

# The formation of the property of religious organizations in post-Soviet states

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## Abstract

This article considers the peculiarities of formation of the property of religious organizations in post-Soviet States through institutional method to determine the location of the property of religious communities. As a result, it is possible to promote the redistribution of population between densely populated and sparsely populated areas, stimulating the development of religious organizations in the less popular areas. In conclusion, the obtained data contributed to the formation of recommendations for improving the legislation of the countries of Commonwealth of Independent States that an effective mechanism for the formation of the right of ownership of religious organizations will be established.

**Keywords:** Donation, Ownership, Religious Formation, Organizations.

## *La formación de la propiedad de las organizaciones religiosas en estados post-sovietos*

## Resumen

Este artículo considera las peculiaridades de la formación de la propiedad de las organizaciones religiosas en los estados postsoviéticos a través del método institucional para determinar la ubicación de la propiedad de las comunidades religiosas. Como resultado, es posible promover la redistribución de la población entre áreas densamente pobladas y escasamente pobladas, estimulando el desarrollo de organizaciones religiosas en las áreas menos populares. En conclusión, los datos obtenidos contribuyeron a la formación de recomendaciones para mejorar la legislación de los países de la Comunidad de Estados Independientes de que se establecerá un mecanismo eficaz para la formación del derecho de propiedad de las organizaciones religiosas.

**Palabras clave:** Donación, Propiedad, Formación Religiosa, Organizaciones.

## 1. Introduction

A significant part of the multifaceted and complex relations formed in the sphere of creation, operation and dissolution of religious associations connected with the legal regime for the formation and use of their property. Without an analysis of the nature of these relationships, it is impossible to fully understand the socio-legal nature of these organizations. Legal provisions on sources of formation of property of religious organizations and directions of use of this property, and these

restrictions contribute to the establishment of full civil portrait of entities. A comprehensive study of the legal status of property of religious organizations in the countries of the Commonwealth of Independent States, as well as studies of the sources of the said property are virtually absent. A significant amount of research concerns the development of the institution of ownership of a legal entity. Most of the issues related to the legal regime of property of religious organizations remain uncertain.

Religious organizations, especially religious communities, which are their starting units, do not actively participate in civil turnover. However, to accomplish their quite diverse statutory objectives they should have a certain property. Practice shows that religious organizations have many specialized agencies in the field of education, education, health, social care, private and reallocated funds, and conduct in the social sphere a great job of freeing up part of the expenses of the Central and local budgets, carrying out capital construction, preparing the appropriate personnel. These circumstances made religious organizations in the systematic of participants of property relations. Hammack in the summarized study of charity organizations emphasizes that the state can Fund religious organisations, if they are engaged in socially important issues (providing shelter for the homeless, charities, etc.) (Hammack, 2016). Nevertheless, Gill believes the majority of contributions comes from voluntary contributions (Gill, 2016). Grønbjerg and McGiverin-Bohan emphasize the problem of the confrontation of religious organizations of some officials in the sphere of tax benefits (Gronbjerg & McGiverin-Bohan, 2016).

Mesut & Muhamed (2015, 2016) studied on the example of Macedonia the problem of the return of the Muslim religious organizations wrongfully selected property. They highlight the difficulties faced by these organizations when their implementation for the return of the property selected by the former Communist government. Tam & Hasmath (2015) and Erie (2016) emphasize the importance of international cooperation of religious organizations in one direction. Berggren and Bjørnskov Berggren & Bjørnskov (2013) focus on the interaction of religion and politics. Scheitle (2016) points to the problems faced by religious organizations, when subjected to unlawful influence. Methods of forming of property of religious organizations in the Republic of Azerbaijan are considered as an example of this formation in other post-Soviet States. As the legislation of these countries has similar rules and a similar background to their formation. For example, norms regulating the peculiarities of the legal entity the Civil code of the Republic of Azerbaijan, Kazakhstan, Russian Federation, Belarus Republic of Moldova, Armenia Turkmenistan and Ukraine have similar wording and content.

The purpose of the study is to examine the sources of property of religious organizations in post-Soviet States. On the basis of the objectives have been formulated the following tasks:

1. To study the characteristics of property to religious organizations.
2. To identify the sources of formation of property of religious organizations in the countries of the Commonwealth of Independent States.
3. To conduct a comparative analysis of relevant legislation of post-Soviet and other states.
4. To develop practical recommendations for a comprehensive and objective regulation of formation of property of religious organizations in the countries of the Commonwealth of Independent States.

Many studies worldwide have been dedicated to this issue. The research findings of other scientists are narrow local character. We discovered the peculiarities of formation of property of religious unions in specific States. On the example of particular groups we studied one of the factors. However, systematization of information and identification of all sources of forming of property of religious organizations is necessary for the successful legal support of their activities, and to ways of improving

legal ways of formation of religious property. The importance of this study highlights the growing influence of religious organizations in society and political trends.

