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Religious Organisations in the Latvian State: their Rights and Obligations

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The rights and freedoms of religious organisations have been an area of concern to western lawyers particularly since the Second World War, largely because of an increase in the number of sects taking advantage of these rights and of the tax allowances available to various kinds of associations and individuals. The more freedoms and privileges granted by the state are abused, the less the state is inclined to liberalise its policy further: indeed, it may even choose to introduce limitations which are to the disadvantage of religious organisations generally.

In this article I shall not be concentrating on sects; my purpose is to discuss legal criteria and to describe the rights and privileges as well as the obligations of any religious organisation in Latvia. I take it that a characteristic feature of such an organisation is that it is a subject with an inherent freedom. Individuals join religious organisations in order to exercise their individual freedom of religion most successfully. However, in practice the freedom inherent to the organisation needs to be distinguished from the freedoms of the particular individuals who are its members. A religious organisation registered as a legal entity receives all the privileges normally granted upon acquisition of the status of a legal entity; and it also acquires responsibilities. A religious organisation has to comply with the legal order applied in a given state, and has to enter into relations with that state. It cannot do other than adopt a rational and pragmatic orientation. Both state and church, then, need to discover a happy medium in their mutual relations.

What is a religious organisation, and what distinguishes it from other forms of social organisation? The sociologist of religion Myrtle Langley has suggested that religion can be considered from six aspects; (1) doctrinal; (2) mythological; (3) ethical; (4) ritual; (5) existential; and (6) social. All these are interconnected. From doctrine, which explains reality, ethics (behaviour) and rituals (worship) arise. In its turn, the existential aspect is formed by the sum of all the above aspects. On this analysis, the social aspect of religion is actually what we are most interested in, since it is defined by the other aspects of religious experience. When a religious organisation is established, a legal entity is defined and an organisation with a strictly regulated inner structure comes into being. It is a group of individuals associated in a definite structure, registered in order to achieve a common target: effectively to exercise freedom of belief.

However, the basis for the registration of such an organisation shall be its loyalty to the state which provides for its legitimacy and legal subjectivity. The organisation must operate only within the current state legislative framework. According to the

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Law on Religious Organisations of 7 September 1995 a religious organisation has to be registered with the Ministry of Justice in order to acquire the rights of a legal entity and start the activities provided for in its rules and articles of association. The legal capacity of a religious organisation is identical to that of any other legal entity, which is identical to that of an individual citizen, if not specified otherwise by law. The Department of Public and Religious Affairs (Religious Affairs Division) of the Ministry of Justice is in charge of registration and maintaining a register of religious organisations and theological educational institutions, as well as mutual relations between the religious organisations and the state. A religious organisation cannot be registered if it fails to submit all the documents required by law, if the activity of the religious organisation or its doctrine, aim and activities provided for in its articles of association contradict Latvian legal norms, or if the doctrine or activities of the religious organisation threaten national security, public peace and order or the health and morals of other persons or promote religious intolerance or hostility. Any decision to reject an application for registration must explain the reasons for rejection. The activities of a religious organisation may include worship, religious ceremonies, missionary work (evangelisation), association in these activities with communities of the same faith, and other activities as long as they are not of a profit-making character or contradict the constitution, legislative acts or international agreements ratified by Latvia.

The establishment, registration, activity and liquidation of a religious organisation are regulated by Article 99 of the Constitution of the Latvian Republic, which stipulates the separation of church and state and religious freedom for all (this Article was introduced in autumn 1998); the Law on Religious Organisations; and laws and regulatory acts issued by the Cabinet of Ministers, particular ministries or local government authorities. Religious organisations are construed as: religious communities; religious associations (Churches); and monastic and educational institutions. Believers of one and the same religion can become associated as a community on a voluntary basis, in order to carry out religious or other activities. A religious association (Church) unites communities of the same religion properly registered as envisaged by legislation. According to the Law on Religious Organisations as amended on 3 July 1996 at least 10 Latvian citizens or persons registered as resident in Latvia aged 18 or over are required as the founders of a community. Except for clergy, only Latvian citizens can be elected to the representative bodies of such communities. Ten (or more) communities which are registered in the Republic of Latvia and are consequently legal entities can establish one religious association (Church) in the country. Only registered religious associations may set up monastic institutions for clergy. Organs of state government or local government may not establish religious organisations.

The documents submitted by religious organisations are considered and analysed by the Department of Public and Religious Affairs, which is also charged with convening meetings of the Advisory Council for Religious Affairs and the Advisory Council for New Religious Movements. These two bodies are distinct: the latter coordinates and researches new religious movements, while the former represents the six traditional (historical) religions operating in Latvia, and comprises the spiritual leaders or representatives of the Evangelical Lutheran, Roman Catholic, Orthodox, Old Believer and Baptist Churches and of the Jewish community as invited by the Ministry of Justice and other persons appointed by the Ministry of Justice. Other religions express their views to the state contact representative in the Ministry of Justice. The aim of setting up this Council was to provide for coordination and

understanding amongst the various religions in the country. The Council reaches conclusions on the principle of unanimity. The scope of competence of the Council is as follows: (1) to express its views to the Ministry of Justice and other government authorities on matters to do with the activities of religious organisations in the country; (2) to express its views to the military authorities on matters to do with the rights and obligations of believers; (3) to express its views on how legislation relating to religious organisations or issues concerning them might be improved; (4) to make suggestions to the government authorities on how moral and ethical values should be promoted in society; (5) to effect and improve cooperation between the state and religious organisations. The state authorities supervise and monitor the compliance of religious organisations with current legislation, but no central or local government institutions or other public organisations are entitled to interfere with the religious activities of religious organisations. The purpose of the Council is simply to facilitate dialogue between state and church, an aim which is realised quite successfully.

