



Legal bases of European interstate integration in the context of interfaith relations

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Abstract

Since ancient times religion has influenced not only the lives of individuals and societies but also world politics and international relations. The confessional factor plays a crucial role in relations between states. Since states often use the confessional environment to realize their geopolitical interests, the aim of this article is to analyze the role and place of state-church relations in the processes of European integration and determine the legal basis for the activity of interfaith organizations. The methodological framework of this article is based on an axiological approach which allows the authors to analyze the influence of religion on the law-making processes and the formation of a system of norms and values of society. The authors apply the dialectic method to examine the "civilization-culture" continuum of law and substantiate its dependence on religion in developing a common vector of European integration processes. The author also used the methods of analysis and synthesis to identify the interaction of legal and religious norms and to characterize the influence of the church on relations in society. In the framework of the study, the comparative legal method was also partially used, which played a key role in determining the influence of religion on the formation of legal norms. The article concludes that the church has become the activating factor for the formation of the axiological dimension of European integration.

Keywords: European integration; European law; European Union; inter-confessional relations; state-legal development.



Introduction

Legal consciousness is a peculiar phenomenon, since it is formed in the process of the historical formation of a certain society, nation, nationality, the formation and development of moral and ethical norms and guidelines for social development. It is decisive in the context of creating a system of social regulators, but at the same time it is itself formed under the influence of a system of social norms of various nature.

If we talk about legal consciousness in the context of the correlation of the norms of law and religious norms, and in particular the Catholic faith, in the framework of which the corresponding system of canon law is formed, it should be noted that the Christian doctrine forms its own dogmas based on legal reality. Although canon law promotes the supremacy of the Divine will and Divine principle in regulating the way of human being, such regulation is not so radically different from the legal regulation of social relations, as it might seem at first glance. At the same time, positive law, influencing the canonical one, goes through a certain stage of implementation and reproduction in religious norms, and religious norms themselves, in turn, affect the rule of law. Moreover, such an influence has two forms: direct and indirect (Hehir, 2006).

It is advisable to more accurately characterize the so-called direct influence as criterial, since religious norms do not affect the form and content of legal norms, but the approaches and criteria, standards and requirements when creating such norms. That is, law-making, and sometimes even law enforcement practice is based on the principles and imperatives laid down by religious dogmas in the legal custom of regulating social relations and in such a phenomenon as the "spirit of the law." This influence is primary in relation to another form of influence of religious norms on the rule of law (Kaufmann, 2010). Indirect influence is manifesting in the tangential interaction of religious and legal norms in the process of creating the latter. It is about the penetration of religious dogmas and religious teachings into the axiological dimension of the spiritual world of man. Therefore, there is a transformation of certain internal imperatives of personality behavior in a way that is as close as possible (within reasonable limits) to the category of "righteous being" enshrined in religious doctrine. Such righteousness is identified with values, which, formed under the influence of religion, are in fact the initial conditions for the creation of legal norms. The peculiarity of this effect is manifesting in the fact that in this way religious norms influence not only the individual's individual perception of legal norms, the level of legal understanding, but also public perception (Vapniarchuk et al., 2019).

In fact, religious doctrine causes a powerful, but quite objective and natural influence on the human value system. Naturalness is explained by the historicism of the existence of social regulators and customs in the regulation of social relations, which, in turn, were based on principles originating in religious norms and dogmas. Thus, it can be argued that for the EU, the Christian religion, with its dogmas and theological interpretation of the need for the Divine regulation of human existence, acts to a certain extent as a source for the formation of the foundations and characteristic features of legal awareness.

From the point of view of Hilberg (2003), a study of the nature of law should take place in a cultural-cultural aspect, that is, taking into account the peculiarities of legal reality and that continuum of social regulators that act along with the legal system as compilers of social processes. Such an approach allows revealing the features of religious norms and the process of regulating social relations through religious norms.