## **2. Methodology**

To achieve this purpose, the following methods were used. The institutional method was used to determine the location of the property of religious communities as an element of their legal status. Through the analysis of literary sources and legal acts of different States, we identified the ways of forming of the property of religious organizations that were analyzed from the formal legal side. Based on these data, we identified groups of factors, which were combined in specific sources with indication of their characteristics. On the basis of comparison, we highlighted the similarities and differences in the legislative regulation of the studied formation in different countries. The countries of the Commonwealth of Independent States have the same legislation and similar problems. On the basis of the analysis, we formulated recommendations that will contribute to the democratization of the process of formation of property of religious organizations in the countries of the Commonwealth of Independent States, and can also be used for improvement of the legislation of other countries.

### **2.1. Experience of Formation of Property of Religious Organizations in the World**

The property of religious organizations has specific features. International law protects the property of religious organizations as well as private property of individuals. For example, according to rule 8 of the Brussels Declaration on the laws and customs of war of 1874, community property, as well as religious institutions and charitable educational, artistic and scientific institutions, even those that belong to the state, should be respected on a par with private property. Every conquest, and deliberate destruction or damage of such institutions, monuments, artistic and scientific works are pursued with the appropriate authority. Rules of canon law governing the regime of the property of religious organizations have their own specifics. They clearly do not indicate the owner of the property used for religious purposes. The doctrine of secular and ecclesiastical law in relation to the property was put forward by the theory: 1) the Church's heritage as the property of the poor, designed for those who are not able to live on their own funds; 2) general Church property, was to ensure that the subject of the right of ownership of the property was recognized as the Pope; 3) trust property, according to which there is no need to find the entity of the Church property, because this property belongs to individuals and legal entities, and specific objectives and purpose; 4) journalistic property, under which property transferred to the state; 5) the Church-community property, under which the owner of the property is a Church community; 6) Institutional, in which the subject of Church property are community corporations, and institutions not based on corporate or collective basis, and subject to the will of their founder (Komiagin, 2015).

The property of the Russian Orthodox Church (hereafter ROC), is governed by Chapter 20 of the Statute of the Russian Orthodox Church adopted in 2000 and amended in 2013, in paragraph 1 of which it was provided that the Funds of the Russian Orthodox Church and its canonical units shall be formed of:

- a) Donations during the prayer services, Sacraments, requested services and rites;
- b) Voluntary donations of individuals and legal entities, state, public and other enterprises, institutions, organizations and funds;

c) Donations in the dissemination of objects of an Orthodox religious purpose and Orthodox religious literature (books, magazines, Newspapers, audio, etc.), as well as from the sale of such items;

d) Income derived from the activities of institutions and enterprises of the Russian Orthodox Church sent to the statutory purpose of the Russian Orthodox Church;

e) Contributions of the Synodal institutions, dioceses, diocesan institutions, missions, Church representations, representations, as well as parishes, monasteries, brotherhoods, sisterhoods, their institutions, organizations, etc.;

f) Allocations from profit of the enterprises established by the canonical units of the Russian Orthodox Church independently or together with other legal entities or individuals;

g) Other not prohibited by the legislation of income, including income from securities and deposits in Deposit accounts.

The owner indicated the Russian Orthodox Church and its canonical units, and the right to dispose of property belongs to the Synod. In the Catholic Church the subjects of Church property are recognized:

1) Episcopal home;

2) The Cathedral and collegiate Chapter, there is a Spiritual Corporation at churches;

3) The parish office and the property which serves for support;

4) The Church's factory – a fictitious entity, a material substrate which is the property intended for the construction, improvement and maintenance of the temple and worship;

5) Monastic orders and congregations;

6) Educational and charitable Church institutions (Shashkin, 2010).

Despite the lack of disagreement about whether certain property rights of religious organizations, legislation of many countries contain relatively different rules about sources of the given property. This is quite natural, given that the nature and types of these sources in each country depends on existing models of relations between religion and state, the legal status of religious organizations, features of the development of religious, historical and legal traditions, and other factors. In China, the possibility of acquiring land and property of religious organizations is subject to the existing policy direction. Accordingly, it is risky because of the possibility of a radical policy shift in this direction. Therefore, most religious groups rent the premises. The government rarely grants land religious groups in urban centers. More likely to get it in more remote locations. Christian executives from Hong Kong building factory villages, which include churches and religious organizations on a voluntary basis (Tam & Hasmath, 2015). However, the Chinese religious formations can be not only on the territory of China. An example of ethnic Chinese networks is the para-church organization International Chinese Christian Network. It brings together about 9,000 ethnic Chinese churches and 5.2 million ethnic Chinese Christians. Organizations-network members share resources, information and strategies. While the resource base usually not narrowed to just one city or country; instead, they attracted funding from major concentrations of ethnic Chinese around the world (Tam & Hasmath, 2015).

