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NOTES AND REFLECTIONS

DIGITAL CROWDS AND THE FREEDOM OF ASSOCIATION: CONSTITUTIONAL REFLECTIONS ON A CONTEMPORARY PHENOMENON

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Introduction

The era of digitalisation has permanently altered and transformed various areas of human life, including the ways in which constitutional freedoms and rights are exercised. The continuous development of digitalisation leads to the need to re-evaluate and interpret existing legislation - including constitutional considerations. The significance of digitisation for the existence and development of the state remains unquestionably important - including in the area of the tasks of a democratic state operating within the framework of the rule of law. This state of affairs necessitates a redefinition of the concepts and values attributed to the individual. The fundamental area of analysis undertaken for the purposes of this thesis remains the freedom of association through so-called „digital crowds" based on the conditions of the Constitution of the Republic of Poland (Sejm of Poland, 1997). Freedom of association is one of the main values enabling the individual to fulfilmen a political nature. This phenomenon is part of the democratic methods of human interaction with the state.

The term "digital crowds" is relatively new. This term has received some clarifications. It is described as follow: 'Digital crowds comprise pooled human resources—knowledge, expertise, and enthusiasm—that are distributed all over the globe and made available online. (...) Crowd members thus either aim to stand out from others for their own good, or they stand up with others for the greater good. Both competition and collaboration involve a high degree of interaction.' (Jaouat, 2023, p. 5,8). In that definition some common values and features with the freedom of association.

The crucial research problem remains to determine whether actors embedding themselves in so-called "Digital Crowds" constitute a subject of constitutional freedom of association and whether such forms of voluntary participation in digital groups can constitute an expression of freedom of association.

Firstly, the term Digital Crowds is analysed and an attempt is made to embed it in legal terms. Subsequently, the focus is on the analysis of the essence of freedom of association together with an assessment and an attempt to redefine this term in the face of digitalisation. In the third part, reference is made to selected practical manifestations of

the realisation of the needs of the individual in the area of the Internet - juxtaposing such participation with the new definition of freedom of association. The considerations enabled the presentation of *the lege lata* postulates.

Digital Crowds as Emerging Actors in Democratic Processes

Human cyberspace activities remain an indispensable part of an individual's everyday life. Nowadays, the relocation of political and social activities into cyberspace can be found more and more frequently. Discussions with a social dimension also take place in this sphere. Furthermore, the term 'electronic democracy' can also be found in the literature. This view essentially pays attention to the functions of cyberspace for democracy - as a vehicle that enhances human participation in the process of political influence. It therefore represents both a relatively new area of action, a new direction and a dimension of individual activity (Porębski, 2010, p. 159-160). Thus, individuals have the instruments to implement actions in the democratic process. One of the terms emerging in the sphere of activities in cyberspace is the so-called 'Digital Crowds'. These remain understood as actors realising themselves around a certain goal, idea, premise, theme - all in the online plane.

The phenomenon of the kooperation of individuals is strongly reflected in the statement that: 'What makes a crowd a crowd, and not just a collection of unrelated individuals, is their collective behavior as an entity. Offline, crowds can assemble anywhere there is space for them, but on the Internet they typically come together on a platform—and a platform only becomes one when they do. Platforms make crowds, and crowds make platforms.' (Duan & Grimmelmann, 2024, p. 13.). Such places become the first area of gathering of individuals in cyberspace. The possibility of assigning a certain form of identification to a group arises from certain factors around which people congregate. In this regard, it is possible to point to: 'If the group is part of a larger identity ecosystem, such as a gaming community or a political group, the shared content ties people to that broader context, reinforcing and building a crowd.' (Beyer, 2024, p. 30). Thus, the crowd may represent some concentration of individuals in relation to an issue.

In the reveleant literature it generally acepted that civil society can be implemented in cyberspace. It is also named as Democracy 2.0. (Lakomy, 2013, p. 155). The possibilities for people to take action online remain very wide - through individual activities as well as those that will take a more organised form.

A significant impact on the deepening process of Digital Crowds took place during the Covid-19 pandemic. As aptly indicated by the Vaibhav Saria and Pooja Satyogi: 'This lack of social collectivity can be seen most clearly in online avatars—in other words, individuals gathering in cyberspace.' (2022, p. 6). This state of affairs influenced the - forced - transfer of the realisation of the individual's needs to a sphere that remained accessible and also made it possible to participate in various spheres of action together with third parties - but in an online format. Through accessibility, this sphere remained one of the key factors influencing social life.

Constitutional Aspects of the Freedom of Association

The freedom of association under the Polish Constitution is regarded as a freedom to which every individual is entitled. It remains classified as a freedom of a political nature. Through it, subjects may group together for the pursuit of a chosen goal. The literature on the subject identifies its source with the social nature of man - which is a component of human dignity.

