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FEATURES OF THE PRINCIPLE OF LEGAL EQUALITY OF RELIGIOUS ORGANIZATIONS IN UKRAINE

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The article identifies the features of the principle of legal equality of religious organizations in Ukraine, since freedom of religion is based on the equality before the law of different religious organizations and, first of all, believers. However, the declared equality before the law is valid only in state-legal relations, while in the socio-political dimension it is somewhat conditional. Therefore, the principle of equality of religious organizations requires effective legal support for its implementation both in relations between the state and religious organizations and in interfaith relations. It is proved that the legal status of any religious organization in accordance with the current national legislation is based on two defining principles: the separation of the church from the state and the equality of all religions before the law. None of the religious organizations existing in Ukraine can be given any advantages or the priority of a certain religion can be recognized, since all religions, confessions and religious organizations are equal before the law. It is also noted that the legislation of Ukraine does not provide for any privileges or restrictions for religious organizations that are distinguished by the length of existence of a particular denomination (historical past), traditionality (compliance with the cultural traditions of the nation), the number of religious organizations, its contribution to the development of statehood, culture, etc. Certain restrictions may be applied only in cases where religious activity comes into controversy with the current legislation and poses a threat to public safety or order, physical or mental health of citizens, morality, that is, the fundamental rights and freedoms of other persons.

The definition of the principle of legal equality of religious organizations is determined, which consists in: the equality of rights of all religious organizations that operate on legal grounds in Ukraine; the equality of legal properties within the framework of which religious organizations carry out their activities; equality before the law and the court. The establishment of any advantages or restrictions of a religious organization over others is not allowed.

It is concluded that Ukraine already has a positive achievement in the establishment of European standardization of legal regulation of socio-religious relations in Ukraine, but along with positive changes there are a number of organizational, regulatory, procedural and other issues that hinder the implementation of the principle of equality of religious organizations.

Therefore, in the context of the modern religious situation, which is characterized by states of contact, collision and conflict, the need to codify the legislation of Ukraine in the field of religion becomes of particular importance.

Key words: principles of law, principle of equality, law, legal support, state, religion, religious organizations, freedom of conscience, interfaith relations.

Formulation of the problem. The problems of interfaith relations have become significantly relevant in the context of globalization processes and war conditions, which create the prerequisites for the activation of new religious movements and trends, which are one of the defining features of modern civilizational progress. This issue is extremely relevant for our state in view of its polyconfessional and polynational composition of the population, which to a certain extent threatens the national, state and religious security of Ukraine. A constructive solution to these issues is possible only if an effective mechanism for legal regulation of socio-religious relations in Ukraine is established. Important components of such a mechanism are unquestionable adherence to the principles of freedom of conscience and religion, guaranteeing the rights of religious organizations, ensuring the constructive influence of confessional communities on the life of society and the state as a whole, and also preventing discrimination of some religious organizations against others.

The issue of legal support for the principle of equality of religious organizations is becoming more relevant, freedom of religion is based on equality before the law of different religious organizations and, first of all, believers. However, the declared equality before the law is valid only in state-legal relations, while in the socio-political dimension it is somewhat conditional. Therefore, the principle of equality of religious organizations requires effective legal support for its implementation both in relations between the state and religious organizations, and in interfaith relations.

Analysis of the study of the problem. The principle of equality in law is given a significant place in the research of many scientists, including: S. Bodnar, N. Bolotina, I. Vande, V. Horodovenko, O. Lukashova, R. Lutsky, O. Matvienko, O. Melnykova, T. Melnyk, N. Onishchenko, O. Petryshyn, S. Pogrebnyak, S. Polenina, M. Polikovsky, P. Rabinovych, O. Skakun, S. Sunegin, T. Tarakhonych, V. Tymoshenko, T. Fuley, etc. However, the issues outlined by us were analyzed only fragmentarily in the works of individual scientists, namely: O. Buchma, V. Lutsenko, O. Melnychuk, G. Sergienko, L. Filipovych, L. Yarmol, etc. Hence, the issue of legal support for the principle of equality of religious organizations is poorly studied and requires a comprehensive analysis.