One important aspect of the activity of religious organisations is the right freely to disseminate their doctrines. The Law on Religious Organisations (Clause 6) provides for the teaching of religion in schools. Christian teaching in schools may be undertaken by representatives of the Evangelical Lutheran, Roman Catholic, Orthodox, Old Believer and Baptist Churches. Each denomination proposes candidates and they must be accredited by the Ministry of Education and Science. The required qualifications of such Christian teachers are stipulated in the Law on Education (Clause 56) and Regulation no. 178 of the Ministry of Education and Science, 22 April 1996. Teachers of any Christian denomination shall teach on the basis of a syllabus formulated by all the denominations and common to them all, as approved by the Ministry of Education and Science. The traditional confessions and the Ministry of Education and Science are currently participating in 'round-table' discussions on how far religious education in state schools may be of a 'confessional' nature in the light of the constitutional amendments of autumn 1998. Religion may be taught in a school when the number of pupils of the relevant religion is not fewer than 10. Ethics may be chosen as an alternative subject to the Christian religion. There is a special arrangement for schools for the national minorities living in Latvia. These schools are also under government or local government supervision, and here the religion characteristic of each particular national minority can be taught as stipulated by the Ministry of Education and Science.

As legal entities, religious organisations are entitled to express their views publicly. The Law on Religious Organisations, however, stipulates that they may do so only with the permission of the local government authorities. It is true, then, that an organisation cannot be established with the specific aim of carrying out public religious activities: if a religious organisation (which is properly registered) wants to carry out activities of a religious nature outside its worship premises and outside the plots of land it owns, it must seek permission as stipulated by the Law on Religious Organisations and the Law on Meetings, Processions and Pickets of 16 January 1998 and in accordance with other currently valid legislative acts. (Actually, any meeting must be agreed with the relevant local government, if the place of the event is within the territory of that government, whether the place can be considered as public or not.) Typically, such applications are considered by a local government authority standing committee, with competence in the area of social, health, educational, cultural, sport and public order issues. Of course, a committee may not agree to allow public activity by a religious organisation if it violates public order or if such activity

is in contradiction with Latvian law. However, local government authorities are dissuaded from arbitrarily denying permission for public religious activities by the knowledge that the Latvian Criminal Code (Clause 138) stipulates that anyone who prevents the performance of religious rituals if they do not violate public order and do not affect the rights of citizens is liable to a fine of ten times the minimum monthly wage or a public reprimand. If a registered religious organisation asks for permission to perform a religious ritual in public, then, and the local government denies it without reasonable grounds, then the latter opens itself up to possible legal action on the part of the religious organisation concerned. However, if a registered religious organisation carries out public activity without seeking permission from the local government, then the Ministry of Justice may issue a warning to the leaders of the organisation and ask them to comply with the laws: this happened when the Jelgava Evangelical Christian community 'New Generation' arranged a public meeting in April 1977 without the consent of the local government. Events arranged on private premises require only the consent of the owner.

According to the Law on Religious Organisations (Clause 14), religious organisations have to submit reports on their activities to the Ministry of Justice, in the form and manner stipulated by the Cabinet of Ministers, by not later than 2 March each year. By 2 March 1998 not a single one of the religious organisations registered in Latvia had submitted its report. There are no legal sanctions for non-submission; lawyers are arguing that sanctions need to be introduced if compliance is to be achieved.

One area in which church–state arrangements in Latvia differ from those in most western countries is that of the legal significance of the church marriage ceremony. Typically, in western countries, a marriage, to be legal, must be registered by the state, and what other arrangements the couple may make do not affect the state as they are the individuals' private affair. The exception is Italy, where the state recognises the legal validity of a religious wedding ceremony. In Italy a couple wishing to register their marriage first fill in a questionnaire at the local registry office, and are then typically married by a priest of their religion, whose obligation it is to inform the registry office. Upon receipt of evidence of the wedding ceremony, the registry office sends the priest a marriage certificate to be passed on by him to the newly-married couple. The Family Law Section of the Civil Law of the Republic of Latvia (1937) delegates the right to provide legal marriage to particular religious organisations. Clause 53 of this law stipulates that couples are entitled to be married either in a registry office or by a minister of religion, and Clause 51 that if this is to be according to the rites of the Lutheran, Roman Catholic, Orthodox, Old Believer, Methodist or Baptist Church or the Jewish faith a prior announcement must be made.

