

## Funding of the activities of religious organizations in Ukraine

Finansowanie działalności organizacji religijnych na Ukrainie

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**Abstract:** This article is devoted to the legal regulations pertaining to funding the activities of religious organizations in Ukraine. First, the analyses concern the direct financing of religious organizations from public funds (funding from the state budget programs for the restoration of religious architectural monuments, as well as the educational subventions that can be directed to private institutions of secondary education founded by religious organizations). However, financing religious organizations is also possible from other public funds, particularly local self-government budgets. The so-called “indirect” funding of religious organizations takes the form of tax benefits, discounts on natural gas and electricity, as well as free transfer of property. The analyses concerning the self-funding of religious organizations are focused on voluntary donations made by faithful as well as the economic activity of enterprises founded by religious organizations. The considerations aim to facilitate the choice of possible directions and types of activity of religious organizations, taking the provisions of financial law into account.

**Key words:** religious organizations; financing of religious communities; religious architectural monuments; tax benefits

**Streszczenie:** Artykuł poświęcony jest unormowaniom prawnym dotyczącym finansowania działalności organizacji religijnych na Ukrainie. Prowadzone analizy odnoszą się w pierwszym rzędzie do bezpośredniego ich finansowania ze środków publicznych (finansowanie z budżetu państwa programów renowacji zabytków architektury sakralnej, a także udzielanie dotacji oświatowych, które mogą być kierowane do niepublicznych szkół średnich, tworzonych przez organizacje wyznaniowe). Finansowanie działalności organizacji religijnych możliwe jest jednak również z innych środków publicznych, w szczególności z budżetów samorządów terytorialnych. „Pośrednie” finansowanie podmiotów religijnych przybiera natomiast postać ulg podatkowych, zniżek na gaz ziemny i energię elektryczną, a także nieodpłatnego oddawania nieruchomości w użytkowanie. Rozważania dotyczące samofinansowania działalności organizacji

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religijnych skoncentrowano na dobrowolnych datkach składanych przez parafian, a także na działalności gospodarczej przedsiębiorstw zakładanych przez organizacje wyznaniowe. Całość przeprowadzonych analiz zmierza do ułatwienia wyboru możliwych kierunków i rodzajów działalności organizacji wyznaniowych z uwzględnieniem obowiązujących przepisów prawa finansowego.

**Słowa kluczowe:** organizacje religijne; finansowanie wspólnot religijnych; zabytki architektury sakralnej; ulgi podatkowe

## Introduction

Funding of religious organizations' activities in accordance with the national legislation of different states is carried out in various ways; however, the funding rules established by a certain state are an obvious indicator of the "state's attitude towards church institutions."<sup>1</sup> Depending on how the issue of funding is regulated, the activity of religious organizations is formed and their development strategies, relationships with the state, local self-government bodies, civil society subjects and citizens are determined.

Distinctions in the regulation relate mainly to the ability or inability of religious organizations to receive funds from public funds: the state budget or local self-government budgets. Some European states and states that chose the European path of development<sup>2</sup> permit and entail state financing of churches and other religious communities, provide the obligation or the possibility of paying a church tax<sup>3</sup> or contribution<sup>4</sup> and finance the salaries of priests<sup>5</sup> and church expenses from state budgets. Other states, even religiously homogeneous (particularly Poland), stipulate "the rule of self-funding" for the church.<sup>6</sup>

In Ukraine, the main legal provision on which the rules and system of funding religious organizations are based is Article 5 of the Law on Freedom of Conscience and Religious Organizations:

[...] The Church (religious organizations) in Ukraine shall be separated from the State. [...] The State shall not interfere in the legitimate activities of religious

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<sup>1</sup> Bilash 2014, 172.

<sup>2</sup> Gegenava 2019, 123.

<sup>3</sup> Robbers 2019, 120.

<sup>4</sup> Potz 2019, 454.

<sup>5</sup> Moravčikova 2019, 599.

<sup>6</sup> Stanisz 2020, 125.

organizations and shall not finance the activities of any organizations established on the basis of their attitude to religion [...] Religious organizations shall not perform State functions [...].<sup>7</sup>

At the same time, the network of religious organizations in Ukraine is quite extensive. As of October 2022, 26,549 legal entities with the organizational and legal form code “Religious organization” have been registered in the United State Register of Individual Entrepreneurs and Public Organisations,<sup>8</sup> without taking into account educational institutions and enterprises formed by religious organizations, which are displayed in the register under other codes of organizational and legal forms. Each of these legal entities is developing and strives to use the permitted methods and forms of funding.

