional control were established during the socialist system. Thus, in the former Yugoslav republics - Bosnia and Herzegovina, the Republic of Northern Macedonia, the Republic of Montenegro, the Republic of Croatia, the Republic of

Serbia and the Republic of Slovenia, the Constitutional Court has been functioning since 1963, and the Constitutional Tribunal has been functioning in Poland since 1985.

The Constitutional Court of the Republic of Belarus is the only national body in the world that protects the constitution and has the right to review the constitutionality of acts of international bodies.

In the practice of post-socialist countries, the number and structure of members of organizations exercising constitutional control vary, depending on a number of factors, including the structure of the state, its administrative-territorial division, the range of subjects entitled to appeal, etc. depends on factors. This is: 18 people in Ukraine, 15 people in Serbia, Poland, Hungary, and the Czech Republic, 13 people in Croatia and Slovakia, 12 people in Bulgaria and Belarus, 11 people in Russia, Northern Macedonia, Bosnia and Herzegovina, Montenegro, 9 people in the Republic of Slovenia, Albania, Romania, Mongolia, the Republic of Estonia, the Republic of Lithuania, the Republic of Uzbekistan, the Kyrgyz Republic, and Georgia. There are 7 members of the Constitutional Court (Constitutional Council) exercising constitutional control in the Republic of Tajikistan, the Republic of Latvia and the Republic of Kazakhstan, and 6 members in the Republic of Moldova.

The fourth paragraph of the second chapter of the dissertation is called **"The practice of the states where the Amparo procedure is applied and the countries belonging to the Islamic legal system regarding the legal protection of the constitution"**. In that paragraph, it is noted that the implementation of the legal protection of the constitution in the developed democratic states of Latin America is a series of institutional and jurisdictional issues. despite its characteristics, it can be more or less associated with the legal protection of the constitution or the mixed forms of constitutional justice implemented in countries with an Anglo-Saxon legal system or countries belonging to the European model. One of these models is in a number of Latin American countries (Argentina, Bolivia, the United States of Mexico, Brazil,

the Bolivarian Republic of Venezuela, Guatemala, Honduras, Colombia, Costa Rica, the Dominican Republic, Ecuador, Panama, Salvador, Chile, Uruguay, Peru, Nicaragua, the Republic of Paraguay), and within European countries, in Spain for many decades is a specialized system of judicial control called "amparo procedure" or "amparo claim" or "amparo appeal" (the word "amparo" of Latin origin means "defense", "guardianship", "protection").

In the developed democratic states of Latin America, the function of constitutional control, which is one of the most effective means of legal protection of the constitution, is carried out by courts of general jurisdiction, led by the Supreme Court.

The Amparo process, which is a specific type of litigation in a number of Latin American countries, stands out for its originality. The amparo procedure is a legal institution reminiscent of the Anglo-Saxon legal tradition in a general sense. At the same time, it cannot be denied that this concept refers not only to the protection of physical freedom, but to all the constitutional rights and freedoms of citizens.

Lawsuits based on the amparo procedure are filed orally or in simple written form by natural and legal persons, without paying the state fee.

The subject of the amparo procedure is the determination of the constitutionality of the normative act, state body or official's action or inaction complained of by the applicant.

In the majority of states belonging to the Islamic legal system, the function of constitutional control, which is one of the most effective means of legal protection of the constitution, is performed by courts of general jurisdiction, headed by the Supreme Court, and in some by Constitutional Courts, as in most states with an Anglo-Saxon legal system and where the amparo procedure is applied. In the states belonging to the Islamic legal system where the Constitutional Court exists, the implementation of the function of constitutional control is the competence of the Constitutional Court, and in the states where the Constitutional Court does not exist, the courts of general jurisdiction, including the Supreme Court, are competent.

The Constitutional Court operates in such countries as the Kingdom of Morocco, the Kingdom of Bahrain, Sudan, the Arab Republic of Egypt, Kuwait and the Republic of Indonesia. In other words, there are norms related to the activity of the Constitutional Court in the legislative acts of only six states belonging to the Islamic legal system. In the Constitutions of the mentioned states, the Constitutional Court is the last instance and the impossibility of filing an appeal against the decision of that court, the invalidity of acts inconsistent with the Constitution, and the mandatory implementation of the decision of the Constitutional Court by all bodies and officials.