It would be incorrect to consider that a religious organisation should enjoy unlimited rights, or more rights than other organisations or public formations. In emergency cases the state is empowered to interfere to enforce observance of the laws. An individual's freedom to believe and to disseminate his beliefs can be restricted by law in the event that it is necessary to secure public order, public security, health, morals and other basic human rights and freedoms. If a religious organisation violates the constitution or laws of the Republic of Latvia the procurator-general or minister of justice can initiate legal measures to terminate it (the Law on Religious Organisations, Clause 18, Section 3). Valid grounds for such a move would be if the religious organisation in question preached religious intolerance or hostility, called on citizens to break the law, failed to comply with the legal provisions for a religious organisation, or threatened national security, public peace

and order or the health and morals of other persons with its activities. A court decision on the termination of a religious organisation can be the subject of an appeal as provided for in the laws on civil procedure (Civil Code of Practice Section 24a). Upon its termination, a religious organisation shall forfeit the rights of a legal entity provided by legislation. Religious organisations can also forfeit their status as legal entities upon self-liquidation in the manner stipulated in their articles of association. A religious organisation may liquidate itself when it affiliates itself to another organisation, amalgamates with another organisation or divides to create new communities. A monastery or theological educational institution can be closed when the relevant religious association adopts a decision on its termination in accordance with its articles of association. A religious association shall be subject to liquidation if the number of parishes it comprises is less than ten during the period of one year.

It is clear that the principal practical privilege of properly legally registered religious organisations in Latvia is significant tax allowances applicable only to such organisations. The Law on Property Tax directs that tax is not to be levied on the property of religious organisations: buildings, construction projects in progress, vehicles, any other fixed assets of material value. The Law on Real Estate Tax, which on 1 January 1998 replaced the Laws on Land Tax and on Property Tax, stipulates (Clause 1 Section 2 Article 4) that any real estate belonging to religious organisations shall not be liable to real estate tax irrespective of whether the real estate is used for religious activities or other purposes. Various pieces of legislation (Regulation no. 367 of the Cabinet of Ministers, 26 September 1996, the Law on Company Income Tax and the Law on Individual Income Tax (Clause 10 Section 3)) provide for substantial tax relief on donations to a public religious organisation by companies and individuals. In accordance with the Law on Religious Organisations (Clause 15) religious organisations are entitled to carry out economic activities. If the income of such an organisation during any calendar year is greater than 500 times the minimum monthly wage the organisation must establish its enterprise and carry out economic activities in compliance with the Law on Business Activities. Another concession to registered religious organisations is that they are exempt from value added tax on 'religious and ritual services', including christenings, weddings and funerals.

In accordance with the Law on Humanitarian Relief adopted on 10 August 1995 religious organisations are entitled to receive humanitarian aid, and this is exempt from taxes or duties. The religious organisations which qualify to receive humanitarian aid are specified in Regulation no. 58 of the Cabinet of Ministers, 12 March 1996. The procedure for receiving such aid is described in Regulation no. 61, 12 March 1996, and the range of permitted contents in Regulation no. 57, 12 March 1996. Material and financial aid from abroad is exempt from value added tax and customs duties (Regulation no. 149, 15 April 1997, and the Law on Value Added Tax). Although religious organisations in Latvia, as in the other Baltic States, are not of a commercial nature, the Law on Religious Organisations and the Law on Business Activities of 13 December 1998 stipulate that a religious organisation is entitled to carry out economic and business activities, to establish enterprises and companies and to acquire interest or shares in enterprises and companies.

Unfortunately the Latvian parliament did not support the idea that legislation should include a list of traditional religions in order to be able to distinguish between traditional religions and non-traditional religions or new religious movements. A distinction between these two categories would be concerned not with establishing which movement is 'more true' or 'less true', but with establishing which movement

was to be granted tax allowances and which not. A number of religious movements in Latvia use gym halls or large spaces in residential houses for religious purposes. It is clear that when 90 per cent of a house is used for residential purposes and 10 per cent for public worship, then a tax allowance would be a malicious use of favoured status. Followers of Shinto meet in clearings in the woods: are these to qualify for tax relief? Clearly religion is not only an individual but also a common good, and the task of state legislation should therefore be to defend it; but in my view the malicious use by new religious movements of state favours might eventually result in the reduction of tax allowances granted by the state.

In conclusion, I would like to emphasise the fact that it is only by comparing our experiences in Latvia with those of other countries that we can achieve a comprehensive view on church–state relations. Our own arrangements need to take account of the particularities of our own experience, but at the same time they need to be reconciled with international norms, for otherwise there are likely to be gaps between theory and practice. We also need to remember that those who make arrangements about people's consciences are also helping to determine how those people are going to vote. The task for the state is not to determine who is right and who is wrong but to ensure political stability. A society makes progress only when it creates reasonable laws corresponding to human nature; and such laws are completed only when citizens are educated to understand the purpose of legislation and the state is strong enough to maintain a tolerant dialogue about the wishes and needs of its citizens.