Therefore, for the Ukrainian law on religion and its study, it is not relevant to analyse the directions of possible funding of religious organizations. The issue of highlighting and justifying the foremost directions and types of activities of religious organizations that would allow them to fulfil their tasks and evolve as efficiently as possible under the current provisions of financial law using permitted financial instruments is significant and practically useful.

In general, the concept of funding involves activities related to providing the entity with monetary means. Sources of funding can be monetary assets from the state and local budgets, own funds (self-financing), credit resources and other funds from citizens and legal entities.<sup>9</sup> Hence, it is advisable to conduct further analyses depending on the source of funding.

## 1. Financing religious organizations from public funds

The constitutional provisions that “the Church and religious organizations in Ukraine shall be separated from the State [...]” (Article 35(3) of

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<sup>7</sup> Law of Ukraine No. 987-XII of April 23, 1991, Official Bulletin of the Verkhovna Rada of the Ukrainian SSR [later Official Bulletin of the Verkhovna Rada of Ukraine, hereinafter: BVR], 1991, No. 25, Art. 283.

<sup>8</sup> Statistics from the official website of the State Service of Ukraine for Ethnopolitics and Freedom of Conscience. <https://dcss.gov.ua/statistics-rel/> [accessed: 30 June 2023].

<sup>9</sup> Voronova (red.) 2011, 530.

the Constitution of Ukraine of 1996),<sup>10</sup> as well as the provisions of the Law on Freedom of Conscience and Religious Organizations that “the State [...] shall not finance the activities of any organizations established on the basis of their attitude to religion,” give grounds for considering that no flow of funds from public funds to religious organizations is possible under Ukrainian legislation. However, this is not entirely accurate.

Indeed, budget legislation foresees and implements, in practice, certain cases when religious organizations receive assets from public funds (funding of cultural heritage sites, social protection programs and secondary education), and the state provides “support” that indirectly benefits religious organizations (as a consequence of tax benefits under tax legislation). Such provisions of special legislation form a potential conflict with constitutional provisions and the Law on Freedom of Conscience and Religious Organizations. Therefore, it requires separate coverage and analysis.

In the system of Ukrainian legislation, the Budget Code of Ukraine<sup>11</sup> is a normative act that defines the legal basis for the functioning of the budget system, the basics of the budget process and inter-budgetary relations. It demarcates and clearly defines what budget expenditures of different levels can be directed to (Articles 87–91 of Chapter 14). However, among the possible directions of funding, the provisions of this code do not stipulate the possibility of making expenditures on the maintenance of religious organizations from any budget at any level. However, at the same time, the possibility of state support of civil society institutions – in particular, youth and children’s public organizations and public associations of persons with disabilities and veterans – is entailed.

Here, of course, it is necessary to distinguish between programs and funds, which may be aimed at the development of freedom of conscience and religion in general but are not aimed at financing religious organizations. In particular, the State Committee of Ukraine for Nationalities and Religions receives, from the state budget of Ukraine under the budget program “Measures related to ensuring freedom of conscience and religion,” assets that are directed to conducting seminars and conferences,

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<sup>10</sup> BVR, 1996, No. 30, Art. 141.

<sup>11</sup> Budget Code of Ukraine: Law No. 2456-VI of August 07, 2010. BVR, 2010, No. 50–51, Art. 572, hereinafter: BCU.

renting premises, spending on polygraphy and printing materials related to the topic of freedom of conscience and religion.<sup>12</sup>

By which means can budget funds be directed towards the development of religious organizations? The norms of the Budget Code of Ukraine foresaw the possibility of funding programs from both the state and local self-government budgets in various spheres and directions of public life: in the field of education, culture, art, social sphere, support of book publishing and others. Consequently, funds can be allocated *de facto* from the state budget for programs of architectural monument restoration, including those that are owned or used by religious organizations (Article 87(14.1) BCU). Local budgets can finance general secondary education in private institutions, including those established by religious organizations (Article 89(2.1) BCU); programs of local significance for children, youth, women and families, including support activities of youth centres, regardless of who has established such centres (Article 91(3.a.1) BCU); local programs of social protection of certain categories of the population, to which religious organizations can join (Article 91(3.b.1) BCU); and others.

