

**CHURCHES AND OTHER RELIGIOUS
ORGANISATIONS AS LEGAL PERSONS**

**Proceedings of the 17th Meeting of the European
Consortium for Church and State Research
Höör (Sweden), 17-20 November 2005**

The European Consortium dedicates these Proceedings to Joseph Listl
(Bonn/Augsburg) in honour of his active membership in the Consortium.

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PEETERS
LEUVEN – PARIS – DUDLEY, MA
2007

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RELIGIOUS ENTITIES AS LEGAL PERSONS – LATVIA

Religious organizations, their status and their activities in the state in a broad sense reflect not only the level of religious freedom in the country, but also the development of 'human rights'. Each state has rules under its national law about registration of religious organizations. Citizens establish religious organizations in order to successfully realize their religious freedom, which cannot be separated from the equality of all people before the state. In brief, these are natural rights of people or human rights.¹

Religious freedom has two aspects:

- 1) the freedom of individual,
- 2) the freedom of a church as an association – the freedom of the legal entity, social and charitable institution.

Unions of people, including religious associations, are an essential condition for people to carry out their objective rights. On receiving legal entity status, human religious rights acquire a new quality. Rights and freedoms, which belong to an individual, become broader when an individual joins with others like him/her. A new, broader perspective of realizations of their rights appears. People and unions of people are essential elements of the democratic system and it is hard to picture a modern state without them. The relationship between these two elements and the state will always be the basis of classification, because the level of these relationships determines the character of the state. They are also the guarantors of the legal progress of the state. Finally, guaranteed rights are the social and economical conditions, as well as the political and legal means, which ensure the observance of the legal rights. They create the reality of rights for citizens and unions of citizens.

In the Constitution of the Republic of Latvia religion/church is mentioned only in Article 99, where the state declares that: *"Everyone has the right to freedom of thought, conscience and religion. The Church*

¹ Balodis R. Church and State Law's Collaboration in Latvia/ Eastern European Community (European) Law Journal// http://www.eelj.com/eec_eljenglish.htm.

shall be separate from the State."² The Latvian government *does not require the registration of religious groups*; the law accords religious organizations certain rights and privileges when they register, such as status as a separate legal entity for owning property or conducting other financial transactions, as well as tax benefits for donors. Registration also eases the rules for public gatherings. Only churches with religious association status may establish theological schools or monasteries. It should be noted that a church can freely constitute some religious entity, but the state will only recognise this entity after registration (that is, after it has become a legal entity). Every unregistered religious group therefore has the right to conduct services, religious rituals and ceremonies and to carry out charitable work, unless those break the law.

Latvia is a multi-confessional country, where the three largest denominations are the Catholics, the Lutherans and the Orthodox Church. In general, there are about 170 different denominations and religious groups.³ Under Article 7 of the Law on Religious Organizations, a congregation may be established by at least 20 citizens of Latvia or persons who have been registered in the Population Register and have reached 18 years of age. The Latvian Population Register registered every person who legally crossed the Latvian border which means that foreigners have no problem in constituting any religious entity. The religious procedure for establishing such religious organizations is, of course, the same as for Latvian citizens.

The legal status of legal entities in Latvia is defined by the Civil Law, but the status and the registration of religious organizations are regulated by the Law on Religious Organizations of 7 September 1995. Other public organizations (except trade unions and businesses, which are subject to a different law) are regulated by the Law on Public Organizations and their Associations. Under the Law on Religious Organizations, religious organizations are a specific form of legal entity. According to the Law on Religious Organizations, religious organizations must be 1) church congregations, 2) religious associations (churches) or 3) dioceses.

² Latvijas Republikas Satversme (*The Constitution of the Republic of Latvia*) //Latvijas Vēstnesis, 01.07.1993, Nr.43.