The need for the individual to live in society and the constitutional regulations, i.e. 11-13 of the Constitution of the Republic of Poland, together with the clarification of freedom pursuant to Article 58(1) of the Constitution of the Republic of Poland, confirm its importance not only for the individual, but also for the state. Undeniably, the functioning of various associations is included in the principle of civil society, which remains an element of a democratic state under the rule of law (Article 2 of the Constitution). The Polish legislator has adopted an open catalogue of associations (Article 12 of the Constitution), which allows a broad view of the area of the exercise of freedom of association (Article 58(1) of the Constitution). Formalised structures are in fact not necessary for the existence of an association. It is generally accepted that the most important constituent elements are voluntariness, a chosen goal and cooperation. So far, the literature has concentrated on the consideration of this freedom by focusing on real - and not virtual - activity. However, it remains to be established whether public participation in various groups in the digital sphere also remains an element of this freedom and whether it enjoys constitutional protection.

Therefore, generally, the grouping of individuals should be contrasted with the components of freedom of association. The literature defines that: 'An association is a structure formed by people, based on voluntary membership, created for the purpose of pursuing jointly agreed objectives, achieved through chosen means.' (Florczak-Wątor, 2023, p. 216). The first element remains the group of people. As a rule, a group is assumed to be a collective of at least three people, which also corresponds to the Latin paremia Tres faciunt collegium. The subjective conditionality confirms the collegiality that is the essence of the co-operations being circulated. The very term Digital Crowds represents a supra-individual dimension. The framing of the term by the phrase 'crowds' represents the necessity of a larger number of individuals. The Oxford Learner's Dictionary shows the term 'crowds' as 'a particular group of people' (The Oxford Learner's Dictionary, 2025). That interpretation aligns with the idea of freedom of association - especially because it can be defined as a group of people who are a specific subject of this freedom. They can be identified within the group.

Another element is voluntariness. Voluntariness is usually understood as the absence of compulsion. However, this dimension also remains significant in terms of possible consequences for the associated subject - it means that an individual cannot suffer gratification or stigmatisation because of membership in a given association. (Sokolewicz & Wojtyczek, 2016, article 58). In the dimension of virtual grouping, individuals have a full range of possibilities for deciding whether or not to join a given formation. Moreover, it seems that the dimension of group participation also remains widely available, e.g. to children. Although the content of Article 48(1) of the Polish Constitution should be left in the field of consideration, parents also decide themselves how much freedom they leave

their children to use the Internet. Thus, in the formula of digital associations, the possibilities for freedom of participation remain very wide.

Another element of this freedom is the scope for common purpose. The use of the Internet is a platform that can span many areas of an individual's life. In this scope, it is the participant who sets the goal of his or her activity. This can be a dimension of independent activity, but also of shared activity. When a person groups with others by defining a given objective for the collective - even indirectly - then this common area of interest will remain crucial in establishing the link in question between group members. Participation via the Internet will not be significantly different from that which takes place in the real world - in the target assumptions dimension. The actions of individuals in a group - whether 'live' or in remote form - can lead to the realisation of objectives as well as the actual achievement of a goal. Thus, goals can also be set and realised in cyber sphaere. Sometimes the thematic ties that occur while online relations also lead to the formation of a certain assumption for the joint actions of individuals.

A troublesome element in determining whether freedom of association can also constitute a form of participation on the Internet is the question of anonymity. Nevertheless, taking into account the constituent elements of freedom of association - under Article 58(1) - it is impossible to point to the necessity of disclosing personal data. However, it is also worth noting the content of Article 13 of the Constitution Act, where it is indicated that: 'Political parties and other organisations referring in their programmes to the totalitarian methods and practices of Nazism, fascism and communism, as well as those whose programme or activities presuppose or permit racial and national hatred, the use of violence to gain power or influence state policy, or provide for the secrecy of structures or membership, shall be prohibited.' Thus, the potential presence of anonymous individuals in a group remains an important issue to assess. The legislator has indicated a prohibition on the existence of an organisation when the programme or activities provide for secrecy of structures or membership. The crucial question is whether it is possible to assume that an organisation - including, above all, an informal (unregistered) one - will have such a programme. Thus, it is crucial to distinguish firmly between the question of anonymity and secrecy of structures or membership. The fundamental purpose of Article 13 of the Constitution is to protect democracy - it is therefore impossible to treat this provision without reference to the principles of a democratic state under the rule of law. Under Article 13 of the Constitution, the assumption of secrecy of structures or membership remains forbidden within the internal organisation (Zubik & Sokolewicz, 2016, article 13). Hence, it is essentially a matter of the direction taken by the organisation in question assuming such an area. Only the juxtaposition of this issue - i.e. anonymity in an organised group and the assumptions of a democratic state - will be the basis for an answer. It would therefore seem that the fact of anonymity does not preclude the acceptance of associations in the dimension of Digital Crowds - as an acceptance of the prohibition of the existence of such organisations. Such an interpretation would appear to remain excessive and out of step with current social and civilisational developments.

Contemporary Examples and Legal Challenges

The transformation of the meaning of freedom of association in the modern world remains evident in the example of self-organised communities in the digital formula. There are various areas of such activities. It should be pointed out that Digital Crowds can be realised in particular in different digital infrastructures, i.e. e.g. social media platforms (e.g. Facebook), online forums (e.g. Reddit), collective communication platforms (e.g. Discord), streaming platforms (e.g. YouTube, Twitch), online games (e.g. Roblox, Minecraft).