The purpose of the article is to characterize the features of the legal support of the principle of equality of religious organizations in Ukraine, to identify new trends and directions in its implementation.

Presenting main material. The principles of law are a special system of values (basic ideas) within which law develops, and at the same time a vector that determines the direction of its further development. In fact, the principles of law serve as the basis of the legal system of each state, and therefore must harmoniously coordinate with each other in order to successfully regulate social relations that are regulated by law. The fundamental principles of law are extremely important, reflecting the most important values and essential features on which the legal system is built. Mostly, these principles demonstrate the cultural experience, intellectual level and main principles of a certain society. Such fundamental principles are justice, freedom, humanism and, of course, equality. The usual interpretation of this principle defines it as one of the fundamental constitutional requirements for the existence of a state governed by law. In scientific research, the definition of the principle of equality is determined by the pluralism of various approaches. Thus, O. Skakun understands the principle of equality as the equality of all before the law, equality of rights and obligations regardless of national, religious and other affiliation, official and other status, equal responsibility before the law, equal protection in court [1, p. 224]. According to the position of I. Tarakhonych, «the principle of equality is one of the general principles of law and reflects the essence of the principles of law in general. This principle is a set of ideas, provisions, basic principles that are determined by the laws of social development, the level of legal culture, moral values of society, general social needs and interests» [2, p. 45].

The scientist E. Laznyuk understands the principle of equality as equality of rights and freedoms, equality of legal features within which subjects of law carry out their activities, as well as equality of all before the law and the court. In his opinion, legal equality of citizens is the development of the principle of justice and one of the defining features of democracy [3, p. 309]. Considering the content of the constitutional principle of equality before the law and the court, M. Kostenko notes that it has a direct dialectical relationship with such principles as: the rule of law; legality; respect for human dignity; access to justice and the binding nature of court decisions [4, p. 124].

As theoretical and legal studies show, the essence and content of the principle of legal equality is understood through the category of “legal equality”. Legal equality is a legal principle that has the features of a legal axiom. Such an interpretation of this concept is based on the constructive features of legal equality, which consist in its ability to be both a defining idea of legal consciousness and the main dominant of state policy in the legal sphere, and, being enshrined in regulatory legal acts, to exercise a specific regulatory influence on people’s behavior. Taken together, these properties of legal equality define it as a fundamental principle of law, which is the goal, means, result, and criterion of the action of law.

We support the position of T. Chepulchenko that in the essence of the principle of legal equality, one should distinguish between the legal and social sides, which interact within the framework of a single phenomenon – the principle of legal equality. This relationship is revealed primarily in identifying the social content in the legal and giving legal features to the social. As the scientist notes, in the first case, the social potential of the principle of legal equality (justice, freedom, and responsibility) announces to the law the rational, reasonable, correct, and generally recognized scales of human behavior and its assessment formed in various spheres of society. That is, legal equality plays the role of a connecting link between law as a whole and social reality. In the second, the legal side of the essence of legal equality gives social (justice, freedom and responsibility) the properties of legal phenomena, that is, it turns them into universally binding and state-guaranteed imperatives, regulators of people's behavior [5, p. 121].

An important factor in the implementation of each of the fundamental principles of law is their legislative consolidation. The principle of equality is guaranteed by Article 24 of the Constitution of Ukraine, which states that «citizens have equal constitutional rights and freedoms and are equal before the law». The provisions of this article also note that «no one may be placed in a privileged or discriminatory position on the grounds of race, skin color, political, religious and other beliefs, gender, ethnic and social origin, property status, place of residence, language or other grounds» [6]. Therefore, the principle of equality provides for two main aspects that characterize its content, equal subordination of all to the laws of Ukraine and fair equality of rights and opportunities (ontological components of equality). Both of these sides of the principle of equality are revealed in legal regulation, the quality of which the state must ensure in order to achieve equality in society.