³ Balodis R. State and Church in the Latvia//State and Church in the Baltic States: 2001. – Riga, Latvian Association for Freedom of Religion, 2001. p. 15-17.; Теоретические установки отделение церкви от государства и допустимый интерес государства к образованию, регистрации и деятельности религиозных УТВЕРЖДЕНИЯ// НАУКОВИЙ ЩОРІЧНИК № 5 Відділення релігієзнавства Інституту філософії імені Г.С.Сковороди НАН України Київ – 2001.

- 1) Twenty persons aged 18 or over, registered in the Latvian Citizens Register⁴ and sharing one confessional affiliation, may establish a church congregation.⁵
- 2) A minimum of ten church congregations belonging to the same denomination, and which are registered, can establish a religious association (church).⁶
- 3) A religious association (church) may establish a diocese by making a relevant decision. A diocese shall be a territorial and administrative unit of a certain organizational structure of a religious association (church) in accordance with the canonical rules of a particular denomination, which is overseen by a bishop (at this moment only the Catholic Church has dioceses).

In accordance with the procedure provided by the Law on Religious Organizations (Article 7.1.) and for the purpose of reaching goals set by their charters, registered religious organizations may create institutions that do not make profit: educational institutions for ecclesiastics, monasteries, missions, deaconate institutions and similar organizations.⁷

An institution established by a religious organization functions in accordance with existing legislative acts and its charter constitution, regulations) approved by the respective religious organization. Religious organizations may create, reorganize or dissolve their institutions if the founder makes a decision about it in accordance with its charter (constitution, regulations).

The Latvian approach of the re registration of religious organizations under Article 8(4) of the Law on Religious Organizations applies only to congregations of denominations that first start their activities in the Republic of Latvia and do not belong to religious communities already registered in Latvia. The aim of re registration is to ascertain the loyalty of a certain congregation towards the Latvian state and that its activities comply with the applicable legislation. It should be added that after its

⁴ Every inhabitant of Latvia shall have the right to join a congregation and to be its active member. One and the same person shall be entitled to be the founder of only one congregation. Young persons under 18 may become congregation members only with a written consent of their parents or guardians.

⁵ Balodis R. *The Constitution of Latvia/ Rechtspolitisches Forum Legal Policy Forum Institut für Rechtspolitik an der Universität Trier*, 2004. Nr.26. p. 47

⁶ Congregations of the same denomination may establish only one religious association (church) in the country.

⁷ Balodis R. *Church and State in Latvia/ Law and Religion in Post-Communist Europe* (Ed. Silvio Ferrari, W. Cole Durham). PEETERS, LEUVEN – PARIS – DUDLEY, MA 2003 142-143.

tenth re registration, a religious organization obtains the status of being permanently registered.⁸ At present 1,160 religious organizations and their establishments are registered at the Board of Religious Affairs; 81 congregations of those have to be re registered annually.

Otherwise, there are no differences between historical Latvian churches and new religious movements. At the moment, the question of Catholic entities' registration is not clear. The problem arose after the 9 October 2000 agreement with the Holy See was signed. In accordance with Article 2 of the Agreement with the Holy See, the institutions of the Catholic Church in the Republic of Latvia, which in accordance with Canon Law have the status of public juridical persons, will also enjoy juridical personality under civil law, according to the legislation of the Republic of Latvia. This Article also provides that the competent ecclesiastical authority may – in accordance with the pertinent canonical norms – establish, modify, recognize and suppress ecclesiastical juridical public persons. In the event of such changes affecting the existing situation of the Catholic Church in the Republic of Latvia, they shall be communicated to the competent civil authorities, in accordance with the existing legislation of the Republic of Latvia.⁹

The Catholic Church in Latvia interprets Article 2 of the Agreement with the Holy See as permission to constitute religious entities without registration, but the Ministry of Justice and the Religious Affairs Board do not agree with that and consider that this article does not say anything and is just declarative.

According to Articles 8 and 9 of the Law on Religious Organizations, religious organizations¹⁰ and religious institutions must be registered with the Board of Religious Affairs. The Board of Religious Affairs must examine the documents submitted for registration within one month.¹¹

⁸ Balodis R. Church and State in Latvia/ State and Church in the European Union/European Consortium for State and Church research, Nomos Verlagsgesellschaft, Baden – Baden second ed., 2005. p. 260.