Also in the constitutions of states where the function of constitutional control is carried out by courts of general jurisdiction, including the Supreme Court, the laws must be in accordance with the Constitution, it is everyone's duty to follow the constitution and laws, and the duty of judicial authorities to adequately protect the rights of individuals and legal entities is reflected. For example, according to Article 156 of the Constitution of the Islamic Republic of Iran, which came into force on December 3, 1979, the main task of the judiciary, which is an independent branch of government, is to protect the rights of all people and promote justice in society.

The constitution is not defined in the legislative acts of the states related to the Islamic legal system. It is universally considered that the constitution is a supreme legal document that defines the rules governing the composition, powers and methods of operation of the main institutions of the state, as well as the general principles applied in relation to citizens. The principles reflected in the constitution are the same as the basic principles of Islam. Human and civil rights and freedoms are guaranteed in the constitutions of all Islamic legal system states.

The third chapter of the dissertation, consisting of four paragraphs, is entitled **"General characteristics of the modern mechanism of legal protection of the Constitution in the Republic of Azerbaijan and the role of civil society in its formation"**. The first paragraph of this chapter examines **"The es-**

**establishment and development of the legal protection system of the Constitution in the Republic of Azerbaijan".** The researcher notes that although the Constitution of Azerbaijan of May 19, 1921 and March 26, 1927 did not contain a provision on the protection of the Constitution, at that time the All-Azerbaijan Congress of Soviets played a leading role in the protection of the Constitution. The existence of such protection stemmed from the content of the provisions of the Basic Law.

After the entry into force of the USSR Constitution of January 31, 1924, the Supreme Court of the USSR also performed certain functions related to the protection of the Constitution. Article 43 of the Constitution provided for the Supreme Court of the USSR to explain the constitutionality of legal acts adopted by the allied republics on the basis of an appeal from the Central Executive Committee of the USSR. The Supreme Court of the USSR also exercised constitutional control until June 20, 1933. With the establishment of the USSR Prosecutor's Office on this date, the function of monitoring the compliance of normative acts with the Constitution was transferred to the competence of the Prosecutor's Office. In those years, the prevailing view was that it would be more expedient for a non-judicial body to exercise constitutional control.

Guided by the Constitution of the USSR of December 5, 1936, the Third Basic Law of the Azerbaijan SSR, adopted on March 14, 1937, reflected the possibility of changing the Constitution only by the decision of the Supreme Soviet. Although not directly stated in the Constitution of March 14, 1937, the legal protection of the Constitution was almost exclusively exercised by the highest authority, i.e. by the Supreme Soviet.

The last Constitution of the USSR, adopted on October 7, 1977, did not establish a special constitutional review body and assigned these functions to the Supreme Soviet of the USSR and the Presidium of the Supreme Soviet of the USSR. Also, the Constitution of the Azerbaijan SSR dated April 21, 1978 reflected the norms on the exercise of constitutional control by the Supreme Soviet and the Presidium of the Supreme Soviet.

With the adoption of the Law "On Amendments and Changes to the Constitution of the USSR" on December 1, 1988, special attention was paid to the legal protection of the Constitution. Thus, in order to implement the legal protection of the Constitution, the law provided for the establishment of a specialized body - the Committee for Constitutional Control of the USSR. The Committee was to oversee the compliance of laws and other legal acts with the Basic Law of the State. The USSR Constitutional Oversight Committee, which exercised only a function of control, did not have the right to repeal acts that did not comply with the Constitution and laws.

"The Law on the Establishment of the Office of the President of the USSR and Amendments to the USSR Constitution (Basic Law)" adopted on March 14, 1990 also gave the President of the USSR the function of constitutional control. The Supreme Soviet of the USSR and the Presidium of the Supreme Soviet of the USSR completely lost the power of constitutional control.

With the collapse of the USSR, in December 1991, the USSR Constitutional Control Committee suspended its activity. Although the establishment of the Constitutional Oversight Committee was planned in Azerbaijan, it did not operate.