From the above, all religions and confessions are also equal before the law in Ukraine, the activities of which are regulated by the Constitution of Ukraine [6] and the Law of Ukraine «On Freedom of Conscience and Religious Organizations» [7], which are the legal foundation for the full exercise of freedom of conscience, freedom of religion or belief, and free activity of religious organizations on the principle of legal equality. A positive aspect of the national legislation in the field of religion is that all religious associations of any confessional orientation are defined by the concept of «religious organizations», which is an absolutely fair and democratic norm. Thus, unlike many European countries, the legislation of Ukraine does not divide religions into traditional and non-traditional, historical and new, dominant and non-dominant, majority and minority on a religious basis, and also does not have a hierarchy of religious organizations (there is no state church or church with a special status). Article 5 of the Law of Ukraine «On Freedom of Conscience and Religious Organizations» enshrines the equality of all religions, confessions and religious organizations before the law, the inadmissibility of establishing any advantages or restrictions of one religion, confession or religious organization over others [7].

As noted by the American researcher of religion H. Casanova, Ukraine is actually the only country in Europe that has moved away from the European model of a national church (two churches) and religious minorities and has moved closer to the American model of religious denominationalism, as a result of which the most diverse, pluralistic and competitive religious system in continental Europe has emerged in Ukraine [8, p. 10].

According to the current national legislation, the legal status of any religious organization is based on two defining principles: the separation of church and state and the equality of all religions before the law. None of the religious organizations existing in Ukraine may be granted any advantages or recognized as the priority of a particular religion, since «all religions, confessions and religious organizations are equal before the law» [7]. It should also be noted that the legislation of Ukraine does not provide for any privileges or restrictions for religious organizations that are distinguished by the length of existence of a particular denomination (historical past), traditionality (compliance with the cultural traditions of the nation), the size of the religious organization, its contribution to the development of statehood, culture, etc. Certain restrictions may be applied only in cases where religious activity comes into conflict with the current legislation and poses a threat to public safety or order, physical or mental health of citizens, morality, that is, the fundamental rights and freedoms of other persons.

The legal status of all religious organizations in Ukraine is the same and equal. The legal status of a religious organization reflects the system of legally established and guaranteed by the state rights, obligations of religious organizations, legal personality of religious organizations, legal guarantees for the implementation and protection of the legal possibilities of these organizations and their responsibility, which allow them to profess and spread religious beliefs and teachings, to counteract other participants in public-legal relations in the event of violation of the rights of religious organizations, and the state, in itself public administration bodies, on the other hand, to exercise control over the legality of this process, to eliminate violations of citizens' rights by religious organizations [9, p. 94].

However, not all religious organizations receive the same public perception, support, etc., the declared equality of confessions before the law is valid only in state-legal relations, and even then local public administration bodies do not always adhere to these norms. The equality of religious organizations in socio-political, economic, educational and other spheres is to some extent conditional. Usually, preference is given to traditional churches (Orthodox, Greek Catholic - depending on the region), which is associated with the significance of these confessions in the history, culture, statehood, morality, continuity of traditions of Ukrainian society. We see that the modern active activity of the All-Ukrainian Council of Churches and Religious Organizations can become a powerful factor for the legal provision of equal opportunities for all religious organizations regardless of the region or the number of adherents. Religious pluralism implies not only the recognition of the right of a religious organization to social existence, but also the right to possess spiritual truth, certain cult practices, and its own traditions, which is an important condition for the formation of constructive interfaith relations.

In the context of the European integration process, it should be noted that in Art. 17 of the Treaty on the Functioning of the EU it is stated: «The Union respects the status of all ideological and non-confessional organizations recognized in accordance with national law. The EU recognizes the special nature and contribution of these churches and organizations and maintains an open, transparent and regular dialogue with them» [10]. This level of EU perception of religious organizations opens up opportunities for their inclusion in the processes of pan-European integration. The search for common views for different religious organizations on the regulation of social processes will contribute to the axiological rethinking of the principles of their equal legal status on the basis of EU law, which goes beyond the national model of legal regulation, but does not contradict, but expands the possibilities for the latter. Thus, at the supranational level, the status of a religious organization as a special form of public organization, endowed with a wide range of autonomous powers in matters of satisfying the religious and spiritual needs of a person and a citizen, is fixed.