Chinese Muslims are also getting foreign support similar to Christians. They also may have income from contracts of sale. In addition, they can obtain grants and donations. For processing donations, which are the main financial source of the mosque have their own accountants. Donations are coming in conducting various rites and ceremonies. For example, weddings, births, funerals. Despite the necessary anonymity of donations, which requires the Quran, accountants often record the names of persons who have made donations, and the names especially generous can engrave on the stones of religious buildings. This is done to encourage donations with the consent of the patrons. In addition to monetary donations, patrons can freely give property movable and immovable, hoping for the

forgiveness of sins and the mercy of God in this and/or future lives (Erie, 2016). In Islam, an important function in the life of Muslims is an Islamic religious community. It supports mosques, masjids, Islamic centers, tekkes and maktabas, the opening and development of educational, socio-cultural, charitable institutions, libraries, archives, museums and other institutions, as well as graves and cemeteries. To this end, they cooperate with various governmental and non-governmental organizations in the countries in which they are located. In addition, the Muslim community directs all efforts for the return of property confiscated from the former Communist regime. Nevertheless, not all actions lead to positive results. For example, in Macedonia, was restored most of the mosques, but another property to return or to receive compensation for them is very difficult due to multiple changes of owners, the reluctance of the state to give the land and buildings in favorable locations, because construction of the former Muslim lands of the state and commercial property. These contradictions are the cause of the litigation, but winning them the Muslim side does not guarantee a prompt return of property in practice (Mesut & Muhamed, 2015, 2016).

Religious institutions have tax-exempt status. However, officials in some States in finding additional sources of replenishment of the budgets are trying to introduce alternative forms of payments instead of taxes. In addition to a lack of funds in local budgets, the reason for collecting additional payments for real estate property is the extensive use of large religious organizations, fire, police, sanitation, maintenance of streets and other public services that are mainly financed by property taxes. Due to the tax benefits, some organizations have higher rates to pay existing taxpayers (Gronbjerg & McGiverin-Bohan, 2016). Religion can also influence politicians. In addition to the influence of religious views of politicians on their decisions, the activities of politicians can affect the religious sentiments of their electorate. Because in order to win elections, politicians make concessions to the majority of voters. Religious moods affect people through the perception of a large number of properties as sinful factor. Especially sinful is the property acquired by dishonest means. The illegally acquired property can be confiscated and subsequently transferred to religious organizations. In addition, under the influence of religious rules, the owner can donate to religious organizations property for the purpose of praying for forgiveness (Berggren & Bjørnskov, 2013).

In addition to receiving property, religious organizations can lose. In recent decades, one of the main threats to religious freedom was a violation of the right of ownership of religious denominations, in particular, smaller and less organized of them. There are different reasons for the withdrawal of property from religious groups. Among them are tax incentives, which displeased some authorities. In addition, religious institutions often compete with local authorities in the provision of public goods, primarily education. The faithful families prefer to send their children to study in Church schools and kindergartens, as well as homeschooling co-ops. While public schools receive less funding because of the small number of students, and schools with a number of students less than the normal close (Gill, 2016). Religious institutions can also become victims of various crimes. For example, theft, robbery, vandalism, terrorist acts. Was seen a direct correlation between the number of religious organizations in the area and number of fires. Most of the burning was seen in urban areas, unlike rural areas. Most such crimes are based on religious and ethnic intolerance. In addition, we have the combined crimes, such as theft and vandalism.

## **2.2. The Formation of the Property of Religious Organizations in the Cis Countries**

The property is one of the main features of legal persons in most legal systems in the world. For example, in accordance with paragraph 1 of rule 43 of the Civil code of the Republic of Azerbaijan legal person is specially created and tested by the state registration structure which owns separate

property and is liable for its obligations with this property, may on its behalf acquire and exercise property and personal no property rights, bear duties, be a plaintiff or defendant in court. A legal entity should have an independent balance. According to paragraph 1 of rule 33 of the Civil code of the Republic of Kazakhstan a legal entity is recognized the organization which has the right of ownership, economic management or operational management the isolated property and answers with this property for its obligations, may in its name acquire and exercise property and personal non-property rights and obligations, be a plaintiff and defendant in court. A legal entity should have an independent balance sheet or budget. A similar rule is rule. 48 Civil code of the Republic of Tajikistan rule 48 of the Civil code of the Russian Federation, rule 44 of the Civil code of the Republic of Belarus rule 55 of the Civil code of the Republic of Moldova, rule 50 of the Civil code of the Republic of Armenia.