After the restoration of independence, Azerbaijan pay special attention to the legal protection of the constitution

The second paragraph of the third chapter of the dissertation analyzes "The place of human and civil rights and freedoms in the mechanism of legal protection of the Constitution". 49 out of 158 articles of the Constitution of the Republic of Azerbaijan (Article 12 and Articles 24-71 reflected in Chapter 3 entitled "Basic human and civil rights and freedoms") are dedicated to the basic human and civil rights and freedoms. In other words, 31% of the norms reflected in the Constitution are about human and civil rights and freedoms. It stands to reason that on March 18, 2009 and September 26, 2016, in a nationwide referendum on amendments to the Constitution of the Republic of Azerbaijan, 19 out of 49 articles of the Basic Law on human and civil rights and freedoms has undergone to addition and change. In a referendum held

on March 18, 2009, additions and changes were made to Articles 12, 25, 29, 32, 93, 48, 50 and 67 of the Basic Law, in the referendum held on September 26, 2016, additions and changes were made to Articles 24, 25, 29, 32, 36, 47, 53, 56, 57, 58, 59, 60, 68 and 71.

According to the researcher, since human and civil rights and freedoms play an important role in the mechanism of legal protection of the Constitution, the protection of the Constitution should take into account the existing and future mechanisms necessary to ensure the invariability and stability of constitutional provisions and principles. The protection of the Constitution must reflect all possible options for aggression against the Constitution, from the point of view of the authority of the Basic Law and its unshakable values.

The supremacy and protection of the Constitution, as well as the protection of the norms enshrined in the Basic Law on human and civil rights and freedoms, manifests itself and is formed as a constitutional regime for the activities of all institutions of power. It covers the entire legal system and is accompanied by the strengthening of constitutional guarantees, as well as the state's obligations to society, citizens and people. The Azerbaijani state has the ability to take appropriate action to ensure strict observance of the norms provided for in the Constitution, including the norms related to human and civil rights and freedoms, and to ensure the rule of law in all spheres of activity.

According to the applicant, if we refer to the Constitution of the Republic of Azerbaijan, we can conclude that constitutional protection is ensured on the basis of direct instructions for the real protection of human and civil rights and freedoms.

The dissertation notes that in accordance with the Constitution of the Republic of Azerbaijan, it can be concluded that constitutional security is ensured on the basis of direct instructions for the real protection of human and civil rights and freedoms. The third paragraph of the third chapter of the dissertation is entitled "The special procedure for making additions and amendments to the Constitution as an element of the legal protection mech-

**anism of the Constitution"** stating that social and political changes, transformation of public views, modernization of state institutions, as well as the process of intensifying integration leads to the emergence of non-functioning norms in the current constitution that hinder the functioning and development of society. In this case, there is a need to make additions and changes to the Constitution. Constitutional norms serve as a kind of impetus for the creation of new normative legal acts and all legislative acts of the country as a whole, which requires their stability. The stability of these norms can be ensured by a special procedure for making additions and changes to them. Possible improvement of the existing constitution, in other words, additions and amendments to it, should be carried out on the basis of a whole concept that is balanced, justified and discussed by the public, so as not to reduce the prestige of the constitutional system of the rule of law.

A special procedure for making additions and amendments to the constitution, which is an element of the mechanism of legal protection of the Constitution, is an important part of constitutionalism. Because as a result of additions and changes, both the stability of the Basic Law and the changing demands of society are ensured. It is also important to strictly adhere to the constitutional culture when making additions and changes to the constitution.

The fourth paragraph of the third chapter of the dissertation, entitled **"The role of civil society institutions in the mechanism of legal protection of the Constitution"** states that the Azerbaijani legislation accepts the existence of a phenomenon such as civil society with all its features. The applicant considers that, taking into account the growing prestige of civil society institutions, it would be expedient to include a separate article in the Constitution of the Republic of Azerbaijan reflecting the concept of civil society. According to the researcher, it would be appropriate to give a more comprehensive definition of civil society institutions: "The institution of civil society means an anti-totalitarian society that independent of the state, but in close and constant contact with it, the stage of development of which is the same as the stage of development of the rule of law, developing itself and forming the

social basis of every democratic state, taking a leading position in the protection of human and civil rights and freedoms in the event of continuous action, as well as assisting in the realization of the rights of citizens, emphasizing their enlightenment".