One expression of this phenomenon remains so-called crowdsourcing groups. An element of crowdsourcing is considered to be: 'the use of social network theory, in which the behaviour of an actor in the public sphere is interpreted according to certain patterns of relations, relationships both interactional and structural, with particular reference to Durkheim's principle of solidarity.' (Kinal, 2017, s. 119). Examples of such groupings are, for example, purposeful self-organised groups solving missing persons incidents. Such groups can be found, for example, on platforms X (used to be Twitter), Discord, Reddit as well as Facebook. Essentially, these are purpose-driven groups - dedicated to solving a specific incident, analysing available data, gathering and acquiring other information. They usually remain open to a community with the same purpose. Such an arrangement provides confirmation of the purposefulness and voluntariness of such self-organised groups. Individuals grouped in such communities primarily pursue their own social needs, but also interact with areas of public authority - e.g. by collecting data and providing it to law enforcement agencies. They constitute, therefore, an area of political influence. In principle, such groups do not have a formal structure. Nevertheless, they have a dedicated purpose. Such elements of participation remain consistent with Article 58(1) of the Polish Constitution. For this dimension of participation and social influence in this view remains significant. However, formalised groups are not necessary for the exercise of freedom of association - as Article 11 of the Constitution Act implies, they can also be 'other voluntary associations'.

Other types of digital groups - no longer classified as crowdsoucing, but which have the characteristics of associations - are in particular: communities of people grouped around influencers, in especially Facebook and TikTok. It can also be noted that such groups very frequently have their own rules, as well as specific administrators who are regarded as group presidents. A structural dimension is therefore emerging. These groups organise both online and stationary meetings (fan meetings, events). In general, the objectives of such groups can also be set, e.g. support for a particular influencer. Without a doubt, this also represents a dimension of the realisation of the needs of society - most often of the youngest people and being one of the most accessible forms of realisation of the freedom of association for the youngest.

In the digital area, it is also possible to find various closed communities that group together in a specific thematic or ideological area. Such groups can most often be found on Discord, Reddit and Facebook. Various worldview groups are emerging, which very often have specific structures. They also organise events that take place in real life as well as online. These correspond significantly to the classic view of associations.

Then, the so-called "Roblox masses" can be pointed out. These kind of events were popular in 2024 in Poland. 'The Roblox masses' were a form of children, young people

and even adults grouping together in a specific group in a digital game for mass scenes. These forms were gaining strong popularity. They were distinguished by a certain repetitiveness - the frequency of the meetings. Moreover, such e-meetings involved a specific community - members of a specific group. Also they had a purpose - by imitating the Catholic Mass. In particular, they could be found in Roblox as well as Minecraft[1]. They were informal, as well as to some extent symbolic. Such groups had their own goals, which, however, can only partly be contrasted with freedom of religion. Such groups have some structural elements and are repetitive. In order to assess the possibility of attributing such events to the nature of association, it remains necessary to assess the sustainability of such groups. In view of the fact that such meetings often remain linked to a certain range of trends, they nevertheless possess the attributes inherent in freedom of association for a certain period of time.

The presented examples of cooperative activities of people in the digital sphere confirm the importance of e-activity as an expression of freedom of association. They also perform roles and functions that remain consistent with the essence of this constitutional freedom. Even short-lived forms of participation in the groups concerned fulfil the prerequisites of freedom of association.

Conclusion

It is important to note that the concept of freedom of association is currently undergoing a transformation. For its existence, it does not need to assume a particular type of organisation - also in a non-digital dimension - in order to be legally relevant.

The idea of freedom of association is a form of realisation of individual needs, which can be realised in a specific group. By creating a broad dimension of associations (Article 12 of the Constitution), the legislator has in fact made it possible to undertake associational activities without restricting them as to form. It seems that, in view of the unquestionably constant participation of the cyberspace sphere in the life of every individual, forms of association as Digital Crowds are the fastest developing form of association. It is the closest and most common to human beings. The needs of the individual, including the objectives pursued by groups, remain consistent with the principles of freedom of association. And the transfer of activities to cyberspace does not limit the possibility of realising the essence of this freedom. It therefore appears that the current definition of freedom of association should remain focused not only on participation in the real dimension, but also in the cyberspace setting, and as such, it is also subject to protection. Digital Crowds may facilitate the emergence of democratic mechanisms in cyberspace.

To summarise the importance of grouping in cyberspace and the necessity of considering this form also as a manifestation of freedom of association, the affirmation to this effect reflects General Assembly United Nations in Resolution A/HRC/RES/24/5 as: 'Reiterating the important role of new information and communications technologies in enabling and facilitating the enjoyment of the rights to freedom of peaceful assembly and of association, and the importance for all States to promote and facilitate access to the

[1] Such groupings often remain dictated by temporal trends. In addition to the forms of Catholic masses, there have also been e-meetings imitating parliament in Poland.

Internet and international cooperation aimed at the development of media and information and communications facilities in all countries' (United Nations General Assembly, 2013).

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