A simpler, but similar language, has a legal entity in the interpretation of the civil code of Turkmenistan. According to paragraph 1 of rule 48 of this code a legal entity is recognized the organization which owns separate property and is liable for its obligations with this property, may on its behalf acquire and exercise property and personal no property rights, bear duties, be a plaintiff and a defendant in court. The necessity of having its own separate assets includes the civil code of Ukraine and the Law of Ukraine On state registration of legal entities, individuals – entrepreneurs and civil forces. As the legislation of post-Soviet countries have similar rules, there is no need to consider the laws of each state individually. It is enough to consider the studied aspect in a generalized context. The following are the main sources, occurring with minor or major changes in relevant legislation of most European countries.

### **2.3. Property acquired or created by religious organizations at the expense of own means**

Religious organizations have the right to earn money and acquire property at the expense of these funds from various legitimate sources. Some of these sources directly provided by legislative acts. For example, religious organizations have the right to establish commercial legal entities and to participate in the distribution of their profits, as well as directly involved in production and economic activities, transforming these activities into the main goal. Property acquired as a result of this activity, is their property. One of the major sources of property of religious organizations is the funds acquired from entrepreneurial activities. As mentioned above, the main purpose of religious organizations, like all other non-profit organizations, is not making a profit. However, this does not preclude their right to engage in entrepreneurial activity, if this activity meets their goals and to achieve them.

This right of non-profit organizations, including religious entities, can be implemented in two ways, either directly through the implementation of entrepreneurial activities and the creation of business entities with legal entity status. When using the first method, source of income of religious organizations is income from the performance of religious rituals and ceremonies, organization and management of funeral processions, the implementation of religious objects, religious literature and products of the media. In addition, from the conclusion of religious marriage, religious contests, and auctions. In addition, the profit comes from the hotel and tourism industry to the Holy places, and other forms of paid services in different institutions and organizations, including government agencies. However, the volume of these types of activities should not exceed a specific weight for their main religious activities. Otherwise, this activity may be evaluated as contrary to the purposes of its creation, which is the basis for the elimination of education in court. The above types of activities, except hotel and tourism business, carried out on a paid basis, are not pure business, since

the provision of these services in most cases provided in the statutes of religious organizations as their main objectives.

The second form of entrepreneurial activities of religious organizations involves the institution publishing houses, printing production, restoration and construction enterprise with the status of legal entity, orphanages, boarding schools, hospitals, etc. in accordance with existing legislation and their charters, underscoring the specificity of their capacity. Approximate appointment of legal entities established by religious organizations in accordance with the Law, determined with regard to their roles and functions in society. For example, in the statutes of most religious organizations is established objectives for the promotion and dissemination of religious knowledge, the publication and distribution of literature and other printed material, items for religious appointments, carry out construction and repair work of places of worship, charitable activities. Given the diversity of activities of religious organizations, the legislator leaves the list open, providing the possibility of establishing their businesses and other profiles. However, religious organizations are prohibited by law to act as a participant in certain types of legal entities. For example, they do not have the right to acquire, shares of banks, participants of financial-industrial groups, members of commodity exchanges. Paragraph 4 of rule 64 of the Civil code of the Republic of Azerbaijan also eliminates the right of these entities to act as founders of a full partnership and full partners in partnerships in commendams, as this right shall be only individual entrepreneurs and commercial organizations. These rules are for the purpose of preservation of property of religious organizations, which are of narrow purpose. Non-commercial legal entities are not entitled to distribute the profits among the participants. However, this limitation does not apply to established commercial organization. In the distribution extracted their profits and shareholders are involved-religious organizations (Chen et al., 2013). However, the profit is not subject to further distribution among the participants of religious organizations.

#### **2.4. The property, donated by citizens and organizations**

This is one of the most important sources of formation of the property of religious organizations. According to the paragraph 4 of article 1 of the Law of the Republic of Kazakhstan On charity, donations are the money and other property from persons distributed once in a calendar year to users to meet their current needs. Donations should be purely voluntary in nature. As incitement or forcing members of religious education and others to abandon their own property in favor of religious education Valiavina (2009) may lead to the abolition of religious organizations in court. Widely used in the legislative practice of foreign countries, as well as in the activities of non-governmental organizations of post-Soviet states membership and entrance fees could be a significant source of funding for religious organizations. Nevertheless, be aware that such form of payment is not provided for post-Soviet legislation. However, religious organizations are not prohibited to establish in their statutes the relevant provisions for similar payments to their members.

#### **2.5. The property transferred by the government**

The legislation of the countries of the Commonwealth of ~~Union~~ of Independent States separates religion and religious education from the state. For example, according to article 4 of the Federal Law of the Russian Federation On freedom of conscience and on religious associations, the state does not allow religious associations to perform functions of state authorities, other state bodies, state institutions and local self-government and does not interfere in the activities of religious associations

if it does not contradict the present Federal law. However, the state in different ways supports the traditional religious denominations that exist in the country. For example, in the form of the donation of buildings and properties of a religious nature, owned by the state, or the government provision of financial assistance to religious institutions.