The role of civil society institutions as a non-governmental structure in the mechanism of legal protection of the Constitution is very large. Thus, in order to prevent the normative legal acts to be adopted from contradicting the Constitution, they are widely discussed in civil society institutions, including non-governmental organizations, trade unions, and the media. The Heydar Aliyev Foundation, a civil society institution, has special contribution to this work.

In general, the functions of civil society institutions in Azerbaijan include: participation of citizens in the law-making process; control of civil society institutions over state bodies; participation of citizens in the political life of the country; awareness function; environmental protection; to discourage citizens from committing offenses; to assist in the realization of the rights of citizens, etc. The implementation of the above work is an integral part of the mechanism of legal protection of the Constitution. For this reason, the role of these institutions in the mechanism of legal protection of the Constitution is undeniable.

The author came to the conclusion that when studying the place of civil society institutions in the mechanism of legal protection of the Constitution, it is necessary to pay special attention to the following issues: research of the essence of civil society institutions; in-depth study of legislative acts related to civil society institutions; interaction of public authorities with civil society institutions.

The fourth chapter of the dissertation "State bodies responsible for legislative and administrative activities that implement the legal protection of the Constitution in the Republic of Azerbaijan" consists of three paragraphs. The first paragraph of the same chapter entitled "Milli Majlis of the Republic of Azerbaijan as a subject of legal protection of the Constitution" states that ensuring the supremacy of the Constitution of the Re-

public of Azerbaijan and its protection plays an important role in the activities of the Milli Majlis. The Milli Majlis has a great responsibility to protect the Constitution. The leading role of the Milli Majlis of the Republic of Azerbaijan in the system of state power predetermines its activity in solving the issues of legal protection of the Constitution and affects its powers in this regard. In other words, the Milli Majlis actively uses the opportunities provided by the Basic Law for the legal protection of the Constitution and consistently expands this area of activity. In order to ensure the legal protection of the Constitution, the Milli Majlis shall first of all adopt norms establishing liability for violation of the provisions reflected in the Basic Law. 40 articles of the Criminal Code of the Republic of Azerbaijan of December 30, 1999 and 133 articles of the Code of Administrative Offenses of the Republic of Azerbaijan of December 29, 2015, adopted by the Milli Majlis, are directly dedicated to the legal protection of the Constitution. In addition, the decisions of the Constitutional Court prove the need for the legal protection of the Constitution by the Milli Majlis. Thus, 27 appeals to the mentioned Court so far were aimed at checking the compliance of some articles of normative legal acts adopted by the Milli Majlis with the Constitution of the Republic of Azerbaijan. The decision of the Constitutional Court on the basis of 13 appeals was that the normative legal acts adopted by the Milli Majlis are in accordance with the Constitution of the Republic of Azerbaijan, in other words, these normative legal acts do not contradict the norms of the Basic Law. At the same time, the author states with regret, that in 14 cases, some articles of the laws adopted by the Milli Majlis, which is one of the subjects of legal protection of the Constitution, were considered invalid by the decision of the Constitutional Court due to non-compliance with the Constitution.

The second paragraph of the fourth chapter of the research is entitled **"The President of the Republic of Azerbaijan as a subject of legal protection of the Constitution"**. The author states that the President of the Republic of Azerbaijan is one of the important subjects of legal protection of the Constitution. This is

quite understandable, because the first part of Article 103 of the Basic Law stipulates that elected President of the Republic of Azerbaijan shall take an oath to abide by the Constitution of the Republic of Azerbaijan. The President of the Republic of Azerbaijan shall exercise legal protection of the Constitution by strictly observing all norms, including issuing decrees and orders that do not contradict the Constitution, by signing laws within 56 days from the date of their submission to him, by submitting draft laws in accordance with the Constitution for discussion by the Milli Mailis as a subject of the right of legislative initiative, by annulling decisions and orders of the Cabinet of Ministers of the Republic of Azerbaijan and the Cabinet of Ministers of the Nakhchivan Autonomous Republic, as well as acts of central and local executive authorities that do not comply with the Basic Law, declaring a state of emergency and martial law if necessary, in no case shall abuse of position.