⁹ Kościół i państwo w krajach bałtyckich. Rejestracja i podstawowe zasady kształtowania się organizacji religijnych / ROCZNIK TEOLOGICZNY.- CHRZEŚCIJAŃSKA AKADEMIA TEOLOGICZNA Warszawa Rok XLIV ZESZYT 2, 2002. 147-163; Church and State in the Baltic States: registration and basic principles of formation of religious organisations/ European journal for Church and state Research//European Consortium for Church-State research Belgium 2000. 339-358.

¹⁰ 1995.gada 7.septembra Reliģisko organizāciju likums (*Law on Religious Organizations of 7th September 1995*) //Latvijas Vēstnesis, 26.09.1995, Nr.146.

¹¹ Latvijas Republikas Ministru kabineta 2000.gada 19.septembra noteikumi Nr. 321 "Reliģisko lietu pārvaldes nolikums" (*Regulations of Cabinet of Ministers of the Republic of Latvia of 19th September 2000 "Rule of the Board of Religious Affairs"*)//Latvijas Vēstnesis, 22.09.2000, Nr. 331/333.

When examining the documents submitted by congregations of those denominations and religions which first began functioning in the Republic of Latvia and which do not belong to the religious associations (churches) already registered in the country, the Board of Religious Affairs may extend the period for examining the documents by one month and notify the applicant accordingly.

An authorized person of a religious organization must submit to the Board of Religious Affairs a registration application and a written authorization entitling this person to handle matters concerning registration.

The application submitted by a congregation must be accompanied by:

- the charter (constitution, regulations);
- the list of the founders of the congregation including their full names, residential addresses, identification numbers and signature;
an extract from the minutes of the foundation meeting of the congregation, the adoption of the charter (constitution, regulations), information about the governing body of the congregation and the Audit Committee members;
- the document proving payment of stamp duty on registration of the congregation.

The application submitted by a religious association (church) must be accompanied by:

- the charter (constitution, regulations);
- the list of congregations - founders of the religious association (church) which is to be confirmed by the congregation leaders;
- an extract from the conference (synod) minutes recording the foundation of the association (church), its administrative institutions, governing body and Audit Committee members;
- the document proving payment of stamp duty on registration of the religious association (church).

The application to register a diocese must be accompanied by:

- the charter (constitution, regulations);
- the decision of a religious association to create a diocese;
- information regarding the leaders;.
- the document proving payment of stamp duty on registration of the diocese.

The application submitted by an educational establishment for ecclesiastics, monastery, mission or deaconate institution must be accompanied by:

- the charter (constitution, regulations);

- the decision of a religious association to establish an educational institution for ecclesiastics, monastery, mission or deaconic institution;
- information regarding the leaders;
- the document proving payment of stamp duty on the registration of an educational institution for ecclesiastics, monastery, convent, mission, or charitable institution.
- the charter (constitution, regulations) of a religious organization must include the following information:
 - the name of the religious organization and its denomination, and, moreover, this name must be unambiguously different from the names of enterprises, institutions and organizations registered in the State in orders prescribed by laws;
 - the pledge of the religious organization to abide by the Constitution (Satversme) and the laws of the Republic of Latvia in its activities; the description of teaching (Holy Scripture, doctrine and characteristic features of the denomination), forms of the religious ceremonies, aims and purposes of religious activities;
 - the structure of the religious organization, the procedure of electing the leadership and the Audit Committee members, and their respective powers;
 - the territory where the religious organization functions and where its leadership is based;
 - the procedure by which members join and leave the congregation, members' rights and obligations;
the rights and obligations of the religious organization, its property and financial resources;
 - the procedure for the dissolution of the religious organization and for the further use of the property remaining after dissolution.