A comparative analysis of the legislative experience of the post-Soviet countries and some European countries shows that financial and material support of religious organizations by the state is conducted in different ways depending on the models of state-religious relations and legal traditions of the country. However, it usually manifests itself in one or more of the forms specified below.

1) Providing direct financial support. Most of the foreign religious organizations are supported financially by the state. Known, Professor Kardovsky University (UK) Norman Doe studying the relevant legislation of the countries of the European Union noted: As to religious finances, all States in Europe fund religion, to lesser or greater extents, either directly or indirectly or both. Moreover, the author focuses on the importance of legal regulation of state support of religious organizations: "...there is perhaps no better area of law to illustrate the value which States place on religion and its activities than laws facilitating their preparedness to spend money on them" (Doe, 2011: 19).

The Countries of the Commonwealth of ~~Union~~ of Independent States widely use the experience of the direct financial support of religious organizations and establish their funds on the part of state authorities and local self-government. For example, for the purpose of execution of this rule, the Azerbaijan Republic government annually adopts a resolution on the allocation to religious organizations of budgetary funds. For example, the Cabinet of Ministers of the Azerbaijan Republic by order dated 17.11.2011 of the year has allocated 2 million manats Administration of Muslims of the Caucasus with the aim of providing financial support, including funding to open offices in the countries concerned. This Resolution of 400 thousand manats has been allocated to the Central institutions of other religious denominations. This practice is repeated every year.

2) The funding of religious education. This type of financing covers the costs of the state related to the organization of religious study, which is provided by the mandatory state standard (teacher salaries, payment of training curriculum, publication of textbooks, and other organizational events). In most countries with mandatory religious study or alternative study of morality (morality) (Germany, UK, Eastern province of France, etc.), as well as in those countries where religious education is provided exclusively by parents and (or) secondary school pupils, the state provides funding for these costs (Gocmen, 2013). In the post-Soviet states for this purpose, a special budget allocation is not provided. However, religious educational institutions receive financial support for their centers (departments), which in turn receive substantial financial assistance from the state. On the other hand, in the budget schools with mandatory state standards are studied with, including religious knowledge.

3) Financing religious rites and ceremonies in the organizations of public purpose (nursing homes, shelters, hospitals, correctional institutions, military units, etc.). Currently, these funds are religious organizations of France, Spain, England, Poland and other countries. The national legislations of the post-Soviet do not specify the costs according to the rules. Nevertheless, the costs of these activities are possible on the basis of contracts concluded between the religious and the aforementioned organizations. Given that most of these organizations are budget entities, funds received can be attributed to public expenditure.

Even the secular (secular) countries of the world use this method for the material support of the leading religions of their countries. For example, rule 2 of the Law of the French Republic on the separation of Church and state of 9 December 1905 stated: the Republic does not recognize, pay, does



not subsidize any religion. Therefore, starting from January 1, 1906 at the state, departmental budgets and in the budgets of the communes, all expenses for religious cults will be abolished. However, these budgets may include expenses for the operation of charitable services and guaranteeing freedom of religion in such public institutions as schools, colleges, schools, orphanages, and prisons.

4) Financial support of religious leaders. In some countries, especially in countries where the constitutionally enshrined state religion, funded salaries, pensions, social security and other needs (housing, transport etc. costs) of religious figures. Such practice is applied in Cyprus, Greece, Luxembourg, Poland, Sweden, and Slovakia and in other countries. Such privileges generally enjoyed by state and other leading religion of the country. The legislation of post-Soviet countries does not contain provisions on direct state support of religious leaders.

5) Financing the protection, repair and restoration works of monuments of history and culture, transferred for use or owned by religious organizations. Most of the buildings and religious objects belong to the cultural heritage created by humankind, which is under state protection. National legislation, along with the possibility of transfer for use of such facilities to religious organizations includes provisions for their preservation. However, the government directly allocates funds for the restoration and renovation of religious sites belonging to cultural heritage.

Law provides the relationship for the protection, conservation and restoration of monuments of cultural value. For example, the Law of Ukraine On the protection of cultural heritage envisages the creation of conditions for the modern use of cultural heritage object without changing its characteristic features, which are the subject of protection of object of a cultural heritage. Monuments of culture may be transferred to religious organizations and used by them according to law. In addition, it may be provided by passing the monuments in the lease. Privatization of such monuments in public ownership is not allowed.