The President of the Republic of Azerbaijan plays an important role in the system of state support of all norms reflected in the Constitution, including norms related to human and civil rights and freedoms. The important role of the President of the Republic of Azerbaijan in ensuring rights and freedoms is explained by the fact that the President, as the head of state, ensures the coordination and continual operation of the state mechanism as a whole. The coordinating role of the President is aimed at ensuring the unity of state power, the stability of the public administration system, the coordinated activities of the branches of government in the separation of powers, which ultimately ensures the implementation of constitutional norms. The head of state, who performs a kind of conciliation function, has the right to use his powers reflected in the constitution in order to settle differences between state bodies, organize conciliation procedures, and ensure the effectiveness of state power. At the same time, the President monitors the activities of the entire state mechanism by setting national priorities and participating in the formation of state bodies. That is, the socio-political value of the concept of the presidency is embodied in his presidency, which is important both in domestic af-

fairs and in international relations. At the same time, the institution of the presidency contributes to ensuring stability through the necessary changes in the development of the state.

Requiring strict observance of the norms reflected in the Basic Law is the main criterion of the policy of the President of the Republic of Azerbaijan as a subject of legal protection of the Constitution. For the continuous development of Azerbaijan, it is necessary for the President of the Republic of Azerbaijan to have broad powers. Because the President who acts as a coordinator between all state bodies and officials, ensures the rights, freedoms and legitimate interests of the Azerbaijani people, and carries out the legal protection of the Constitution. In all this, the powers of the President manifest itself in various forms - from defining the main directions of domestic and foreign policy, from the preparation of conceptual documents to the announcement of programs for the development of the state.

The head of state of the Republic of Azerbaijan is the guarantor not only of the legal protection of the Constitution, but also of public peace and political stability. Azerbaijan's strong presidential model has significant advantages, given the uniqueness of the Azerbaijani statehood at the current stage of development, which in most cases should not be sacrificed for imaginary threats. One of these advantages is the active participation of the President in the legal protection of the Constitution on the basis of existing aspects of the legal status, which allows to act independently and effectively to protect the norms of the Constitution and prevent their violation. The purpose of the President's independent activity on the legal protection of the Constitution is to prevent possible threats to state sovereignty, territorial integrity, political and legal unity of the country and the foundations of social structure.

The difference between the independent activity of the President, who exercises legal protection of the Constitution and his joint activities with other state bodies is that, in the first case, he decides independently to take appropriate measures if needed, bears full responsibility for them and implements these decisions through the relevant state bodies, which are obliged to obey the

direct instructions of the head of state. The exercise of such powers demonstrates the irreplaceable role of the presidency in the legal protection of the Constitution, as well as the essence of presidential power as an element that brings stability, balance and contributes to its sustainable development of the entire political system.

As the peak of the legal hierarchy, in the field of protection of the Constitution, the President exercises control over the constitutionality of normative legal acts in the form of constitutional control. Such a classification has certain theoretical significance, as it allows to distinguish normative control among other types of activities related to the legal protection of the Constitution and to emphasize its importance. However, the legal protection of the Constitution and the protection of the constitutional order can be distinguished only very conditionally, because the President monitors the constitutionality of normative legal acts and ensures the protection of the elements of the constitutional structure established on the basis of relevant constitutional norms. In other words, normative control is designed to protect the constitutional order, society and the state. As a rule, the President of the Republic of Azerbaijan exercises his powers in the field of legal protection of the Constitution in the following forms:

- 1) participation in the legislative process (legislative initiative, realization of the right of veto (part 1 of the Article 96, part 1 of the Article 110 of the Constitution);
- 2) implementation of norm-setting by issuing decrees and orders (Article 113 of the Constitution);
- 3) annulment of unconstitutional decisions, orders and acts (paragraph 8 of Article 109 of the Constitution);
- 4) declaration of a state of emergency and martial law (Article 109, paragraph 29 of the Constitution);
- 5) Inquiry to the Constitutional Court of the Republic of Azerbaijan (Part III of Article 130 of the Constitution), etc.

