

Legal regulation of religious education in Ukraine: Implementation of the separation of the Church and other religious organizations from state educational institutions

Regulacja prawna edukacji religijnej na Ukrainie – realizacja zasady oddzielenia Kościoła i innych związków wyznaniowych od państwowych placówek oświatowych

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Abstract: This article, via an analysis of legislation, law-application practice, and individual elements of statistical information, reveals the implementation of the constitutional provision on the separation in Ukraine of the church (religious organizations) from the state and the school from the church. The authors state that the requirements of the constitutional legislation are not fully observed, and religious education at schools depends on religious organizations to a significant extent. The intensity and depth of the influence of religious organizations on educational institutions differs however at various levels of education and in different institutions. At the level of pre-school and general secondary education, due to state standardization and control, the sphere of autonomy of religious organizations in providing educational services is sufficiently narrow. At the level of higher education, in institutions founded by religious organizations, the educational process is carried out under the control of the religious organization itself, and the state and communal institutions (which train specialists majoring in theology) are under the aegis of the Ministry of Education and Science. Higher religious education (both that obtained in private institutions and that obtained in state or communal institutions) is *de facto* not separated from religious organizations, although the Constitution of Ukraine declares this. The confessional nature of theology is manifested in the content of academic courses and the organization of the educational process. In practice, however, the cooperation of churches with educational institutions is based on the need for the former to determine or at least influence the content of the training of their future ministers; for educational institutions, cooperation is a powerful tool for ensuring the employment of graduates of educational programs, and, respectively, directly affects the number of applicants.

Key words: educational institutions; freedom of religion; religious organizations; theological education

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Streszczenie: Celem artykułu jest ukazanie realizacji konstytucyjnego przepisu o oddzieleniu Kościoła (związków wyznaniowych) na Ukrainie od państwa oraz szkoły od Kościoła poprzez analizę ustawodawstwa, praktyki stosowania prawa oraz danych statystycznych. Zdaniem autorów obowiązujące w tym zakresie normy konstytucyjne nie są w pełni przestrzegane, a realizowana w szkołach edukacja religijna pozostaje w dużym stopniu zależna od związków wyznaniowych. Intensywność i zakres wpływu związków wyznaniowych na instytucje edukacyjne różni się jednak w zależności od poziomu edukacji i rodzaju placówki. Na poziomie edukacji przedszkolnej i ogólnokształcącej, ze względu na obowiązującą standaryzację i kontrolę państwową, sfera autonomii związków wyznaniowych w świadczeniu usług edukacyjnych jest dość wąska. Na poziomie szkolnictwa wyższego, w instytucjach założonych przez związki wyznaniowe, o procesie kształcenia decydują same związki wyznaniowe, natomiast w instytucjach państwowych i samorządowych, które kształcą specjalistów w zakresie teologii, proces ten jest realizowany pod nadzorem Ministerstwa Edukacji i Nauki. Wyższe wykształcenie teologiczne (zarówno uzyskiwane w instytucjach prywatnych, jak i w instytucjach państwowych lub samorządowych) nie jest *de facto* oddzielone od organizacji religijnych, chociaż tak stanowi Konstytucja Ukrainy. Wyznaniowy charakter teologii przejawia się w treści wykładanych przedmiotów oraz w organizacji procesu nauczania. Jednak w praktyce współpraca kościołów z instytucjami edukacyjnymi opiera się na potrzebie, aby te pierwsze decydowały lub przynajmniej miały wpływ na treść kształcenia przyszłych duchownych i pracowników instytucji kościelnych, natomiast dla instytucji oferujących kształcenie współpraca ta stanowi gwarancję zatrudnienia absolwentów oferowanych programów edukacyjnych, co bezpośrednio wpływa na liczbę kandydatów.

Słowa kluczowe: instytucje oświatowe; kształcenie teologiczne; związki wyznaniowe; wolność religii

Introduction

In Ukraine, the basic provision underlying the legal regulation of both religious education and education about religion is the provision of the Constitution of Ukraine¹ that “the church and religious organizations in Ukraine are separated from the state and the school from the church respectively” (Art. 33 para. 3 of the Constitution of Ukraine).

This provision, on the one hand, can be interpreted and implemented in law-application practice as a basis for removing the church from the educational process, and on the other hand, as a guarantee of the right to secular education in state and communal educational institutions.² The significance of the provision was the subject of official appeals and recommendations of

¹ Constitution of Ukraine, Adopted at the Fifth Session of the Verkhovna Rada of Ukraine on 28 June 1996, Bulletin of the Verkhovna Rada of Ukraine (BVR), 1996, No. 30, Article 141. Official English translation. <https://zakon.rada.gov.ua/laws/show/en/254k/96-вр#Text> [accessed: 30 July 2022].