Similar rules related to the protection of historical and cultural, including religious monuments, provided for in the legislation of most foreign countries. For example, in the agreement concluded between the Italian Republic and the Holy See reads: Buildings open to worship shall not be requisitioned, occupied, expropriated or demolished except for grave reasons and pursuant to a previous agreement with the competent ecclesiastical authority.

6) The definition of preferential tax policies. One of the most significant factors that directly or indirectly affect the formation of the property of religious organizations is applied to them by the States tax policy. Although a common approach in this field does not exist, but most countries employ one of the following methods:

- The payment of the taxes collected directly to the budget of religious organizations;
- Tax incentives;
- Exemption of religious organizations from payment of certain taxes.

The laws of most European countries with a state religion, define rules, under which, part of the income and corporate tax (profit tax of legal entities) is transferred directly to the budget organizations of these religions. A necessary condition for the application of this regulation is membership of taxpayers in the officially declared religious community. The collection of these taxes by the relevant public authorities directly, or they are assisted in this work by religious structures.

For example, in Germany members of the Catholic and Protestant Churches, as well as members of the Jewish community, 8-9 percent of their income tax are obliged to transfer in favor of the said denominations. These payments are collected by the state and transferred to the accounts of these communities. Do not want to pay taxes are obliged to formally declare its withdrawal from the communities. These funds were spent mainly for the maintenance is under the care of the Church

hospitals, schools and other social institutions. However, a large part goes to the Vatican (Gocmen, 2013).

In Finland, the members of the Lutheran and Orthodox Churches are part of income taxes transfer to their communities. Part of the corporate tax, many private companies, also held in favor of the Lutheran Church. In Denmark, Sweden, Austria and Poland, which also officially has a state religion, followed the same practice. In these countries, except Poland, the tax authorities collect these taxes, for which he received from religious communities a fee (Doe, 2011). In several European countries (Spain, Italy, Portugal, Poland, Hungary, Slovakia, Slovenia, etc.) according to its own wishes of the taxpayers' part of their income taxes goes by the state for various social purposes, including for reimbursement of expenses known or registered religious communities. The use of these privileges to other religious communities is limited. For example, the Italian Catholic taxpayers, making the income tax return, may require the assignment of part (0.8 percent) tax benefit of the Catholic Church, along with such humanitarian purposes as the prevention of world hunger, disaster relief, assistance to refugees, protection of cultural monuments.

The above types of Church taxes differ from the classical target of state taxes the character of the appointment. These taxes come directly at the disposal of religious denominations and used them. Comparative analysis of normative legal acts of many foreign countries and Azerbaijan shows that, despite the full support of our government of religious entities, national legislation provided no tax benefit, relating exclusively to religious organizations. But there are indirect tax benefits. For example, in accordance with paragraph 1 of article 94 of the Tax Code of the Republic of Belarus are exempted from taxation on the value added turnovers on sale in the territory of the Republic of Belarus:

- Ritual services, works to care for the graves in the list of services and works approved by the President of the Republic of Belarus, tombstones, fences and other ritual objects associated with burial, as well as their fabrication; exemption from value added tax also applies to all payers, implementing purchased ritual objects;

- Religious literature and (or) religious items (accept excisable).

7) The immediate financial compensation paid to religious communities for the caused material and moral damage political regimes in different historical conditions. In different periods of modern history, there have been certain problems in the interaction between States and religious representatives. At the present stage, some political heirs of various atheistic, anti-religious or ultra-nationalistic States had at least partially compensate for the offenses of their predecessors in relation to the religious formations. For example, the German government pays 3 million euro annually to the central Jewish Council in Germany under an agreement with that community; there are similar agreement between the lander and Jewish communities (for example Saxony-Anhalt pays 750,000 euro per annum). Similarly, in Austria the State provides for compensation where property was confiscated by national socialist measures in relation to Catholic, Protestant and Old Catholics' property, as well as for the destruction of Jewish property (synagogues, cemeteries, objects). Material, including financial support for religious communities the government does not always make clear. Some authors see it as a secret Treaty to maintain normal relations of religious institutions with the state (Gocmen, 2013).

## **2.6. The transfer of state property of religious appointment for gratuitous use or ownership of religious institutions**

This practice is the most common method of formation of property of religious structures in post-socialist countries and related to the previous source. In the post-Soviet countries, this practice is associated with the elimination of the results of the anti-religious and atheistic policy of the Soviet government under the pretext of separating religion from the state. In that period a significant part of the property belonging to the religious structures of at different times, was subject to confiscation or destruction by the government without any compensation. In the Soviet period, the part of the religious objects was destroyed, and the other part was transferred to the state property or the private property of various juridical or physical persons. After the collapse of the Soviet Union to eliminate the consequences of the Soviet-era part of the property of religious significance owned by the state, were immediately returned to their former owners. However, for various reasons, including a small period of institutionalization of religious structures, the location of the property for religious purposes in private ownership or inclusion in the list of cultural heritage of world or national significance and for other objective reasons, the return of such property was impossible. In connection with these circumstances was made to the legislative adjustments to compensate religious communities for the loss of cultural heritage. Religious organizations were granted the right to use buildings and property provided to them by the state, public organizations or citizens on the contractual basis for their needs. The agreement does not exclude the transfer of property by governments and commercial organizations. Today, in post-Soviet countries among the sources of forming of property of religious structures, the specific weight is given to them on the basis of a contract of real estate and other property are quite high. Be aware that the right of use under civil law is one of the significant elements of the property rights. With it, the subject gets the right of recovery and assignment of useful properties of property.