According to the researcher, the powers of the President of the Republic of Azerbaijan in the field of legal protection of the

Constitution can be summarized as follows, depending on the subjects with which the head of state is involved:

- powers in relation to the Milli Majlis;
- powers in relation to the Cabinet of Ministers, central and local executive bodies;
- powers in relation to the judiciary;
- powers in relation to officials

The President may exercise any of his powers at different times and in different sequences. Legal protection of the Constitution is closely linked with other goals and objectives inherent in the activities of the President and the implementation of the functions of the head of state.

From the first day of his office as the subject of legal protection of the Constitution, the President of the Republic of Azerbaijan demonstrates his intention to use all the powers at his disposal to contribute to its full implementation and comprehensive protection of the Constitution. Since that time, the President's legal work has been clearly focused on the implementation of constitutional norms.

The legal protection of the Constitution, which is one of the areas covered by the President's activities, demonstrate that important work has been done by the President to ensure a high level of protection of the Constitution.

The third paragraph of the fourth chapter of the research, entitled **"Law enforcement agencies as a subject of legal protection of the Constitution"** states that the activities of the state and its bodies cover various areas of public life. Ensuring legislation and the rule of law protection of human and civil rights and freedoms, protection of the rights and legitimate interests of state and non-governmental organizations, labor collectives and public associations, combating crime and other violations occupy the important place in the activities of the state and its bodies. It is no coincidence that these responsibilities are in one way or another envisaged in various articles of the Constitution of the Republic of Azerbaijan. The norms reflected in the Basic Law require that all state bodies perform their duties. At the same time, citizens must

protect their rights and freedoms using the methods and means provided by law, and assist the state bodies in fulfilling their duties.

Ensuring of legislation and the rule of law is crucial. Enforcement of the rule of law and legislation is carried out specifically by the bodies established for the performance of these duties. According to the author, these bodies should be called law enforcement agencies, i.e. bodies capable of protecting the rights and freedoms of the state and society, people and citizens, the rules of life and activity, defined by the Constitution of the Republic of Azerbaijan, other legislation and legal acts.

The applicant states that law enforcement agencies are an integral part of any state, because all states need special bodies to combat crime. However, the legislation of the Republic of Azerbaijan does not specify the legal definition of law enforcement agencies. The researcher considers that it would be appropriate to define law enforcement agencies as follows: "Law enforcement agencies are the state bodies, that in its activities on the basis of norms reflected in the Constitution of the Republic of Azerbaijan and other legislative acts with observance of certain procedural rules ensure legislation, the rule of law, protection of human and civil rights and freedoms, protection of the interests of the state and society as a whole, prevention of violations of rights and apply state coercive measures against a person who has committed an illegal act".

According to the author, one of the important subjects of legal protection of the Constitution is law enforcement agencies. All law enforcement agencies operating in our country carry out legal protection of the Constitution in strict compliance with the norms established by the Basic Law. However, the Prosecutor's Office of the Republic of Azerbaijan has a special status in the implementation of legal protection of the Constitution among law enforcement agencies. Thus, according to the Part 3 of the Article 130 of the Constitution, among law enforcement agencies, only the Prosecutor's Office has the right to apply to the Constitutional Court of the Republic of Azerbaijan with a request.

During the period of activity of the Constitutional Court of the Republic of Azerbaijan, for the purpose of legal protection of the Constitution, the Prosecutor's Office of the Republic of Azerbaijan, which is a law enforcement body, has applied to the mentioned Court with a request 33 (thirty three) times.

The fifth chapter of the dissertation entitled "**Judicial mechanism of legal protection of the Constitution in the Republic of Azerbaijan**" consists of two paragraphs. The first paragraph of this chapter examines "**The main directions of the activity of the Constitutional Court of the Republic of Azerbaijan on legal protection of the Constitution**". It is noted that although the legal protection of the Constitution and the protection of the foundations of a legal and democratic state falls on all state bodies, the role of the bodies exercising constitutional control in this area is greater. The constitutional court has a special place in the system of organizations exercising constitutional control. Constitutional justice is one of the most effective and necessary institutions of modern social, political and legal life. It plays an important role in building a democratic, legal state, ensuring human and civil rights and freedoms, further improving the activities of government agencies, law enforcement and law-making practices, as well as the dynamic development of society by ensuring the compliance of laws and other normative legal acts with the Constitution. In this regard, the Constitutional Court, which is currently the body that administers constitutional justice, acts as one of the main factors of stability and development in society and the state. In a democracy, acute political problems can be resolved within the framework and on the basis of the Constitution. The Constitutional Court is one of the most important institutions for ensuring human rights. Because the violation of rights and freedoms can be associated not only with the illegal actions (inaction) of public officials, but also with the unconstitutionality of the law itself. Therefore, the state must create real opportunities for everyone to protect their rights and freedoms (including those in which the law is unconstitutional).