² See: Bilash 2012, 260; Palinchak 2011, 161–162; Vasin 2020, 20.

the authorities even before religious organizations acquired the status of educational service providers.³

The provisions of the Law on Education,⁴ which determine the principles of state policy in the field of education and the principles of educational activity, are also considered to be fundamental in this matter. Among these are these two fixed precepts: the non-interference of religious organizations in the educational process (except in cases defined by this law) and the provision of diverse and well-balanced information on political, ideological and religious issues (Art. 6 of the Law on Education).

The implementation of the above-mentioned principles and their content also largely depends on the subject of specific legislation and state policy. After all, following the principle of providing well-balanced information regarding ideological and religious issues can be both a basis for banning school courses of spiritual and moral direction and a guarantee against the imposition of a certain religious direction, creed, or denomination to the students.

The above is why the purpose of this article is the analysis of legislation, law-application practice, and individual elements of statistical information to determine the actual correlation and relationship between religion and education in Ukraine.

1. Secondary and pre-school education and religion

The constitutional right to practice any religion or not to practice any religion, as well as the prohibition of the recognition of any religion by the state, does not exist independently; it is not detached from other “non-religious” spheres of public life. As in other countries, such influences are especially

³ Rekomendatsiya Komitetu z pytan' nauky i osvity Verkhovniy Radi Ukrainy pryynyaty proekt Zakonu Ukrainy pro vnesennya zmin do zakoniv Ukrainy (shchodo zasnuvannya relihiynomy orhanizatsiyamy navchal'nykh zakladiv; dooprats'ovanyy; reyestr. No. 1447) ta proekt Postanovy Verkhovnoyi Rady Ukrainy pro vstanovlennya moratoriyu na zakryttya zahal'noosvitnikh navchal'nykh zakladiv derzhavnoyi i komunal'noyi vlasnosti (reyestr. No. 2173) za osnovu. <https://kno.rada.gov.ua/fsview/74116.html?fbclid=IwAR3wIEufgvThoTYf0eRe2eSIhLkz8CZX-Pkwwq5GxMgxwYQKMfzlDeO6j6Hk#top> [accessed: 25 July 2022].

⁴ Law of Ukraine “On Education,” Bulletin of the Verkhovna Rada (BVR), 5.09.2017, No. 38–39, Article 380. Official English translation. <https://zakon.rada.gov.ua/laws/show/en/2145-19#Text> [accessed: 30 July 2022].

closely manifested in the field of secondary and pre-school education and are directly related to the right of education.⁵ Education is a central resource and key to development and social change.⁶

In Ukraine, pre-school education for children of older pre-school age and complete general secondary education are mandatory, while the right to education is guaranteed regardless of religious beliefs. And even though the number of citizens who support the idea of studying religion at school is decreasing,⁷ the issue of the right to choose religious or secular education during compulsory education still remains relevant.⁸

The basic law that regulates the rights and duties of individuals and legal entities participating in the realization of the right to education and defines the competence of state bodies and local self-government bodies in the field of education is the Law on Education. This law sets forth that an educational institution, depending on the founder, may operate as a state-owned, community, private, or corporate setting. Religious organizations have only recently acquired the right to establish educational institutions. Until 2015, the provisions regarding the creation, reorganization, and liquidation of educational institutions stipulated that the founders of educational institutions could be state bodies, cooperatives, public organisations, enterprises and institutions, and private individuals. Religious organizations were not included in this list, and, prior to 2015, they were therefore unable to establish educational institutions. In order to establish an educational institution, religious organizations had to register as a public organization, which would then become the future founder of the educational institution. Such regulation contradicted common sense, however, because it was difficult to find reasonable arguments why citizens of Ukraine, united in a public organization, had the right to found an educational institution, and the same citizens, if they united not in a public, but in a religious organization, were deprived of such a right. From a legal point

⁵ Pranevičienė, Margevičiūtė 2013, 9.

⁶ Lazur, Bilash 2022, 293.

⁷ Osoblyvosti relihiynoho i tserkovno-relihiynoho samovyznachennya hromadyan Ukrainy: tendentsiyi 2000–2021rr. (Informatsiyini materialy). Kyryiv: Tsentrazumkova. https://razumkov.org.ua/uploads/article/2021_Religiya.pdf [accessed: 25 July 2022].

⁸ Romanova 2006; Pogromska 2008.

of view, this was illegal discrimination against religious citizens and clearly demonstrated prejudice against these citizens.⁹

The problem was solved in 2015 with amendments to the laws on education, on general secondary education, on extracurricular education, on pre-school education, and on higher education to grant religious organizations the right to create pre-school, secondary, extracurricular, and higher educational institutions. As of January 1, 2021, according to official statistics, 89 secondary schools have been established in Ukraine, the founders of which are religious organizations, the majority of which were formed by Christian-Baptist religious organizations (70 schools).¹⁰ Additionally, there are roughly 13,000 Sunday schools that form part of the extracurricular education system.