The legislation does not include elaborate norms related to the nature and purpose passed in use of the property (it can be religious and non-religious purposes), and with the payment terms of this transaction. These questions, as well as details of the terms of use, maintenance, repairs, insurance, security and conditions for return of the building and property, the other representing the importance of the terms shall be governed by, entered into between the religious structure and the owner of the property in the contract. Regardless of the contract, a religious organization may use to refer to the use of the property only for their own needs that come from the goals and responsibilities, as well as from the activities of this structure. However, this legislation is not accurate. For example, when specifying the order of transmission of religious entities of buildings of cult affiliation is not clarified, who exactly has the right to submit a petition? It is possible to assume that here we are talking about buildings and property located in the state of ownership of, as property belonging to other legal entities may be transferred to religious organizations only with the consent of the owner regardless of their religious affiliation.

The religious affiliation of the building or property is determined on the basis of their purpose, structure, history, and other indicators. In connection, if there is disagreement, it is advisable to take the help of experts and specialists. Most post-socialist and post-Soviet countries, including Poland, Hungary, Bulgaria, Romania, the Baltic States and the Russian Federation adopted separate laws on the restitution of property of religious purpose to the religious structures (Balestri, 2014). Nevertheless, the rules of the respective laws in these countries have distinctive features. In Catholic countries are concordats, which usually contain an international obligation to resolve the problems concerning the nationalized property of the Roman Catholic Church, such as the Treaty between the Czech Republic and the Holy See On the regulation of mutual relations. It should be noted that the

process of restoration of property rights of religious organizations in the countries of Eastern Europe has a number of features. The former Soviet States, except Baltic States, return nationalized property is very slow, despite the international commitments. Among the republics of the former USSR the most comprehensive measures in this direction have been taken in Georgia, signed a Constitutional agreement between the state and the Georgian Orthodox Church, which is a part of the Constitution (Torfs, 2009).

## **2.7. Property acquired other, statutory, grounds**

Legal grounds of acquisition of property determined by the civil legislation. In the post-Soviet states, the right to property of religious institutions, like all other existing forms of property, protected by law. This primarily stems from the constitutional principles. At the request of the 4th part of this rule, no one without a court order cannot be deprived of his property. Full confiscation of property is not allowed. Alienation of ownership for state or public needs is permitted only after preliminary fair reimbursement of its cost. Property rights protection is provided in accordance with the provisions laid down in the legislation. With the professional use of religious structures to the above sources of acquiring legal property can lead to focusing at their disposal of major assets. As pointed out by L. Moves Church budgets of all Christian denominations in the European community annually include a sum of approximately 40 billion euros, approximately the same magnitude reach the Church budgets in Latin America, more than \$ 45 billion – in the United States and Canada. The total annual budget of all Christian denominations should reach over 150 billion dollars, not counting the budgets of religious organizations and clerical oriented institutions. Revenues of Christian churches in Germany, Austria, Switzerland and the Netherlands are roughly equal to the Russian budget, the income of churches in the USA and Canada two times higher than the budget revenues of Russia (Khodov, 2009). However, the legislation prohibits the use of these funds with the unlawful purpose. In addition, the ownership of religious structures cannot be excluded from civil turnover tangible or intangible good having tangible or intangible value (rule 4 of the civil code). The law prohibits the use of financial assets and other property for illegal acts, especially terrorism. Moreover, banned illegal sources of income and the use of derived resources. Violation of the legislation entails administrative and criminal liability.

A significant part of the income of religious structures are grants issued by various organizations. However, you must follow the rules of its use, for example, to achieve the specified goals and execution of the relevant agreements. It should be noted that here, the legislator takes into account the special status of religious organizations. Religious structure, even without the funding agreements, may receive donations and assistance to the state authorities, which are the main sources of their property. Preventive rules are provided in cases of appeals of the religious organizations for voluntary donations and adoption. It is known that the treatment of religious structures is due to their significant role in public life. The necessity of the formation of civil society makes it necessary to implement such organizations, numerous social commitments, including assuming some of the functions associated with the education of people in the spirit of universal values, humanism and democracy, philanthropy, helping the needy, the fulfillment of which is impossible without substantial support from the society, especially without the material (financial) assistance. In addition, the need for the rule of law the appeal for donations comes from these circumstances.