It is also crucial that the Budget Code of Ukraine does not contain an exhaustive list of local self-government programs that can be financed from the budgets of local self-government bodies. All programs related to the exercise of the powers of local self-government bodies and approved by the relevant council may, in accordance with the law, be financed by local funds. This position of the lawmaker has offered an opportunity for local self-government bodies to approve programs for the support of religious communities, allocate funds within the framework of the approved programs for the refurbishment, reconstruction, improvement of religious buildings and the purchase of building supplies and other goods, church utensils, icons, etc.,<sup>13</sup> hold spiritual retreat camps, support the youth

<sup>12</sup> Order of the State Committee of National Religions of Juni 3, 2008, No. 19. <https://zakon.rada.gov.ua/laws/show/z0250-08#Text> [accessed: 30 June 2023].

<sup>13</sup> Pro zatverdzhennya Prohramy pidtrymky relihiynykh hromad "Dukhovnist' hromady" na 2018–2020 roky. Rishennya Davydivs'koyi sil's'koyi rady ob'yednanoyi terytorial'noyi hromady L'vivs'koyi oblasti № 1496–20/2018 vid 05.03.2018 roku. <https://data.gov.ua/dataset/3b7624d3-1a88-469e-a6b5-f6add6b04421/resource/4535ed01-770f-4dce-8cb4-c686729b4997/download/1496-programa-reliigiini-gromadi.pdf> [accessed: 30 June 2023].

movement, hold cultural events dedicated to religious holidays and official dates, renovate the territory around the church building<sup>14</sup> and other similar events.

The introduction of the “public budget” or “participation budget” in some cities of Ukraine contributed to the expansion of opportunities for numerous influential religious organizations to receive funding for the implementation of projects. This tool provides an opportunity for residents of the territorial community to participate in distributing local budget funds through the setup of projects and voting for them. In Ukraine, it has not yet fallen under the legislation; however, local self-government bodies approve regulations that determine the detailed procedures for initiating, considering, voting and implementing the public budget; they can also determine the local budget share directed to the implementation of projects initiated and supported by residents. The regulations do not define an exhaustive list of areas of expenditure that can be funded through the public budget; projects can be educational, youth, infrastructural or sporting, and they can also have religious targeting. The prohibition is imposed only on the financing of communal institutions. This practice has been developed in many communities of the country but, in fact, is not actively used by religious organizations.<sup>15</sup>

State funding of religious organizations can be indirectly discussed within the scope of secondary education institution funding, including private ones established by religious organizations. In particular, such funding is carried out with the use of educational subvention; in other words, it is the transfer of funds from the state budget to local self-government budgets for the payment of teaching staff based on the number of students who study. In Ukraine, starting in 2019, the principle of “money per student” was introduced.<sup>16</sup> This

<sup>14</sup> Pro zatverdzhennya Tsil'ovoyi prohramy “Dukhovne zhyttya” na 2021–2025 roky. Rishennya Yamnyts'koyi sil's'koyi rady Ivano-Frankivsk'koyi oblasti vid 23 hrudnya 2020 roku. <https://yamnytsya-otg.if.ua/viii-demokratychno-sklykannya/> [accessed: 30 June 2023].

<sup>15</sup> For instance, only in the Ivano-Frankivsk territorial community, projects of a religious direction take part in the participation budget contests: in 2022, the project “Architectural lighting of the Church of the Descent of the Holy Spirit” and “External improvement of the Church of the Epiphany” was carried out in the amount of 100,000 UAH each; the projects “Construction of the Catechetical Center of the Ascension of the Lord UGCC” (300,000 UAH) and “Restoration of the wooden church of St. Dmitri in Pasichnaya” (135,000 UAH) participated in the competition, but did not win.

<sup>16</sup> See: Bilash, Karabin 2022a, 112.

principle enables private educational institutions, including those founded by religious organizations, to receive funding. Therefore, every year, a standard of budgetary security of funding per student is established, and regardless of whether the student studies in a communal school or a private school founded by religious organizations, a fixed amount of assets is transferred from the state budget to the local self-government budget over the location of the school.<sup>17</sup> Direct financing of a secondary education institution is carried out from the budgets of rural, settlement and urban territorial communities (Article 89(2.1) BCU); if it is a private school, financing is upon application of the institution. This means that a private institution of secondary education can choose to receive funds from public funds (which will result in consequences such as reporting, state control over the targeted use of budget funds, inspections, etc.) or may not take advantage of this opportunity. In 2023, 236 private schools, or 67% of the total number of private schools in Ukraine (325 schools),<sup>18</sup> have become the recipients of educational subsidies. Unfortunately, official statistics do not specify information about institutions founded by religious organizations.