The Law on Education also declares the equality of rights and duties of educational institutions in conducting educational activities. Accordingly, if the founder of an educational institution is a religious organization, it is private institution, but its legal status regarding the implementation of educational activities should not differ from a state or communal entity. This raises the question of whether the current legislation actually provides for such equality.

When answering this question, first of all, it should be noted that the provisions of the same Law on Education set forth that “state and communal educational institutions which are separated from the church (religious organizations) shall have a secular identity. Private educational institutions, including those founded by religious organizations, shall have the right to determine the religious orientation of their own educational activities” (Art. 31 of the Law on Education).

Similar provisions are contained in specific laws that regulate educational activities in secondary and pre-school education. To wit, the Law on Pre-school Education specifies that “in private pre-school educational institutions and pre-school educational institutions founded by religious

⁹ Yuriy Reshetnikov. *Pravo relihiynykh orhanizatsiy na zasnuvannya navchal'nykh zakladiv: "za" i "proty"*. <https://www.religion.in.ua/main/analitica/30003-pravo-religijnix-organizacij-na-zasnuvannya-navchalnix-zakladiv-za-i-proti.html> [accessed: 30 July 2022].

¹⁰ Zvit pro merezhu relihiynykh orhanizatsiy v Ukraini stanom na 1 sichnya 2021 roku. Derzhavna sluzhba Ukrainy z etnopolityky ta svobody sovisti. <https://dcss.gov.ua/statistics-2020/?fbclid=IwAR1WCo-FYy1ySe-6RcmcTfRl9661HaMpT6Wpo8uVmc0vAFjdnczHBPmcurY> [accessed: 25 July 2022].

organizations, the charters of which are registered in accordance with the procedure established by law, the activities of relevant religious organizations are allowed.” The Law on Complete General Secondary Education establishes that “private educational institutions, in particular those founded by religious organizations, the charters (regulations) of which are registered in accordance with the procedure established by law, have the right to determine the religious orientation of their educational activities.”

A clarification is needed in regard to the issue of state financing of religious education at school. There are a large number of different practices of state financing of religious education worldwide in both public and private religious schools. Regarding the availability of state funding, the most important question is whether it is provided without discrimination.¹¹ In Ukraine, the 2019 Law on Education introduced the principle of “money per student,” which enabled private educational institutions, including those founded by religious organizations, to receive state funding. In 2021, 236 private schools, or 67% of the total number of private schools in Ukraine (325 schools),¹² have become the recipients of educational subsidies. Unfortunately, official statistics do not specify the information about institutions founded by religious organizations.

Religious organizations in Ukraine are thus not excluded from the educational sphere of secondary and pre-school education; rather, they are active participants in relevant social relations. The general trend toward secularization of education taking place in most countries of the world¹³ manifests in Ukraine through state regulation of educational processes, a clear definition of the legal status of religious organizations in the educational process, standardization of pre-school and secondary education,

¹¹ Rekomendatsiya Komitetu z pytan' nauky i osvity Verkhovniy Radi Ukrainy pryynyaty proekt Zakonu Ukrainy pro vnesennya zmin do zakoniv Ukrainy (shchodo zasnuvannya relihiynymy orhanizatsiyamy navchal'nykh zakladiv; dooprats'ovanyy; reyestr. No. 1447) ta proekt Postanovy Verkhovnoyi Rady Ukrainy pro vstanovlennya moratoriyu na zakryttya zahal'noosvitnikh navchal'nykh zakladiv derzhavnoyi i komunal'noyi form vlasnosti (reyestr. No. 2173) za osnovu. <https://kno.rada.gov.ua/fsview/74116.html?fbclid=IwAR3wIEufgvThoTYf0eRe2eSlhLkz8CZX-Pkwwq5GxMgxwYQKMfzIDeO6J6Hk#top> [accessed: 25 July 2022].

¹² Mayzhe 6 mlrd. hrn. zalyshkiv osvritnikh subventsiy bude mozhylyvo spryamuvat na pidtrymku hromad pid chas voyennoho stanu. <https://decentralization.gov.ua/news/14713> [accessed: 30 July 2022].

¹³ Pogromska 2008, 212.

control and, in general, a focus of the state's responsibility for educational processes.

State requirements for curriculum and mandatory learning outcomes are thus determined by state education standards at each level. Pre-school and secondary education institutions, both those established by religious organizations and communal and state institutions, are equally bound by the provisions of the relevant standards and typical curriculum and programs approved by the Ministry of Education and Science. These plans contain indicative lists of subjects and branch courses, detailed descriptions of forms of the organization of the educational process, descriptions of evaluation tools, and the like.