On the other hand, Tomka (1999) focuses on the fact that, considering religious norms as one of the varieties of social regulators, one can come to the conclusion about their nature and the mechanism of influence on social processes. But at the same time, it is difficult to disclose their relationship with the rule of law, since law is also a regulator of public relations.



That is, when determining religious norms as a species, they should automatically be identified with other types of social norms, and in particular legal (Tomka, 1999).

Complementing this thesis, it should be noted that the regulatory influence of religion has never been limited to the sacred sphere. In general, the church has always strived for a dominant role in relation to the state, which means that it tried to turn religious norms into the only possible imperatives for regulating social relations. The church did not so much try to replace the system of law with religious doctrine, but substantiate the divinity of the origin of law and, therefore, the necessity of its creation, solely on the basis of the dogmas of the Christian church.

Religion and the law: Religious norm as a regulator of the social environment

Religion goes beyond the spiritual world, intervening in completely materialistic processes: human labor, social development, education, and the like. However, such a penetration and the creation of a system of regulators based on religious norms turns a person's material being into a path to the Divine ideal of existence, that is, to Paradise. Righteousness replaces the social system, and then the evolution of statehood and society as such loses its own vector, rushing along the vector of Christian ideals. Such processes are generally impossible and unnatural, since the development of the material world is possible only through evolution, while faith rejected any possibility of self-development, justifying this by the presence of Divine will.

In one way or another, values are an ideal, a symbol, and regulatory ideas that cause a huge impact on a person and society in all spheres of his life. Like any relatively independent system of social regulation, religion includes normative and non-normative aspects, it regulates activity and behavior through norms, traditions, motives, goals, etc. But it is the normative system of religion that has the most regulatory potential. Religious norms - a system of requirements and rules aimed at the implementation of religious values (Yermakova, 2018).

It should be noted that the nature of religious norms is somewhat similar to legal custom. Thus, a religious norm is not sufficiently deterministic and imperative and can vary in content of regulation, understanding and perception by society and a specific person. Likewise, the practice of implementing a particular type of social relationship may vary depending on external conditions, internal factors, modes of behavior of participants in such relations. But at the same time, a certain tradition is formed in society for the commission of certain actions within the framework of a specific type of legal relationship (Osiejewicz, 2020). Such a tradition, transmitted from generation to generation, is transformed, improved, receives a certain expression, and ultimately becomes the norm, first at the level of its public perception (social norm-tradition), and then embodied in a specific rule of law (Kaufmann, 2010). A religious norm has a similar mechanism of legitimization, which proceeds from religious doctrine, transforming itself in the public consciousness and improving itself in the process of developing religious doctrine, becoming a more or less established norm-tradition. Then it takes the form of a source of law, as it becomes acceptable and natural for a particular social group.

Therefore, the position is that religion plays a significant role in the life and balanced existence of society and, finally, that the existing socio-religious system can significantly affect the formation and functioning of the legal system. After all, the social relations of the public are clear on the basis of the worldview foundation and the adoption of specific standards of mutual perception by people each other, their mutual humanity (religion is a factor that determines human thoughts, feelings, behavior through mandatory rules and standards and, accordingly, streamlines the specific social environment as a whole). The interaction of legal and religious norms in the process of lawmaking reflects the interaction of



the components of the value culture of states, united by causal-functional and logical-semantic relationships. The overwhelming and stable form of interaction of legal and religious norms in lawmaking is an indirect form of influence based on general factors (religious policies of the state, national ideas, traditions) (Zdioruk, 2017).