Such an example of state funding of religious organizations can be considered indirect, first, because the funds are transferred from the state budget through local budgets to the recipients of subventions, second, because the funds are not received by religious organizations but by secondary education institutions, and the funds themselves have a target orientation: teaching staff salaries and, third, because receiving a subvention is voluntary and is carried out at the discretion of the educational institution.

The given example of state funding does not deny or replace the possibility of financing private institutions, including those established by religious organizations, from local self-government budgets. This practice was carried out in certain territorial communities before the introduction of state support (2019).<sup>19</sup> After the introduction of state educational

<sup>17</sup> In 2023, the standard of budgetary security per student is 9,517 hryvnias per year; for private schools, it is calculated with a coefficient of 0.8.

<sup>18</sup> *Mayzhe 6 mlrd. hrn. zalyshkiv osvitynikh subventsiy bude mozhylyvo spryamuvaty na pidtrymku hromad pid chas voyennoho stanu.* <https://decentralization.gov.ua/news/14713> [accessed: 30 June 2023].

<sup>19</sup> *Pro zatverdzhennya Prohramy nadannya finansovoyi pidtrymky doshkil'nyim ta zahal'noosvitnim navchal'nyim zakladam m. L'vova pryvatnoyi formy vlasnosti na 2017 rik.* *Rishennya L'vivs'koyi mis'koyi rady № 1810 vid 6.04.2017.* <https://dostup.pravda.com.ua/request/34340/>

subventions, it is not followed up, and in the conditions of the current war and the related budget shortfalls, it seems impossible from a practical point of view. However, the norms of budget legislation provide such a possibility, and the practice has already been developed.

Financing from public funds (both state and local budget) of restoration, renovation and refurbishment of church buildings and constructions that belong to architectural monuments is considered quite a common case. The Law on the Protection of Cultural Heritage<sup>20</sup> stipulates that the sources of funding for activities in the field of cultural heritage protection can be assets from the state budget of Ukraine, local budgets and assets from owners of monuments or persons who have acquired ownership rights, use or management of sites. However, as a general rule, the owner of the monument, the person who acquires the right to ownership, use or manage it, ensures the preservation, maintenance, restoration and refurbishment of the monument at his own expense, unless otherwise stipulated by the security agreement<sup>21</sup> or the law.

Thus, only those monuments that are of state importance can be financed from the state budget (Article 87(14.2) BCU), whereas local self-government budget expenditures can be directed to any objects of cultural heritage (Article 89(2) BCU). In 2021, the large-scale state program of the Ministry of Culture and Information Policy “Great Restoration” was started in Ukraine, but it was almost cancelled completely due to the war. This program also provides direct financing only for state-owned objects and subventions to local budgets for restoration work implementation only for communally owned cultural heritage monuments.<sup>22</sup>

Thereby, despite the legal provisions that the state does not provide funding for the activities of any organizations created on the basis of an attitude towards religion, such financing can and is practically carried

response/74433/attach/3/attachment.pdf [accessed: 30 June 2023]; Pro zatverdzhennya Prohramy nadannya finansovoyi pidtrymky doshkil'nym ta zahal'noosvitnim navchal'nym zakladam m. L'vova pryvatnoyi formy vlasnosti na 2018 rik. Rishennya L'vivs'koyi mis'koyi rady № 3406 vid 17.05.2018. <https://www.osvitalviv.com.ua/pro-zatverdzhennya-programi-nadannya-finansovoyi-pidtrimki-zakladam-doshkilnoyi-ta-zagalnoyi-serednoyi-osviti-m-lvova-privatnoyi-formi-vlasnosti-na-2018-rik/> [accessed: 30 June 2023].

<sup>20</sup> Law of Ukraine No. 1805-III of June 8, 2000, BVR, 2000, No. 39, Art. 333.

<sup>21</sup> The security agreement is a document that establishes the usage mode of a cultural heritage monument or its part.