Conclusions. Thus, the principle of legal equality of religious organizations consists of: equality of rights of all religious organizations that operate legally in Ukraine; equality of legal properties within the framework of which religious organizations carry out their activities; equality before the law and the court. The establishment of any advantages or restrictions of a religious organization over others is not allowed.

Ukraine already has a positive achievement in establishing European standardization of legal regulation of socio-religious relations in Ukraine, but along with positive changes there are a number of organizational, regulatory, procedural and other issues that hinder the implementation of the principle of equality of religious

organizations. Therefore, under these conditions, the following are urgent: developing conceptual principles for ensuring the state's implementation of the rights and freedoms of religious organizations in all spheres of public life; preventing the adoption of legal norms that establish a discriminatory difference between the implementation of rights by the religious majority and the religious minority; ensuring an objective assessment of the impact of the activities of religious organizations on Ukrainian society, ensuring a differentiated approach to state support for such activities; preventing negative manifestations of the process of confessional regionalization; refraining the state from introducing a hierarchy of religious organizations; adhering to the principle of equality and equal treatment of all religions, faiths and religious organizations; legislative strengthening of the responsibility of representatives of state and local authorities for violating this principle. And most importantly, in the context of the modern religious situation, which is characterized by states of contact, confrontation and conflict, the need to codify the legislation of Ukraine in the field of religion becomes of particular importance.

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ОСОБЛИВОСТІ ПРИНЦИПУ ПРАВОВОЇ РІВНОСТІ РЕЛІГІЙНИХ ОРГАНІЗАЦІЙ В УКРАЇНІ

У статті визначено особливості принципу правової рівності релігійних організацій в Україні, позаяк свобода релігії базується на рівності перед законом різних релігійних організацій і насамперед віруючих. Проте задекларована рівність перед законом чинна лише в державно-правових відносинах,

тоді як суспільно-політичному вимірі є дещо умовною. Тому принцип рівності релігійних організацій потребує ефективного правового забезпечення його реалізації як у відносинах між державою та релігійними організаціями, так і в міжконфесійних.

Доведено, що правовий статус будь-якої релігійної організації згідного чинного національного законодавства ґрунтується на двох визначальних принципах: відокремлення церкви від держави та рівність всіх релігій перед законом. Жодній із існуючих в Україні релігійній організації не можуть надаватися якісь переваги чи визнаватися пріоритетність певної релігії, позаяк всі релігії, віросповідання та релігійні організації є рівними перед законом. Відзначено і те, що законодавством України не передбачено будь-яких привілеїв або обмежень релігійним організаціям, які вирізняються давністю існування тієї чи іншої конфесії (історичним минулим), традиційністю (відповідність культурним традиціям нації), чисельністю релігійної організації, її внеском у розвиток державності, культури тощо. Певні обмеження можуть застосовувати лише у тих випадках, коли релігійна діяльність вступає у контрверзу із чинним законодавством та несе загрозу суспільній безпеці чи порядку, фізичному або психічному здоров'ю громадян, моралі, тобто основним правам й свободам інших осіб.

Визначено дефініцію принципу правової рівності релігійних організацій, яка полягає: у рівності прав всіх релігійних організацій, що на законних підставах діють в Україні; у рівності юридичних властивостей, у межах яких релігійні організації здійснюють свою діяльність; у рівності перед законом та судом. Встановлення будь-яких переваг чи обмежень релігійної організації щодо інших не допускається.

Висновується, що Україна вже має позитивний здобуток в утвердженні європейської стандартизації правового регулювання суспільно-релігійних відносин в Україні, але разом з позитивними змінами існує й низка організаційних, нормативних, процесуальних та інших питань, що гальмують забезпечення принципу рівності релігійних організацій. Тому в контексті сучасної релігійної ситуації, яка характеризується станами контакту, зіткнення і конфлікту, особливого значення набуває необхідність кодифікації законодавства України у сфері релігії.

Ключові слова: принципи права, принцип рівності, закон, правове забезпечення, держава, релігія, релігійні організації, свобода совісті, міжконфесійні відносини.