By means of the charter (constitution, regulations), a religious organization may also regulate its other internal matters. If a congregation recognizes its adherence to some denomination functioning in the territory of the country, this must be stated in the application submitted by this congregation and approved by the governing body of the respective religious association (church) or, if authorized by it, the leadership of the diocese. If a congregation is unwilling to join any of the existing religious associations (churches), this should be stated in the charter (constitution, regulations), explaining that the congregation will function autonomously. This provision will not apply to those denominations whose canonical rules do not permit autonomous functioning of congregations.

Having been registered at the Board of Religious Affairs, religious organizations are given the status of legal persons. The legislation of the Republic of Latvia does not require that registration is obligatory in order to express freedom of belief. According to Article 13 of the Law on Religious Organizations, only registered religious associations (churches) or dioceses are entitled to establish educational institutions for ecclesiastics, monasteries, missions and deaconate institutions. In addition, only registered religious organizations and establishments formed by such organizations are entitled to use the names and emblems of religious organization in their official forms and stamps.

There is no single law in Latvia dealing with taxation as it affects the churches. The financial and tax issues of the churches are dealt with in many laws and regulations. Particular laws which address a number of issues related to the financial activities of religious organizations include the following:

- the Law on Entrepreneurship provides that religious organizations are entitled to engage in business activities, establish companies, and acquire shares in companies.

The next important issue is related to tax relief for religious organizations:

- according to the Law on Real Estate Tax, real property owned by a religious organization and used for performing religious activities is not taxable with effect from 1 January 2001;
- the Law on Value Added Tax envisages that religious, ceremonial and other not for profit services of religious organizations are exempt from Value Added Tax. Money contributions and donations to religious organizations are also exempt from Value Added Tax;
- companies that make donations to religious organizations in accordance with permissions issued by the Ministry of Finance may claim tax relief of 85 % as provided under Article 20 of the Law on Corporate Income Tax. This tax relief is not applied to companies that have a continuing tax liability for the previous fiscal year as at the first day of the second month of the new taxation period. In accordance with the law, the total tax relief may not exceed 20% of the total tax liability of the company;
- under the Law on Individual Income Tax, a physical person who has made donations to a public or religious organization (which has a licence issued by the Ministry of Finance) can deduct this amount from his or her taxable income before accounting for individual income tax. This amount should not exceed 20% of the individual's taxable income.

It should be pointed out that religious organizations do not pay corporate or individual income tax. If religious organizations receive foreign technical assistance, they are granted customs tax and Value Added Tax relief.

- religious organizations have the right to receive humanitarian aid. Cargoes of humanitarian aid are tax and duty exempt according to the procedure provided under the law. Religious organizations that are entitled to be beneficiaries of humanitarian aid are listed on an annual basis according to special regulations issued by the Council of Ministers.

Under Article 16 of the Law on Religious Organizations, religious organizations may possess movable property and real estate. The right to manage real estate is vested only in the leadership institutions of religious organizations unless the charter (constitution, regulations) prescribes other procedures. If the income of a religious organization from business activities during one calendar year exceeds 500 minimum monthly salaries (based on the minimum monthly salary set by the Government for the respective period), the religious organization, according to Article 15 of the Law on Religious Organizations, must establish its own business which shall be registered according to the existing legislative acts. Income from business activities and profit made as a result of entrepreneurial activities must be used for the purposes prescribed by the charter (constitution, regulations) of the religious organization and in compliance with the existing legislative acts. If the spiritual centre of a religious organization registered in the Republic of Latvia is situated in a foreign country, in Latvia the said centre may not possess either the real estate of this organization, or any property recognised as a monument of culture. Church buildings, objects of art and other property recognized, as monuments of culture shall be maintained by religious organizations in accordance with the requirements prescribed by the Law on the Protection of Monuments of Culture. Under Article 16 of the Law on Religious Organizations, religious organizations may own movable and real property but they are prohibited from mortgaging church buildings or ritual artefacts and creditors may not foreclose on the same.

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