<sup>22</sup> Bilash, Karabin, Savchyn 2021, 24.

out. However, the admissibility of such funding depends on the budget from which the assets are provided and the purpose. In Ukraine, the practice of funding (prohibition of funding) religious organizations from public funds does not have a long history; therefore, the issue of developing an appropriate doctrine and judicial practice is still a matter of the future. However, the doctrine and case law of the United States can be useful for Ukraine, where there is also a general prohibition on funding religious organizations by the state, but in some cases, depending on how and among whom such support is distributed, it can be implemented.<sup>23</sup> An important issue here is also the matter of equality and non-discrimination,<sup>24</sup> both in the allocation of funds and in the implementation process (employment of persons belonging to a certain religious group or a certain gender in the process of using budget funds). These questions are just beginning to be discussed and analysed in the Ukrainian scientific space.

In this context, the issue of the salary of chaplains who are on chaplain service of the state and at the same time do not cease to be representatives of churches, denominations and religious organizations is also relevant to the topic. However, in this case, the state finances the payment of the officials' salaries who are in the service of the Armed Forces of Ukraine or other formations and not the religious organizations whose representatives such officials are. Financing is provided for the implementation of the powers assigned to the chaplain by law and not for the activities determined by the religious organization. Of course, in this case, the administrative and canonical subordination of the priest chaplain is combined, but this combination does not apply to financial issues.

## 2. Self-funding of religious organizations

According to the conclusions of experts in the field of financial accounting, the income of religious organizations consists of received donations, fees for

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<sup>23</sup> See, for example: Cynthia Brougher. 2011. *Faith-based funding: Legal issues associated with religious organizations that receive public funds*, Congressional Research Service, February 9. [https://www.everycrsreport.com/files/20110209\\_R41099\\_1785e7dfbf07e732c5fda2f0829889ab4da3bd.pdf](https://www.everycrsreport.com/files/20110209_R41099_1785e7dfbf07e732c5fda2f0829889ab4da3bd.pdf) [accessed: 30 June 2023].

<sup>24</sup> Perez 2020.

the fulfilment of needs (providing services), income from public organizations and charitable funds, fees for the distribution (sale) of items of religious purpose, leased property (not for religious purposes) and property purchased in other ways that do not contradict the law (for example, under a gift contract, from inheritance under a will).<sup>25</sup> Legal researchers also conduct an analysis of different norms and emphasize that religious organizations are granted the right to receive income from different sources.<sup>26</sup>

Article 18 of the Law on Freedom of Conscience and Religious Organizations prohibits religious organizations from forcibly collecting money or taxing believers with instalments. However, they have the right to request and accept voluntary monetary and other donations. Moreover, as a rule, clergymen indicate that the voluntary donations of parishioners are the main source of assets for religious organizations.<sup>27</sup> It is complicated to confirm or deny this, as experts claim that it is impossible to assess the circulation of money in Ukrainian religious communities credibly. The estimated turnover, in particular, of Orthodox churches is based on indirect and anticipated economic indicators, not on the reporting of religious organizations themselves or official statistics.<sup>28</sup>

Why does this happen? Indeed, the content of financial accountability of religious organizations does not constitute a trade secret and is not proprietary information; therefore, it can be provided to employees, founders, copies of financial accountability, legal entities and individuals upon information request<sup>29</sup> in the way provided by the Law on Access to Public Information.<sup>30</sup> However, religious organizations, as non-profit organizations, submit simplified reporting and actually operate in the cash field. Commonly, through the official accounts of religious communities, only such operations as payment for land leases, public utilities and salary expenses are carried out. In addition, many workers of religious organizations are

<sup>25</sup> Glielova, Voloshan 2011.

<sup>26</sup> Tkachuk 2019.

<sup>27</sup> Epifaniy rozpoviv pro zarplaty svyashchenyiv i dokhody PTSU, Vysokyy Zamok, 5.06.2019. <https://wz.lviv.ua/news/391792-epifanii-rozpoviv-pro-zarplaty-sviashchenyiv-i-dokhody-ptsu> [accessed: 30 June 2023].

<sup>28</sup> Oleksandr Holubov. 2019. *Yak finansuyut'sya relihiyni hromady v Ukraini*, 22.01.2019. <https://www.dw.com/uk/церковна-франшиза-як-фінансуються-релігійні-громади-в-україні/a-47176766> [accessed: 30 June 2023].

<sup>29</sup> See: Bilash, Karabin 2022b, 201.