Legal and religious norms in the process of lawmaking are interrelated as a “norm” (is the result of a conscious perception of the content of a religious normative prescription by subjects of public relations and is generally binding) and a “model” (model of the desired behavior of a subject of public relations). The interaction of legal and religious norms in the process of lawmaking is determined by the corresponding type of social relations that have developed in society at a certain stage of its development and are characterized by the place and form of interaction of religion and the church with the state, in particular (Willaime, 2006):

- separation and remoteness of religion and church from the state (for example, Latvia, Portugal, Ukraine, Croatia, Moldova, Slovenia);
- the transformation and close relationship of the church and religion with the state, when there is an indirect influence on the formation of the state and lawmaking, special support for the church of a certain religious movement at the legislative level (for example, Spain, Italy, Poland);
- direct connection of religion and the church with the state, official recognition and consolidation of the status of state religion (for example, Greece, Great Britain, Denmark, Bulgaria, Georgia, Lithuania);
- the legal status of religion, church, religious organizations, institutions and communities (for example, Hungary, Bosnia and Herzegovina) is not defined;
- a ban on the officiality or dominance of any religion in the country (for example, Albania, Slovenia, Estonia);
- secular nature of the state (for example, Turkey, France).

The moral-religious plane of legal understanding means that the essence of the rule of law is revealed at two levels:

- understanding of the essence of the mechanism of regulation of social relations, which contains the rule of law. In this context, religious understanding answers the question of the validity of the rule of law by Divine teaching and God's will. The question is raised about the conformity of the general Christian system of values of a particular rule of law;
- understanding of the phenomenon that appears in the process of the regulatory impact of the rule of law on social processes. This level of understanding reveals religion's perception of legal reality. Since religious doctrine does not explain the totality of social relations, therefore, through separate characteristic features and signs, Christian doctrine tries to justify the level of rationality that lies in the rule of law through the public good, the achievement of which is an imperative of human existence and a manifestation of God's will.

The above conditions and explains the existence of idealistic and materialistic approaches to the interpretation of law. Thus, the idealistic approach is embodied in the system of views on law as an ideal regulator of social relations, ensuring the achievement of general welfare. That is, the idealistic approach determines the law, the interpretation of the Divine doctrine and its embodiment in earthly laws. But the materialistic approach to legal understanding is based on the purely practical, utilitarian purpose of law as a system of regulators of socio-economic and socio-political processes. In this context, law is seen as a means of maximizing the economic effect of social relations, and the development of the individual and society are derivatives of the development of the economic basis. Moreover, in a materialistic understanding of law, it is strictly determined and controlled by the state with the aim of strictly following legal norms (Durham, 1994).



The perception of the legal doctrine of religious, spiritual and moral principles can significantly improve the quality of legal regulation. The formation of the doctrine is possible and desirable, including taking into account the basic religious commandments contained in the scriptures of world religions. Based on the fact of the existence of God and the reality of His laws, the doctrine may include something in common, which is in all major religions. In other words, we are talking about the spirit of religion, the fundamental commandments laid down in the religious sources of “legal” principles, such as justice, equality before God and responsibility before Him, the need for love and mercy for one's neighbor, the desirability of an apology and the ability to meet in contentious issues property nature, an encouraging attitude to charity, other selfless activities, (Haynes, 2008).

Many researchers insist on an axiological approach when analyzing the influence of religion on the processes of law-making, the formation of a system of norms and values of society. It is here that the connection of religion, legal culture and morality of members of society is traced, without which legal culture is impossible. One of the reasons for the low legal culture of modern society is the low level of moral culture. The foundations of morality and the priorities of spiritual values are laid in the worldview and legal consciousness of modern society, largely thanks to religion (Kratochvíl, 2009).

Interdependence of law and religion in integration processes: Analysis of the mechanism
Analyzing the processes of integration into the EU in this context, it should be noted that they are just a consequence, a projection into the practical dimension of being by individuals of a vision of the order that is formed under the influence of the value system. Thus, to create such a supranational entity as the EU, it is important to have a unified approach to legal perception and legal understanding, since any integration processes at the regional or global levels require clear legal regulation, as well as the creation of common legal frameworks for all members of the future integration association.