The legislation also determines that pre-school and secondary education institutions can conduct educational activities exclusively based on a license issued by a licensing authority, provided that all licensing conditions are met. In addition, the state has created a special central executive body, the State Education Quality Service of Ukraine, which conducts institutional audits composed of a comprehensive external inspection and an evaluation of the quality of educational activities. It is worth noting that no special features apply to the institutions established by religious organizations in these matters.

Some peculiarities persist in the composition of the founders of a private or corporate educational institution. Said founder cannot be either an individual who is the citizen of the state recognized by the Verkhovna Rada of Ukraine as an aggressor or occupant state or a legal entity with foreign investment originating from an aggressor or occupant state, incorporated in the aggressor or occupant state, or whose end beneficiary (controller) is a resident of the aggressor or occupant state. The decree of the Parliament of Ukraine¹⁴ recognized the Russian Federation as an aggressor state.

¹⁴ Postanova Verkhovnoyi Rady Ukrainy Pro Zvernennya Verkhovnoyi Rady Ukrainy do Orhanizatsiyi Ob'yednanykh Natsiy, Yevropeys'koho Parlamentu, Parlament-s'koyi Asambleyi Rady Yevropy, Parlament-s'koyi Asambleyi NATO, Parlament-s'koyi Asambleyi OBSYE, Parlament-s'koyi Asambleyi HUAM, natsional'nykh parlamentiv derzhav svitu pro vyznannya Rosiy's'koyi Federatsiyi derzhavoyu-ahresorom, 27.01.2015, No. 129-VIII. <https://zakon.rada.gov.ua/laws/show/129-19#n9> [accessed: 30 July 2022].

The requirement of “secular” education thus applies only to state and communal institutions. At the same time, private institutions of secondary and pre-school education formed by religious organizations are allowed to have a religious orientation of educational activities, but they are not obliged to have it. In other words, the “secularity” of secondary and pre-school education can be ensured both by state and municipal educational institutions and by those formed by religious organizations. The legislative provisions do not limit but instead create additional eligibility for institutions established by religious organizations, in particular, the possibility to determine the religious orientation of the educational process and to attract both students and employees to participate in events arranged by religious organizations. In addition, the prohibition on limiting the right to obtain an education based on belonging or not belonging to religious organizations applies only to state and communal educational institutions (Art. 31 part 6 of the Law on Education), not to private ones. Constituent documents may therefore contain such requirements for applicants of institutions formed by religious organizations, which state and communal institutions are not entitled to provide.

2. The dualism of higher theological education

While divinity, the philosophy of religion, and religious studies all undertake the study of religion,¹⁵ the subject of each field of study differs within the common object. Similarly, educational and scientific degrees, courses, and subjects of study also differ in names and content.

Specifically, divinity studies religion “inwardly,” from the position of a particular church or other religious organization. It fulfills the goal of professional training of candidates for pastoral ministry and specialists in other areas of church activity; therefore it cannot be non-confessional or “independent.” Students of divinity in the system of higher religious education, where higher educational institutions are directly subordinated, are under special supervision and coordinate their activities with relevant church institutions.

¹⁵ Khromets 2019, 78.

In the Ukrainian language, two terms are used interchangeably to denote the study of God and everything related to him: “theology” and “divinity.” Recently, however, the term “divinity” has been used more frequently in legal acts and other official documents of the state and only when translated into English, including in the Unified State Electronic Database on Education when specifying this program subject area, is the term “divinity” translated as “theology.” That is why in this article, the authors are using the more universal term “theology.” Also, any reference to divine, theological, or spiritual education connotes higher education, as opposed to religious education, which refers to primary and secondary education.

Other sciences and fields of knowledge have a denominationally neutral nature of the study of religion, and the study itself is not related to the preparation of clergymen. The normatively approved list of fields of studies and program subject areas for which higher education students are trained includes the subject area of “religious studies,” classified as humanist studies, and “philosophy” only a part of which pertains to religion. Ukraine’s legal regulation of obtaining higher education in these subject areas is carried out within the general requirements for higher education and is not characterized by special features.

Obtaining higher theological education however has significant peculiarities and differences compared to the general order of regulation. This will therefore be a primary focus of the subsequent analysis.

In Ukraine, higher theological education has a dualistic structure. On the one hand, according to the Law on Freedom of Conscience and Religious Organizations, spiritual educational institutions can be formed as a type of religious organization. On the other hand, under the provisions of the Law on Education and the Law on Higher Education,¹⁶ institutions of higher education can be formed with both state and communal forms of ownership as well as private ownership; those institutions can train higher education students majoring in theology. Theological education is denominational in character and generally available.¹⁷

¹⁶ Law of Ukraine “On Higher Education,” Bulletin of the Verkhovna Rada (BVR), 1.07.2014, No. 38–39, Article 2004. Official English translation. <https://zakon.rada.gov.ua/laws/show/en/1556–18#Text> [accessed: 30 July 2022].