These standards and receiving the donation religious structure, and giving her face taking on certain obligations of refraining from certain actions. Therefore, the religious structure instead of accepted or promised donation cannot directly or indirectly give sending a donation to the person or anyone

else the material and a different value to make any allowance or concession to make such an offer or promise of such. Sending A donation to the religious structure of the person in exchange for the transferred or pledged the donation cannot demand or accept for himself or a third person directly or indirectly material and the other value, privilege or concession, to agree to such an offer or promise. The prerequisites for the adoption of such standards is the use in some countries, non-governmental organizations, including religious structures, laundering of money acquired through criminal activity, with the close collaboration of terrorist organizations with a radical religious factions, and other similar cases. It should be noted that state control over the provision of financial support to religious structures is used in many countries. He pursues a variety of goals, from fighting terrorism to national security. In most cases, for applicants from abroad financial flows. For example, the Austrian Parliament at the beginning of last year adopted a law, according to which now in this country prohibited any foreign funding of mosques, religious schools and Islamic cultural centres. Rectors of mosques and Islamic association's leaders can only be citizens who are educated in one of the Austrian universities. Their appointment to religious office will also be supervised by the government.

### **3. Discussion**

Not all legal standards are complete and unambiguous. Some are debatable, for example, the feasibility of resolution of full entrepreneurial activities of religious organizations. Some researchers (Dorskaya, 2013; Valiavina, 2009) insist that they are entitled to carry out any business activities. The author supports the widely accepted approach, under which the commercial nature of established structures, the focus of their activities must conform to the goals and objectives of their founders (participants). In the investigated case, you must follow the legal norms and regulations of religious organizations and not commercial entities.

To comply with enacted legislation, the religious organizations property and land confiscated on non-legal grounds should be referred to by the Soviet regime. Nevertheless, it is necessary to control the fact of succession and continued use of the property. In addition, you should take into account the characteristics of the current use of the property and territories, the ratio of the area of the territories that are passed, and the population density in this region. The conclusion of agreements between the authorities and religious organizations is rational regarding the transfer of land and property of the latter, subject to the application of measures to restore and preserve objects.

We need to develop foreign and international support of religious organizations whose activities are not contrary to international and national legislation. As a support, we can use a simplified form of transfer of resources, rights, preferential taxation, and visa support. To disambiguate the interpretation of the legislation, we should clearly state the features of the use of property by religious organizations and the taxation of their activities with the use of tax incentives. It is possible to promote the redistribution of population between densely populated and sparsely populated areas, stimulating the development of religious organizations in the less popular areas. For example, the funding of education, which in addition to the recognized sciences, practices the religious instruction.

## 4. Conclusions

In this article, the peculiarities of formation of the property of religious organizations, and conducted the comparative legal analysis of relevant legislation of different countries. An important feature of the legal regime of the property of religious organizations is their interdisciplinary nature, the established norms of both secular and religious nature. The interaction between religious entities and other agents are regulated by different branches of law. Legal regime of property of religious organizations is different from the legal regime of property of other legal persons targeted; legal regulation by the norms of secular and religious law; the specifics of the acquisition of ownership of property or ownership rights under a contract; a special procedure of acquisition of ownership of assets (contributions and donations) of the founders, members of religious communities and other persons; special rules for transactions by a special procedure for losses of property rights.

In the study, through the analysis of the foreign experience of formation of the property of religious organizations, as well as regulations governing the acquisition and enjoyment of the property by religious organizations, were developed by species characteristic of sources of formation of the property of religious communities in post-Soviet States. Sources of formation of the property of religious communities should be classified into:

- 1) Property acquired or created by religious organizations at the expense of own means;
- 2) Property donated by citizens and organizations;
- 3) Property transferred by the state;
- 4) Transfer of state property of religious appointment for gratuitous use or ownership of religious structures.
- 5) Property acquired other, statutory, grounds.

The characteristic features of each source of assets were established. In addition to the analysis of the legislation of post-Soviet countries, there were given examples of legislation in other countries. Based on these data was the marked similarities and differences. The obtained data contributed to the formation of recommendations for improving the legislation of the countries of the Commonwealth of Independent States. In the case of their implementation, an effective mechanism for the formation of the right of ownership of religious organizations will be established, provided adequate control. Recommendations can also be used for the improvement of the legislation of other states. This study has scientific value as it contains systematic information on sources of formation of property of religious organizations, their legal characteristics and the necessary conditions for them. It can be used for further studies. The prospect of further studies is to find ways of legislative improvement of methods of formation of property of religious organizations.

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