<sup>30</sup> Law of Ukraine No. 2939-VI of January 13, 2011, BVR, 2011, No. 32, Art. 314.

not officially employed; sometimes, even priests do not receive wages, and if they do, they are minimal,<sup>31</sup> and the vast majority of transactions involving the sale of religious goods or carrying out ceremonies are conducted in cash. All this cumulatively can testify to the double-entry bookkeeping of the religious organizations themselves.

Further to charitable donations, plenty of parishes also make money from the sale of candles, religious literature, icons and other church stuff. At the same time, the sale of candles is most profitable due to their low prime cost and the peculiarities of the Orthodox rite.

The self-funding of certain religious organizations also relies on the economic activity of enterprises founded by religious organizations. Regarding the types of activities that can be carried out by such enterprises, the provision of the Law on Freedom of Conscience and Religious Organizations establishes that “religious organizations [...] have the right to found publishing, printing, production, restoration and construction, agricultural and other enterprises, as well as charitable institutions (asylums, boarding schools, hospitals, etc.) that have the right of a legal entity” (Article 19(1)). These legal provisions have led to the fact that the opinions of researchers have been divided. Some consider that by doing so, Ukrainian legislation does not establish restrictions on the types of activities that enterprises, formed by religious organizations, have the right to carry out.<sup>32</sup> Others argue that not all types of activities are aimed at achieving the goals of creating religious organizations; the result of some types of activities is the direct accomplishment of the goal, and the result of other types only indirectly serves such an achievement.<sup>33</sup>

We believe that in this case, the lawmaker did not intend to limit religious organizations to the possible activities that could be carried out by the enterprises formed by them. The wording “to fulfill its statutory

<sup>31</sup> Mytropolyt Mykhayil rozpoviv, skil'ky zaroblyayut' svyashchennosluzhyteli. Internet-vydannya “BUH”, 23.04.2020. <http://bug.org.ua/news/mytropolyt-mykhail-rozpoviv-skil-ky-zarobliayut-svyashchennosluzhyteli-420145/> [accessed: 30 June 2023]; Denys Tarhons'kyy. *Kudy ydut' tserkovni hroshi, abo Pro pensyjne (ne)zabezpechennya dukhovenstva*. Nezalezhnyy internet-resurs “Relihiya v Ukrayini: mirkuy razom iz namy,” 26. 02. 2019. <https://www.religion.in.ua/main/analitica/42774-kudi-jdut-cerkovni-groshi-abo-pro-pensijne-nezabezpechennya-duxovenstva.html> [accessed: 30 June 2023].

<sup>32</sup> Bochkov 2020, 79.

<sup>33</sup> Piddubna 2004, 113.

objectives” indicates that the profit received by the religious organization as the founder, owner and beneficiary of the established enterprises should be directed to the implementation of the statutory tasks of the religious organization itself. Enterprises’ activities must meet the general requirements of commercial and tax law. It was in such wording that the lawmaker enshrined the principle of social entrepreneurship in 1991 (the year of adoption of the Law on Freedom of Conscience and Religious Organizations), which gained popularity in Ukraine much later. After all, entrepreneurship, which carries out classic commercial activities without tax benefits, fulfils a social role (charitable, educational, etc.), and its success is measured by its social impact, not by the amount of income.

In addition, it is worth paying attention to the provisions of the Commercial Code of Ukraine,<sup>34</sup> which introduces the concept of “non-profitable commercial activity” (Article 2(2)).<sup>35</sup> This means that religious organizations can form enterprises whose activities are aimed exclusively at achieving economic, social and other outcomes without the goal of making a profit. Such enterprises are formed to ensure the main activity of a religious organization – in other words, relative to the latter, they perform auxiliary functions,<sup>36</sup> are registered as non-profit enterprises and enjoy tax benefits. If such an activity is aimed at obtaining income and distributing it among participants, it is considered entrepreneurial and taxed in a general manner.

Within the scope of financing, it is the entrepreneurial activity of entities formed by religious organizations that is significant. Publishing, printing and agricultural enterprises are mainly formed in Ukraine. There are several examples of their indicatively successful activities based on the criterion of profitability. In particular, one of the most powerful publishing houses in Ukraine is the “Svichado”<sup>37</sup> publishing house, where 50% of the property structure belongs to the Monastery of St. John’s Lavra of the Studite Rule of

<sup>34</sup> Commercial Code of Ukraine: Law No. 436-IV of January 16, 2003, BVR, 2003, No. 18, 19–20, 21–22, Art. 144.