¹⁷ Khromets 2018a, 239.

The first type of educational institution is formed by religious administrations and focuses primarily on the training of clerics and other religious ministers. Such institutions operate in accordance with their constituent documents (charters) and their hierarchical and institutional structure. In Ukraine, the procedure for creating a religious organization is regulated by the Law on Freedom of Conscience and Religious Organizations¹⁸ and the Law on State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations.¹⁹ The general procedure for the formation of religious organizations is complicated, prompting some commentators to point out the “ineffective dialog between the government and society,”²⁰ although in fact it is the result of the imperfection of the special regulations of the Law on Freedom of Conscience and Religious Organizations, which specify that religious and spiritual educational institutions can operate only as registered legal entities.²¹

Religious educational institutions apply their statutes (regulations) for the State Service of Ukraine for Ethnopolitics and Freedom of Conscience for registration, and the result of the registration procedures is the inclusion of a religious organization in the United State Register of Legal Entities, Individual Entrepreneurs, and Public Organizations. The type of registered religious organization (spiritual educational institution), and its religious affiliation is indicated among other relevant information.

As a general rule, religious educational institutions, which are registered as religious organizations, are aimed at training priests and other ministers “for the internal needs” of the church. Such institutions provide educational services in accordance with the requirements of the church, but without obtaining a license and passing accreditation. Their programs do not necessarily meet state standards for conducting educational activities at any level. Diplomas and other educational documents issued by such

¹⁸ Law of Ukraine “On Freedom of Conscience and Religious Organisations,” Bulletin of the Verkhovna Rada (BVR), 23.04.1991, No. 25, Article 283. Official English translation. <https://zakon.rada.gov.ua/laws/show/en/987-12#Text> [accessed: 30 July 2022].

¹⁹ Law of Ukraine “On State Registration of Legal Entities, Individual Entrepreneurs and Public Organisations,” Bulletin of the Verkhovna Rada (BVR), 15.05.2003, No. 31–32, Article 263. Official English translation. <https://zakon.rada.gov.ua/laws/show/en/755-15#Text> [accessed: 30 July 2022].

²⁰ Sopilko, Vozniak 2013, 76.

²¹ For the registration procedure, see: Bilash 2019.

institutions are not recognized by the state as higher education diplomas, so their graduates can work (serve) only in religious organizations, parishes, centers, dioceses, and the like.

According to official statistics, as of 2021, there were 139 religious educational institutions in Ukraine. In terms of denominations, the largest number of higher religious educational institutions were formed by Baptist religious organizations (42), the Orthodox Church of Ukraine (26), the Ukrainian Orthodox Church – in unity with the Moscow Patriarchate (18), the Ukrainian Greek Catholic Church (16), the Christians of the evangelical faith (16), the Roman Catholic Church in Ukraine (10),²² and others.

The second type of educational institution is formed in accordance with the provisions of the Law on Education and the Law on Higher Education. Religious organizations can form institutions of higher education of the same status as other private law entities. In addition, the Law on Education establishes the possibility of private institutions, especially those founded by religious organizations, to act as a non-profit educational institution, in particular to be exempt from paying income tax.²³

Theological higher education in the “List of fields of studies and program subject areas for which higher education applicants are trained”²⁴ is reflected in position code 041, “theology.” In 2015, the government expanded the possibilities of the program subject area and provided for it a separate field of studies with the same name, “theology.” Previously, it was alternately part of philosophy or humanist sciences. Modern approaches to the understanding of theology testify however that theological study is not limited either to the humanist sciences or to the natural studies but is instead a more or less defined special kind of study that provides the basis for humanism and philosophy; it is not reduced to them.²⁵

²² Report on the network of religious organisations in Ukraine as of January 1, 2021. <https://dess.gov.ua/statistics-2020/> [accessed: 30 July 2022].

²³ Bilash, Karabin 2020, 69–73.

²⁴ Postanova Kabinetu Ministriv Ukrainy Pro zatverdzhennya pereliku haluzey znan' i spetsial'nostey, za yakymy zdiysnyuyet'sya pidhotovka zdo buvachiv vyshchoyi osvity, 29.04.2015, No. 266. <https://zakon.rada.gov.ua/laws/show/266-2015-п#Text> [accessed: 30 July 2022].

²⁵ Alexandr Filonenko. *Bogosloviye v universitete: vozvrashcheniye?*. <https://www.polit.ua/lectures/2010/11/22/filonenko.html> [accessed: 25 July 2022].

At the same time, scientific degrees in Ukraine, which were approved back in 2011 by the Order of the Minister of Education and Science, Youth and Sports²⁶), include “theology” together with religious studies as a philosophical science. This inconsistency has led to the fact that degrees in divinity are conducted in the field known as “theology” and scientists are awarded the title of Doctor of Sciences in the field of “philosophy.”