In its decisions, the decision of the Constitutional Court on general cases of violation of human rights and freedoms in a specific case serves as a source of law for law enforcement agencies, including the courts. The precedent of the body of the constitutional control helps to direct the courts, as well as to prevent violations of substantive and procedural law. Regardless of the form of its implementation, along with the protection of the rights and freedoms proclaimed through constitutional justice, the general tasks of ensuring the judicial protection of the Constitution, its supremacy and the principle of separation of powers are solved.

At present, the establishment and operation of the supreme constitutional body of justice - the Constitutional Court, that main objectives are to ensure the supremacy of the Constitution, to protect the rights and freedoms of everyone, is of great importance. The main role of the constitutional court as the supreme body of justice is to ensure the supremacy and protection of the constitution. The role and place of the institution of constitutional justice in the mechanism of legal protection of the constitution in one or another country can be determined only by taking into account national factors and legal precedents. However, it is an undeniable fact that today this institution has become an integral attribute of a democratic state governed by the rule of law, a basic and important element of the mechanism of legal protection of the constitution. In a state governed by the rule of law, including the Republic of Azerbaijan, courts (including the Constitutional Court) first resolve conflicts and disputes between participants in public relations on the basis of the constitution and law, secondly, it checks the compliance of laws and other acts, actions of various state bodies and officials with the principles and norms of the constitution; third, it identifies and eliminates gaps between existing normative legal acts; fourth, it ensures that the various branches of government operate in a balanced way; fifth, protects and restores the violated rights and freedoms of citizens and other subjects of public relations.

The Constitutional Court plays an important role in ensuring that existing laws comply with generally accepted international

legal standards. The Court carries out such conciliation activities mainly through its power to interpret the Constitution and laws. The essence of this authority is to bring to the attention of law enforcement agencies and individuals by clarifying the constitutional meaning of the norm. In this case, the Constitutional Court, with its official interpretation of the law, eliminates the possibility of applying the law in an unconstitutional manner, which unreasonably restricts the previous human rights and freedoms. Thus, by clarifying the rules of application of the norm, the previous practice of unconstitutional application in the form of its restriction or extension is changed. One of the most important features of the legal status of the Constitutional Court is that this body acts exclusively to resolve legal issues. The Constitutional Court does not determine and investigate the facts of the case by administering constitutional justice. Although this limits the powers of the Constitutional Court, it does not allow its powers to be equated with those of other courts. The Constitutional Court is the only judicial body in the judicial system that exclusively administers constitutional justice, which reflects the different nature of its legal status. The fact that the Constitutional Court is the supreme body of constitutional justice, shows that it is in a superior position in this area than other courts. However, the Constitutional Court is not just a specific judicial body. It is also one of the most important government agencies.

The researcher came to the conclusion that the administration of justice in the Constitutional Court has become a key and important element of the mechanism of legal protection of the Constitution. The Constitutional Court performs a number of important legal functions, including its own defense mechanism. Regardless of the form of its implementation, along with the protection of the rights and freedoms proclaimed through constitutional justice, the legal protection of the constitution is carried out, and the general tasks of ensuring its supremacy and the principle of separation of powers are solved. The main directions of the activity of the Constitutional Court of the Republic of Azerbaijan on legal protection of the Constitution in modern times constitute re-

solving conflicts and disputes between the participants of public relations on the basis of the constitution, other legislative acts and the case law of the European Court of Human Rights, to check the compliance of laws and other acts, actions (inaction) of various state bodies, officials with the principles and norms of the constitution, to identify gaps between existing normative legal acts and to recommend to the body exercising legislative power in order to eliminate or eliminate them, to ensure the balanced functioning of various branches of government, to protect and restore the violated rights and freedoms of citizens and other subjects of public relations.