<sup>35</sup> Non-commercial management is an independent systematic commercial activity carried out by commercial entities, aimed at achieving economic, social, and other results without the goal of making a profit.

<sup>36</sup> Bardashevych 2011, 362.

<sup>37</sup> It is worth noting that the history of the publishing house began at the end of the 80s of the 20<sup>th</sup> century, when Ukrainian students of the Catholic University of Lublin started publishing and the monks of the Studite Rule assisted them in distributing. Since 1992, the publishing house has moved to Ukraine and officially works in Lviv.

the Ukrainian Greek-Catholic Church (UGCC).<sup>38</sup> The declared net profit of this publishing house was 1,824,300 UAH for 2020, 2,566,000 UAH for 2021 and 5,607,700 UAH for 2022.<sup>39</sup> The farming of the Archeparchy of Ternopil-Zboriv of the UGCC “Zarvanytsia Agro” was founded in 2006. It is a social enterprise, and in 2022, it declared 2,366,500 UAH of net profit. Cultural and business centre “Menorah” is a company founded by the charity fund “Dnipropetrovsk Jewish Community”, which, in 2020, was unprofitable, but in 2022, it declared 2,370,900 UAH of net profit.

### 3. Indirect funding of religious organizations

Apart from direct funding of religious organizations, material “support” is provided to them in the form of tax benefits, discounts and free transfer of property for use. Moreover, not in all cases do religious organizations use such “support” due to the fact that they are religious organizations. Religious organizations have the right, in particular, to some tax benefits in connection with the acquisition of non-profit status. This status is granted not only to religious organizations but also to state-financed institutions, public associations, political parties, creative associations, retirement funds, charitable organizations, unions and others. They are introduced to the register of non-profit institutions and organizations, and their income is not allocated among the founders and members of the organization.

With regard to religious organizations, the Tax Code<sup>40</sup> contains a caveat that the use of its income by a religious organization for non-profit activities, including the provision of humanitarian aid, charitable activities and clemency, is not considered an allocation of income. These provisions enabled religious organizations to carry out the charitable activities provided for

<sup>38</sup> Information about the “Svichado” publishing house in the “YouControl” counterparty validation service. [https://youcontrol.com.ua/catalog/company\\_details/32327940/](https://youcontrol.com.ua/catalog/company_details/32327940/) [accessed: 30 June 2023].

<sup>39</sup> Information about the “Svichado” publishing house in the “Opendatbot” service for registration data monitoring of Ukrainian companies and the court register for protection against illegal takeover and control of counterparties. <https://opendatobot.ua/c/32327940> [accessed: 30 June 2023].

<sup>40</sup> Tax Code of Ukraine: Law No. 2755-VI of December 2, 2010, BVR, 2011, No. 15–16, 15–16, 17, Art. 112.

them by law in the interests of their members, including the provision of humanitarian aid, charitable activities and clemency.<sup>41</sup>

Tax benefits serve as important state support for religious organizations. Among the taxes for which benefits and discounts are provided are income tax, wealth tax, land tax and value-added tax. The prime income tax rate is 18% (Article 134 of the Tax Code). All non-profit enterprises, institutions and organizations are not considered payers of this tax – in other words, they are exempted in its entirety. At the same time, religious organizations are not prohibited from using the labour of hired workers and paying them wages, and the funds used for this purpose are not considered profit-distributed among the members of the organization.

Religious organizations own property that is in their possession or provided for their use, so the issue of wealth tax is also relevant to them. In Ukraine, real estate taxpayers are individuals and legal entities that own both residential and non-residential real estate. However, real estate owned by a religious organization and used exclusively to support its activities (including shelters, boarding schools and hospitals) is not subject to taxation (Article 266(2.2.1) of the Tax Code). Of course, if the property is leased or used for commercial activities, the exemption does not apply.

Religious organizations are also exempt from land tax; land plots provided for the construction and maintenance of religious and other buildings are not subject to land tax (Article 283(1.8) of the Tax Code). It is legitimate that this benefit is not preserved if land plots or real estate objects are leased by a religious organization to other entities.