Higher religious education institutions are determined to meet the same requirements as other higher education institutions. Educational programs undergo licensing and accreditation, and programs and the educational process must meet educational standards. The list of requirements that must be fulfilled by the institution of higher education is determined by the license conditions, and faculty members, technological, material and technical conditions, and adaptations for teaching people with special needs must meet specific qualification requirements. Although accreditation is voluntary, a document on higher education in Ukraine is issued only to an educational program that meets its standards. In addition, the accreditation body is indicated in the document, and accreditation certificates or decisions are attached to it.

The set of requirements for educational programs, which are common to all institutions, contains the standards of educational activity. The standard of higher education determines the requirements for the level of education of persons who can begin studying under the program and the results of their studies, the list of mandatory competencies of the graduate, forms of attestation of applicants, and the like. Unfortunately, however, the “theology” program subject area has a standard of higher education only at the bachelor’s level of higher education.²⁷ This means that institutions are deprived of relevant guidelines that they must follow and which must be accomplished in order to successfully pass the accreditation procedures.

²⁶ Nakaz Ministerstva Osvity i Nauky, Molodi i Sportu Ukrayiny Pro zatverdzhennya Pereliku naukovykh spetsial'nostey, 14.09.2011, No. 1057. <https://zakon.rada.gov.ua/laws/show/z1133-11#Text> [accessed: 30 July 2022].

²⁷ Nakaz Ministerstva Osvity i Nauky Ukrayiny Pro zatverdzhennya standartu vyshchoyi osvity zi spetsial'nosti 041 Bohoslov'ya dlya pershooho (bakalavrs'koho) rivnya vyshchoyi osvity, 30.12.2021, No. 1483. https://osvita.ua/legislation/Vishya_osvita/85448/ [accessed: 30 July 2022].

Presently, the entrance campaign to the bachelor's degree is offered by nine educational institutions, including the Ukrainian Catholic University, the Volyn Orthodox Theological Academy of the Ukrainian Orthodox Church of the Kyiv Patriarchate (the name according to the Unified State Electronic Database on Education), Yuriy Fedkovych Chernivtsi National University, and the Kyiv Orthodox Theological Academy. Six educational institutions offer a master's degree. It is worth noting that there is no tuition assistance for either bachelor's or master's degrees, so individuals (or their legal entities) must pay all educational expenses themselves.

3. Interactions between higher education majoring in “theology” and higher spiritual education

Despite the supposedly independent existence of two types of theological education (the one that results in state diplomas and the one that is focused exclusively on the needs of religious organizations), they are connected with each other, even quite closely in some directions. Changes to the legislation adopted in recent years, according to most researchers and specialists, overcome “the gap between the secular and spiritual systems of higher education.”²⁸

The first touchpoint and correlation of the two systems of higher education is related to the granted right of higher religious education institutions to undergo state accreditation and licensing in order to provide graduates with a state standard education and state model diplomas with the possibility of further employment in the secular sphere or to engage in scientific activity. This possibility has been provided since September 6, 2014 (the time of entry into force of the new Law on Higher Education), not only in relation to the program subject area 041 (“theology”) but also other specialties for which candidates are or may be trained. In other words, if institutions of higher religious education wish to issue standard state diplomas and enter information about the diplomas issued by them into the Unified State Electronic Database on Education, they must go through the licensing and accreditation procedure of the educational program.

²⁸ Khromets 2018b, 114.

Additionally, the Licensing Conditions for Conducting Educational Activities determine that legal entities under public or private law acquire the status of a higher education institution after obtaining a license.²⁹ This means that institutions of higher religious education, which are traditionally registered in accordance with the provisions of the Law on Freedom of Conscience and Religious Organizations as religious organizations, after obtaining a license acquire the status of an institution of higher education and can function as a university, academy, institute, or college.

This stance of the legislator is justified from the point of view of equalizing the rights of educational institutions and eliminating discrimination. In this case, however, the relationship between the concepts “institution of higher education” and “institution of higher religious education” is not completely clarified. The legislation does not contain provisions that would explain this relationship, and special literature also avoids this issue.

In the authors’ opinion, “institution of higher education” and “higher institution of religious education” are concepts whose meaning does not intersect. Therefore, an educational institution, having received the status of an institution of higher education, does not cease to be a higher institution of religious education. Otherwise, it becomes problematic to interpret the provisions of the Law on Higher Education regarding:

- independence of higher education institutions, student self-government bodies from political parties, public and religious organizations (except institutions of higher religious education) (Art. 3, 32, 40 of the Law on Higher Education);
- the administration of institutions of higher religious education taking into account the peculiarities of its activities in accordance with the legislation (Art. 13 para. 3 of the Law on Higher Education);
- the right to regulate the appointing the heads of the institutions of higher religious education by their statutes (provisions) and not by the Law on Higher Education (Art. 42 of the Law on Higher Education).

