

LAW SCIENCES

ON THE DISTINCTIVE FEATURES OF THE ECONOMIC COMPETENCE OF RELIGIOUS ORGANIZATIONS IN UKRAINE

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A religious organization as a legal entity has rights and obligations in accordance with the applicable law and its Statute (Regulations), and a religious organization is recognized as a legal entity from the moment of the registration of the said Statute (Regulations). A religious organization is a business entity, whose implementation of its economic competence has certain distinctive features conditioned by a complex system of interests of the entities of ensuing relationships, which must be taken into account in the process of the organization's activities. In this connection, to ensure the efficient economic activity of religious organizations, as well as the balance of influence and the balance of interests of participants in ensuing relationships, the legislators built a set of necessary legal facilities and instruments into the legal mechanism for the implementation of the economic competence.

The main legal instrument, through which religious organizations exercise their economic competence in the field of economic activities, is the special bodies of those organizations. «Managing the affairs by the entire number of the corporation's members is inexpedient. The more numerous and complex the corporate structure is, the more understandable it becomes to concentrate the details of management in the hands of a relatively few individuals, through whom the corporation will operate. Having been elected by the corporation pursuant to its Statutes or a Statute, the administrators of the corporation acquire official powers and assume the responsibility to think on behalf of the Corporation, to act for its benefit. At the same time, the corporation does not give up control over the activities of the administrators. It can take part in the discussion of important matters, and, if necessary, again authorize administrators to act in the right direction» [1, p. 150].

A religious organization participates in economic turnover through its bodies, which implement its economic rights laid down by the law and the Statute of this organization and ensure the fulfilment of the economic duties

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assigned to them. The central governing body of a public organization is a collegial body, while its activities are regulated by the Statute.

Thus, for example, the Statute of the Ukrainian Orthodox Church says: «The highest bodies of Church authority and governance of the Ukrainian Orthodox Church are the Convocation of the Ukrainian Orthodox Church, the Council of Bishops of the Ukrainian Orthodox Church and the Holy Synod of the Ukrainian Orthodox Church headed by the Metropolitan of Kyiv and all Ukraine». The Statutes of Protestant churches also say that «the members' Assembly is the highest governing body that is responsible for such matters as approving the head pastor, pastors, deacons, administrator, accountant, secretary, and audit commission; adopting the Statute and the Creed of the Church; approving of the Church budget; making decisions on the purchase, sale or building of the Church's immovable property; making decisions on expenses, whose price exceeds the amounts budgeted; making decisions on membership in religious associations». There is a similar clause on the governing body in the Statutes of Muslim religious organizations, where it is stated that the governing bodies of the parish are respectively Parish meetings, Parish council and Imam-Khatib.

In addition, the constituent document of a religious organization usually sets out the specifics of the functioning of the collegial body, the frequency of its meetings, and other issues related to the activities thereof. Concrete rules concerning the formation and activities of the governing bodies of a religious organization have not been laid down. In this case, the founders are free to make decisions regarding those bodies and determine their competence.

Let us note here that theory is sometimes at variance with practice as far as the organizations in question are concerned. Thus, the Law of Ukraine «On the Freedom of Conscience and Religious Organizations» states that the founder (founders) of a religious organization may perform the functions of a management body or those of the members of a collegial management body. However, in practice, the founders are rarely (almost never) members of the body of a religious organization that manages the economic activities of that organization. The only exceptions are some Protestant religious organizations.

Economic competence arises with business entities from the moment of their official creation and is a generic phenomenon, i.e. it is common to business entities of a certain type (in our case, this is religious organizations).

The term «economic competence» is actively used in the science of economic law, however, due to its conventionality, it still does not have a generally accepted definition, while the legislators allow themselves a certain inconsistency using it in different meanings in the Commercial Code of Ukraine and some bylaws. Even at the conceptual level, further development of the theory of economic competence is therefore of relevant importance.

A religious organization is a business entity, whose economic competence has certain distinctive features due to the complex system of interests of the entities of ensuing relationships (believers, officials of religious organizations, etc.) that must be taken into account in the course of the organization's activities. Religious organizations are structures, in which corporate relations are superimposed on the clear hierarchical structure of the Church itself pursuant to the law, constituent documents and relevant agreements.

The main legal instrument, through which religious organizations exercise their economic competence in the field of economic activities, is the special bodies of those organizations. The following can be mentioned among the main features of the special body of a religious organization:

- the said organ of a religious organization is an organizationally separate, structurally formed part of a religious organization as an economic entity;
- the said body of a religious organization is formed in accordance with the procedure established by law and the Statute of the organization in question;
- the said body of a religious organization consists of individuals, who have corporate relationships with the organization and have the status of officials (except for participants in the General Meeting of the religious organization);
- the said body has a set of powers, which are implemented within the limits of the religious organization's own economic competence;
- the separateness of the said body of a religious organization from specific individuals, who constitute it at a certain moment;
- the actions of the said body when implementing the economic competence of a religious organization in external relations are the actions of the organization as a whole, not of the body of that organization;
- the bodies of a religious organization form and implement the will of the organization as an entity of commercial law;
- the economic competence of the organization as a whole is distributed among the bodies of that religious organization.

The implementation of the economic competence of a religious organization is carried out not by a single body, but through a system of bodies. The system of bodies of a religious organization consists of higher and lower administrative bodies, whose competence was defined back in the Code of Canon Law, so that the system of governing bodies itself is not something new for organizations of this type.

The legislators have not laid down specific rules for the formation and operation of the governing bodies of a religious organization. In this case, the founders may exercise the freedom to make decisions of their own regarding those bodies and determine their competence. However, in order to finalize

the regulation of the legal support for the economic activities of religious organizations, it is necessary to supplement the national legislation (the Commercial Code of Ukraine, the Law of Ukraine «On the Freedom of Conscience and Religious Organizations», etc.) with certain provisions as regards such activities.

References:

1. Suvorov, N. S. (2000). *Ob yuridicheskikh litsakh po rimskomu pravu* [About legal entities under Roman law]. Moscow: Statut. (in Russian)

ON THE REALIZATION OF THE PERSONAL NON-PROPERTY RIGHT TO HEALTH INFORMATION

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The World Health Organization notes the main issue that needs to be addressed – patient safety as prevention, avoidance, minimization of adverse effects of treatment. Normatively established obligation of the provider of the medical service (i.e. on its own initiative, which does not require prior consent or coordination with the patient) to provide information to the consumer.

In terms of the content, and to the extent that it objectively enables a conscious decision to be made, regardless of the medical specificity of the information that characterizes the obligations to be undertaken, and sets out their limits, such information must demonstrate that the violation of these limits is wrongful for the information which, in an accessible form, discloses the danger that the medical effect, its attendant or further consequences are concealed [1].

The corresponding position is justified by Article 285 of the Civil Code of Ukraine [2], item 4 of Article 4 of the Law of Ukraine «On Protection of Consumer Rights» [3] – Consumers, when concluding, amending, executing and terminating contracts, are entitled to necessary, accessible, reliable and timely information in the state language about the products, their quantity, quality, assortment, its executor, as well as Article 39 of the Fundamental Principles of Healthcare Legislation of Ukraine (hereinafter the «Fundamental

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