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ON THE NEED OF ADMINISTRATIVE-LAW REGULATION OF MISSIONARY ACTIVITIES IN THE RUSSIAN FEDERATION

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The need for the earliest solution of the question on the legal regulation of missionary activities in Russia is argued in the article. The author makes some suggestions on the development of this law.

Keywords: state-confessional relations, religious sects, missionary activities, offences, the law.

Despite the legal mechanisms established in Russia by the current legislation in the field of freedom of conscience, religious associations and countering extremism, in Russia continue the activities of destructive religious associations of foreign origin. Their leaders use methods of psychological pressure and intimidation, deny universal human values, and limit their followers in civil and personal rights. Many of them have revealed their involvement in incitement of international and interconfessional hatred, committing actions, which undermine the foundations of civil consciousness and tolerance. Based on numerous facts of proven illegal activity, invasion and existence of such organizations should be regarded as a serious geopolitical destabilizing factor for our country.

One of the most effective mechanisms to restrict the activities of new religious formations of destructive and occult nature would be, in our view, the elaboration and adoption of the legal basis for the implementation of missionary activity in territory of the Russian Federation. Indirect confirmation of the need for such

innovations was contained in the previous Decree of the President of the Russian Federation No. 24 from January 10, 2000 "On the concept of national security of the Russian Federation" [2], which stated that "have been activated the efforts of some States to weaken Russia's positions in the political, economic, military and other fields", develop political and religious extremism, ethnoegoism, ethnocentrism, chauvinism, nationalism, on the territory of the Russian Federation work foreign special services and used by them organization. According to the Ministry of Internal Affairs of Russia at the time of the adoption of the document more than 1300 missionaries from the United States, Germany, South Korea, France, Poland, Turkey, Saudi Arabia, Ghana, and Canada were working in 40 constituent entities of the Russian Federation. The representatives of the Russian Orthodox Church saw their activities as aggressive proselytism that was, and still is, the basis of religious controversies.

The current national security strategy of the Russian Federation up to the year 2020, approved by Presidential Decree No. 537 [3] from May 12, 2009 also indicates that "to prevent threats to the national security we need to ensure social stability, ethnic and confessional harmony".

Another reason to develop such a legal act is the fact that in some subjects of the Russian Federation regional laws with the same name are in effect. For example, the law of Belgorod region No. 132 from 19.03.2001 "On Missionary Activity in the Territory of Belgorod Region"; the law of Smolensk region 25-z from June 10, 2003 "On Missionary Activity in the Territory of Smolensk Region"; the law of Kursk region No. 23-ZKO from June 18, 2004 "On Missionary Activity in the Territory of Kursk Region", etc. Even greater numbers of such laws had been in force in other regions of Russia, but were canceled.

Unfortunately, the legal realities are such that in the absence of federal regulation of these legal relations and without appropriate amendments to the Federal law "On Freedom of Conscience and on Religious Associations" [1], without exception, all regional laws in this area poorly fit together, or, to put it simply, conflict with federal law. This is consistent with the provision of article 2.2 of the Federal law, which states that "laws and other normative legal acts adopted in the Russian Federation and affecting the realization of the right to freedom of conscience and freedom of religion, as well as the activities of religious associations must comply with the present Federal law. In case of contradiction between the present Federal law and normative legal acts of the constituent entities of the Russian Federation concerning the activities of religious associations the current Federal law should act".

Example of an apparent contradiction with federal law, inter alia, the basic provisions of these and other similar regional laws, according to which not all members of religious associations have the right to disseminate beliefs, but only “missionaries” with relevant standard documents which help to determine the affiliation to a certain religious association. According to laws religious groups should fully lose such a right because they do not exist in the form of organization and, naturally, cannot issue documents. The definition of “missionary activity”, offered in different degree of variability in each of the regional laws, also raises questions. In fact, all these definitions include normal activities to disseminate beliefs, which are compulsory and characteristic feature of any religious association.

It should be noted that there is a long-standing polemic regarding the need to introduce into the legal field of the Russian Federation the concepts of “missionary” and “missionary activity”.

In particular, one of the interesting discussions about missionary activity, organized by “Russkii Zhurnal” together with magazine “Religiovedcheskie issledovaniya”, took place at the Roundtable, December 11, 2009 in Russian Institute.

During the discussion, various views had been expressed, including the diametrically opposite ones. Among them, we close to the position of P. Kostyleva [4] (Religiovedcheskie issledovaniya – Journal of Religious Studies) who has underlined that “religious sermon from the standpoint of absolute truth” seems to him an aggression and “information violence”, and the journalist Mikhail Sitnikov who pointed out that “the state should watch the abuse on this basis, as there is a risk for a secular society, which lies in manipulating the religious principles in human consciousness, and in propaganda a particular ideology under the guise of missionary work” [5].

Way out of this situation would be implementation of the long-overdue and much-discussed in society need to develop and adopt the Federal law “On Missionary Activity in the Territory of the Russian Federation”. For the effective implementation of the goals and objectives on the regulation of legal field faced by this law, it is appropriate to introduce to it the following main elements:

1) definition of used in Law concepts and terms, first of all “missionary”, “missionary activity”;

2) limiting of missionary activity:

2.1) in space:

within the territory of religious buildings and structures – without limitations;

in the accommodation – with the consent of the persons residing therein;
when carrying out the mass activities of religious nature, in accordance with the legislation on the order of holding mass public and non-public events;

in the territories and sites under the jurisdiction of the Federal Service for the Execution of Sentences, territories of military units and formations – upon written agreement with the leadership of the respective institutions;

at the sites, facilities, buildings and territories of bodies of State power of the Russian Federation, constituent entities of the Russian Federation, local self-government, territorial bodies of the Executive power – this activity should be banned.

2.2) by range of persons:

for adults wishing to voluntarily attend the missionaries events – without restriction;

in respect of minors – upon the written consent of both parents or lawful representatives;

3) ban on missionary activities in state higher, secondary special, secondary educational institutions, children's pre-school institutions;

4) ban on missionary activity by foreign nationals who arrived with tourist, commercial and other purposes, except for missionary ones, confirmed in official travel documents;

5) regulation of the procedure for carrying out a denominational examination and issuing of expert opinions on the implementation of missionary activity;

6) introduction of measures of administrative responsibility for violation the procedure of carrying out a missionary activity in the form of an administrative fine in an amount, and in case of repeated violations of the procedure, in the form of administrative arrest for a specified period.

At the same time with the adoption of the Law it is necessary to make amendments to the legislation on freedom of conscience and religious associations, as well as to the Code on Administrative Offences of the Russian Federation.

In addition to further improving the legislation in this area there is no doubt concerning the need for development an adequate and effective public and legal policy on the regulation of religious processes that would ensure effective monitoring over the activities of various religious associations and would include a range of measures to combat religious extremism and to ensure national security of the country with participation in these activities of representatives of religious organizations, without contradicting the constitutionally enshrined principles of a secular State, freedom of conscience and freedom of religion.

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