The second touchpoint between higher education and higher religious education is related to the state recognition of documents on higher

²⁹ Postanova Kabinetu Ministriv Ukrainy Pro zatverdzhennya pereliku haluzey znan' i spetsial'nostey, za yakymy zdiysnyuyet'sya pidhotovka zdobuvachiv vyshchoyi osvity, 29.04.2015, No. 266. <https://zakon.rada.gov.ua/laws/show/266-2015-п#Text> [accessed: 30 July 2022].

religious education, scientific degrees, and academic ranks. The legislation provides for two methods and possibilities of recognition. The first option concerns the procedure for licensing and accreditation of the educational program majoring in “theology,” the creation and operation of post-graduate studies, doctoral studies, and specialized academic councils in the field of studies “theology.” In this case, documents on higher education, scientific degrees, and academic ranks of faculty members and members of the specialized academic council issued by institutions of higher religious education are considered equivalent to state documents. This norm is a step toward religious organizations,³⁰ but recognition is situational and *ad hoc*.

The next possibility concerns the full recognition of documents on higher religious education, scientific degrees, and academic ranks issued by institutions of higher religious education, regardless of the reason for such recognition. Such recognition is possible only for individual documents, however. In the former version of the text of the Procedure for State Recognition of Documents on Higher Religious Education,³¹ it was assumed that the documents issued by the date of entry into force of the Law on Higher Education are subject to recognition, namely issued until September 6, 2014. Such a decision has been made due to the fact that this law gave the right to religious educational institutions to carry out licensing and accreditation of their own educational programs. Because at least three to four years must pass from recognition of the right to obtaining a diploma under an accredited program, however, changes were made to the resolution mentioned above. Accordingly, at the moment, the right to recognize documents of higher religious educational institutions is available to persons who, by September 1, 2018, received their education, defended their thesis, and received academic ranks.

While the possibility of recognition of diplomas was a long-awaited event in the religious environment of Ukraine, such recognition carries some risks for the sustainability of social relations in the field of education and state control over the quality of education. Despite the limited time

³⁰ Khromets 2018c, 126.

³¹ Postanova Kabinetu Ministriv Ukrainy Pro zatverdzhennya pereliku haluzey znan' i spetsial'nostey, za yakymy zdiysnyuyet'sya pidhotovka zdobuvachiv vyshchoyi osvity, 29.04.2015, No. 266. <https://zakon.rada.gov.ua/laws/show/266-2015-п#Text> [accessed: 30 July 2022].

frame (until 2018), the issue of the relevance of equalizing issued diplomas remains open in terms of the fact that the conditions for admission and completion of studies are profoundly different. In addition, there is weak state control and reporting of religious organizations on diplomas issued until 2018.

The impossibility in any case of recognizing educational diplomas issued after 2018 by religious organizations in Ukraine marginalizes certain religious groups. In particular, the Ukrainian Orthodox Church (in unity with the Moscow Patriarchate) invariably refuses to accredit its educational programs. Its graduates are therefore limited in choosing their place of employment, unless they become clergymen of the same denomination. Instead, the state, in the light of recent events, should promote assimilation. The legislative regulation of the recognition of diplomas issued after September 1, 2018, is one such possible measure in this direction.

4. The influence of religious organizations on institutions of higher education

As already noted above, educational activities in Ukraine are carried out on the basis of the principle of non-interference of religious organizations in the educational process defined by the Law on Education. An exception is established only for private educational institutions, in particular those founded by religious organizations, which have the right to determine the religious orientation of their own educational activities. State and communal institutions must carry out their educational activities equidistant from religious organizations, denominations, and directions, even when providing educational services in the field of “theology.”

In practice, however, institutions fail to fully implement these legislative provisions, and religious education closely interacts with religious organizations.³² A deeper delve into the peculiarities of the understanding of divinity in Ukraine is necessary to explain the reasons for this. Despite the attempts to justify and distinguish between the concepts of “secular

³² Khromets 2018c, 126.

divinity” and “denominational divinity”³³ the prevailing position is that a divine must belong to one of the denominations and can only develop denominational theology. Divinity is understood to belong to a particular denomination, which in terms of content is Orthodox divinity, Catholic divinity, Protestant divinity, Sunni divinity, Shiite divinity, etc. Further distinctions are made that highlight the divinity of the Helladic Orthodox Church, the divinity of the Georgian Orthodox Church, and more specifically, for example, the Orthodox divinity of the Kyiv Theological Seminary of the Ukrainian Orthodox Church.³⁴

The corresponding approach leads to the fact that *de facto* higher theological education cannot be separated from religious organizations whether it is obtained in private educational institutions or in public or communal institutions. The confessional nature of divinity is clearly manifested in the content of academic courses. From the formal side, the influence of religious organizations on institutions of higher education is evident in the establishment of the educational process in several ways.