The prime value-added tax (VAT) rate is 20%, but religious organizations have exemptions for paying it for services and items listed and related to the purpose and goals of such an organization. In particular, christening, church marriages, funerals, moleben, memorial service, consecration (of premises, cars, etc.), circumcision and first communion are not subject to VAT (Article 197(1.9) of the Tax Code). The sale, exchange or donation of candles, icons (images), crosses, rosaries, bedspreads, medallions with religious symbols, incense, lamp oil, myrrh, lamps, incense burners, candlesticks, shrouds, vestments of priests, wreaths, grammars, accessories for baptism, fonts, seals for prosphora, drops, copy, pods, bowls,

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<sup>41</sup> Bilash, Karabin 2020, 68.

matzah, proskura, wafers, liturgical literature, etc., are also do not subject to taxation.

There are no personal income tax exemptions for members or employees of non-profit organizations, including religious organizations. This tax is withheld from the wages of workers employed by religious organizations.

The free transfer of property to religious organizations is governed by Article 17 of the Law on Freedom of Conscience and Religious Organizations. Thus, religious buildings and property, which are of state property, are transferred for free use or returned to the ownership of religious organizations free of charge. The law also provides the possibility of transferring buildings for free alternative use to two or more religious communities by mutual consent. It is also important that land plots provided to religious organizations for permanent use in the construction and maintenance of buildings are prohibited from being used for commercial activities.

The abovementioned legal provisions became part of the legislation in the early 90s of the 20<sup>th</sup> century, which was associated with the need to return the property of religious organizations forcibly taken by the Soviet authorities. However, in 2018, the Law on Freedom of Conscience and Religious Organizations incorporated provisions regarding the transfer of St. Andrew's Church of the National Sanctuary "Sophia of Kyiv" usage by the Ecumenical Patriarchate of Constantinople, which is an indispensable object of cultural heritage, an architectural monument of national significance and in state ownership. Such changes are associated with the expectations of the Ukrainian authorities for the Unification Council of the Eastern Orthodox Churches of Ukraine, the provision of the Tomos on autocephaly to the future Orthodox Church of Ukraine and the need to provide it with the property.

Discounts on the price of natural gas for religious organizations are still one of the possible areas of support for religious organizations. The price of natural gas in Ukraine is extremely unstable. For the industry, it can be adjusted every month, yet it is fixed for the population. Similarly, the price is fixed for state-financed and religious organizations. In certain periods, the price of gas for religious organizations was 50% lower than for households. Today, it is higher for religious organizations than for households (on average, 9,000 UAH per thousand cubic metres depending on the supplier) but lower than for the industry and is fixed at 16,390 UAH per

thousand cubic metres (including VAT but excluding the tariff for transportation services).

Religious organizations also commit payments for electricity on preferential terms because they are included in the category of consumers for whom fixed prices are applied (along with individual and collective household consumers). However, such a benefit is applied only to the part of electricity consumption by religious organizations for communal and household needs; for other activities, industry tariffs are applied.

## Conclusions

Thereby, the Ukrainian legislation that governs the funding of religious organizations contains a conceptual contradiction. On the one hand, the Law on Freedom of Conscience and Religious Organizations oversees that the state does not finance the activities of any organization created on the basis of an attitude towards religion. The above has become the basis for the legal regulation of the types and directions of self-funding of religious organizations, the legalization of commercial activities of enterprises founded by religious organizations, etc.

Yet, on the other hand, religious organizations still receive assets from public funds. In particular, the provisions of the Budget Code of Ukraine provide the possibility of funding from state budget programs for the restoration of architectural monuments (including religious ones), as well as the provision of educational subventions, which can be directed to private institutions of secondary education, including those founded by religious organizations. Local self-government budgets can finance programs and activities in various directions, including programs directly supporting certain religious communities. Indirect funding can also be considered financial assistance provided to religious organizations in the form of tax benefits, discounts on natural gas and electricity, as well as free transfer of property for use.

Doctrinal elaborations and explanations of such regulation by the norms of Ukrainian legislation have not yet been conducted. However, the criterion for adherence to such funding should be the purpose with which the funds are allocated or support is provided. The existing legal regulations

allow us to assume that the effective development of religious organizations in Ukraine is possible under the condition of their proactive participation in public life.

Voluntary donations of parishioners, “indirect” funding in the form of tax benefits, discounts and free transfer of property for use can counter-veil only the basic needs of communities. Attracting additional resources, including from public funds, is possible when a religious organization participates in social, educational and cultural programs or in social entrepreneurship.

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