The second paragraph of the fifth chapter of the research work is called **"Problems of improving the judicial mechanism of legal protection of the Constitution in the Republic of Azerbaijan"**. It is noted that the creation of types of court jurisdictions (specialization of court jurisdictions) was calculated to increase the quality of the administration of justice and reduce court errors. At this time, the subjects of legal relations, the subject of legal relations or mixed criteria act as criteria for the specialization of jurisdictions. As in developed countries, general and specialized courts operate in Azerbaijan. General and specialized courts that administer justice are an integral part of the judicial system of the Republic of Azerbaijan.

The necessity of the implementation of justice is conditioned primarily by the existence of the rules of conduct determined by the society and the state, as well as by individual individuals committing illegal acts. By means of justice, negative social situations and violations of law are prevented, by limiting the rights and freedoms of guilty persons or depriving them of these rights and freedoms, they are punished, social justice is restored, the convicted persons are reformed, and new violations are prevented. Justice as a whole, including justice performed in general and specialized courts, is a state activity on a specific legal relationship, carried out for the purpose of protecting human and civil rights and freedoms through existing necessary court procedures and in a universally binding manner for everyone, based on the

legislation in force. According to the claimant's position, one of the important factors that determine the effective functioning of the mechanism of constitutional control is that, in addition to the Supreme Court, general and specialized courts, as well as appeal courts, have the opportunity to apply directly to the body that carries out constitutional control, as well as the Constitutional Court having the authority to change the decision of the court that applied the norm contrary to the Constitution based on an individual complaint. At the same time, if the Constitutional Court determines that the decisions of the said courts are contrary to the Constitution, it has the right to annul those decisions. Granting the right to appeal to the body exercising constitutional control to general and specialized courts, as well as appeal courts, acts as one of the progressive and democratic aspects of the functioning mechanism of constitutional control. Because giving the mentioned courts the right to appeal to the Constitutional Court not only increases the effectiveness of the legal protection of the Basic Law, but also improves the domestic protection system of individuals and legal entities.

The author shows that the Constitutional Court interacts with general and specialized courts. Due to the extremely rapid development and change of social relations in modern times, the number of legislative acts reflecting the legal norms regulating those relations has increased significantly. In this regard, the possibility of them contradicting each other and contradicting the constitutional provisions has increased many times. Appeals to the Constitutional Court by general and specialized courts for the purpose of legal protection of the Constitution are aimed at ensuring that the creation of laws (norms) strictly complies with the Constitution. During the period of its operation, the Constitutional Court of the Republic of Azerbaijan adopted 69 decisions based on the appeal of the general and specialized courts and 75 decisions based on the appeal of the Appellate Courts regarding the legal protection of the Constitution and the interpretation of the Constitution and laws.

According to the position of the researcher, it is commendable that in 172 of the decisions adopted for the purpose of legal protection of the Constitution during the period of the Constitutional Court's operation, the decisions of the European Court of Human Rights, which play a precedent role, in some decisions, the practice of the Court of the European Union, the Committee of Ministers of the Council of Europe and the Parliamentary Assembly of the Council of Europe Recommendations, acts of other European constitutional judicial bodies, legislative acts of foreign countries, as well as opinions of Dutch and German scientists were referred to.

The Constitutional Court considered some cases of checking the conformity of the Supreme Court's decision with the Constitution and laws of the Republic of Azerbaijan without the participation of the responsible party, i.e. the representative of the Supreme Court. According to the researcher, it would be appropriate from the point of view of a more detailed investigation of the considered cases to ensure the mandatory participation of the defendant in the Constitutional court proceedings. In order to improve the judicial mechanism of the legal protection of the Constitution, the author suggests adding the following sentence to Article 41.5 of the Law of the Republic of Azerbaijan "On the Constitutional Court" dated December 23, 2003: "Respondents or their representatives must participate in the Constitutional court proceedings".

In the **Conclusion** part of the dissertation the final scientific results of the research are summarized.

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