First, the faculty members in state educational institutions on educational programs in the field of “theology,” in addition to being lay persons may also be spiritual persons who have the necessary scientific degrees and titles or have at least received recognition of their scientific achievements from the state. In practice, each of the educational institutions of Ukraine (state institutions of higher education that have passed licensing and accreditation) has chosen to prioritize cooperation with a certain religious organization.

Second, representatives of the clergy are included in the supervisory boards of educational institutions that train theologians. For example, the bishop of the Orthodox Church of Ukraine, the Metropolitan of Lutsk and Volyn Mikhail, joined the supervisory board of the Lesya Ukrainka Eastern European National University. The Patriarch of Kyiv and All Rus-Ukraine, head of the Ukrainian Orthodox Church of the Kyiv Patriarchate Philaret, has been elected an Honorary Doctor of the Yury

³³ Yuriy Vestel. *Teolohiya yak nauka i predmet vykladannya: na shlyakhu do kontseptsyi svit-s'koyi teolohichnoyi osvity v Ukrayini*. <http://www.religion.in.ua/main/daycomment/11403-teologiya-yaknauka-i-predmet-vykladannya-na-shlyaxu-do-koncepciyi-svit-skoyiteologichnoyi-osviti-v-ukrayini.html> [accessed: 25 July 2022].

³⁴ Khromets 2019, 77.

Fedkovich Chernivtsi National University. The head of the Orthodox Church of Ukraine, His Beatitude Metropolitan Epiphanius of Kyiv and All Ukraine, was elected as an Honorary Doctor of the National University Ostroh Academy.

Third, in order to expand the scope of professional activity of graduates and their future employment and to arrange the educational process, universities enter into agreements with religious organizations and educational institutions created by religious organizations. An example can be the agreement concluded by the Yury Fedkovich Chernivtsi National University that created joint educational and scientific activities and conditions for the training of specialists with a higher education in the field of “theology” and the program subject area “theology” with the Kyiv Patriarchy of the Ukrainian Orthodox Church (Kyiv Patriarchate) and the Kyiv Orthodox Theological Academy. According to the terms of such agreements, graduates of state educational institutions in the program subject area 041, “theology,” have the opportunity not only to hold the positions of scientific employees, teachers, administrative, and managerial positions in secondary and higher educational institutions and scientific institutions but also to serve in parishes as clergymen or, after ordination, as priests.³⁵

Conclusions

Religious organizations in Ukraine are not excluded from the educational space of both secondary and pre-school education, as well as higher education. The degree of autonomy of religious organizations from the Ministry of Education and Science in conducting educational activities distinguishes at various levels of education and in different educational institutions, however.

At the level of pre-school and general secondary education, religious organizations can be the founders of private institutions, which are allowed

³⁵ Chernivets'kyy natsional'nyy universytet imeni Yuriya Fed'kovycha provodyt' pidhotovku fakhivtsiv za litsenzovanyimi osvithnimy proqramamy spetsial'nosti 041 “Bohoslov”ya” za osvithnim rivnem bakalavra ta mahistra. https://bogoslav.cv.ua/index.php?id=2301&action=art&fbclid=IwAR3Ms4nNLb1VicWD684xO1Ng2Upb_TgmldPP-48TGaBCY8PFqI24ZCzrwTc [accessed: 25 July 2022].

by legal provisions to introduce a religious focus to the educational process. At the same time, in the state-standardized pre-school and secondary education in all institutions, regardless of the owner and type of institution, the state retains overall responsibility and control over secondary education, and therefore the scope of autonomy in the provision of educational services at this level is sufficiently narrow.

At the level of higher education, the rights of religious organizations depend on the type of educational institution. The educational policy of institutions of higher religious education is determined by the religious organizations that formed them. The state does not determine the election procedure, does not influence the appointment of heads of such institutions, and does not regulate the activities of student self-government. The content of the educational process itself is affected only if the educational program is licensed and accredited and if the institution issues state diplomas. Otherwise, the educational process is carried out under the control of the religious organization itself.

State and municipal institutions of higher education, which train specialists in the program subject area “theology,” are under the aegis of the Ministry of Education and Science. In this case, however, religious organizations, denominations, and religious trends influence the substantive aspects of education. Such “cooperation” of churches with educational institutions is based on the need for the former to determine or at least influence the content of the training of their future ministers; for educational institutions cooperation is a powerful tool for ensuring the employment of graduates of educational programs, and, respectively, affects directly the number of applicants.

Among the legislative proposals that would improve the quality of education and cooperation between the state and religious organizations is the regulatory definition of the term “religious education” and its components. A further fundamental issue that should be regulated at the state legislative level is the use of religious symbols in private and public educational institutions (starting from kindergarten and ending with the theological faculties of higher education institutions).

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