Here, the point of view of Hennig (2015), who notes that law as an essential element of the sociosphere is developing and functioning within a single continuum “civilization - culture”. Attempts to attribute it only to the civilizational system and consider it in a purely instrumental, service aspect will lead to the appearance of simplified ideas. Such abridged models of law are filled with scientific works written from the standpoint of legal positivism, which does not take into account that the law, like a person, has a spiritual component, in addition to the material basis (Hennig, 2015). One way or another, law forms the civilizational guidelines for the development of nations and states, as well as the development of the entire EU. But civilizational guidelines are also formed due to the influence of religious doctrine at the level of formation of the system of moral and ethical values of man and citizen, which together form the moral contours of the culture of the nation.

In fact, the researcher characterizes law as a qualitative sign of society or a system of social values and regulators that have developed in society. The quality of such regulators, their orientation vector and general features and forms of practical implementation testify to the level of development of culture, and then the legal culture and the level of legal understanding and legal consciousness. This is the initial purpose of the legal system as a general regulator of social relations. But if we talk about regulators, then not only law is such. Religious norms and religion as a whole are also a powerful regulator of social relations, since religiosity is a characteristic of the spirituality of a nation, society, and a specific individual (Rusnak et al., 2020). And if the behavioral modes of personality and social group are formed on the basis of the practical rational beginning of regulation, which is embodied in law, and the regulators inherent in the spiritual sphere, that is, religious norms, then the final mutual integration and transformation of religious norms into legal norms is quite likely.



Law can not only be formed under the influence of religion, but also form worldview principles, which, in turn, will affect the perception of religion itself and the evolution of religious dogmas and norms, which can be seen in movements such as the Reformation. Religion and law are interconnected by the influence of their elements: the one-vector orientation of the homogeneous elements of both systems on other social systems and social life, mutual regulation of legal and religious norms of social relations; direct mutual influence of heterogeneous elements of the religious and legal systems or indirect (the influence of religious ideology on the formation of legal norms through legal consciousness due to the perception of religious beliefs and ideas by the legal consciousness), the interaction of branches of law with various spheres of religion (Heraskov, 2019).

In this context, Shapravskiy (2015) notes that religion and law have such a strong philosophical connection in the context of the axiological and law-enforcement dimension that it is necessary to talk not about the relationship of religion and law, but about the degree of influence of one system of social regulators (law) on another (religion) and vice versa. Then the analysis of the mechanism of the dependence of law on religion and integration processes, in particular in the EU, on the Catholic Church will be revealed through the perception by society of those models of social relations that are proposed or created under the mutual influence of law and religion (Shapravskiy, 2015).

The fact that the religious teaching of the Catholic Church affects secular processes in individual countries is an undeniable fact. However, with regard to the integration processes in the EU as a whole, it should be noted the existence of a large number of faiths, which, having their own view of religious dogmas, also affect the political will of their own societies and therefore the degree of integration. The historicism of the spread of the influence of the Catholic Church and even the participation of individual Popes in the process of European integration and the declaration of the exclusivity of Christian values as worldview guidelines for a united Europe - all this indicates a rather high degree of penetration of religious norms into the legal system and into the axiological dimension of perception rights.

The relationship of religious and legal norms is reflected in the measurement of the formation of legal consciousness and the perception of value orientations of the legal regulation of social relations. The problem of the formation of European justice is based primarily on the understanding of the relationship between the individual and society and has its roots in the Middle Ages, when the connection of religions, especially the church, and society was intense. The dominant idea of the influence of religion on legal consciousness is that the individual did not think of himself as an independent person, was only part of the collective, a structural unit of a certain social mechanism, state. Two common elements for all social groups that unite in European society were religion and law (Mudrov, 2011).

Moreover, one can even talk about the religiosity of law or canon law, which has long been a regulator of public relations in Europe. The social nature of such norms is determined by the fact that their enforcement was ensured by state coercion: violators of religious law orders were subjected to death punishment by corporal punishment, corporal punishment, dragged property liability. These were specific signs of law, formed on the basis of Catholic dogma, distinguishing it from any other systems of social regulation, including the religious system (Greeley, 2003). The unification of Europe as a civilizational idea received its support from the church, but the format of such a union - socio-economic integration - was chosen on the basis of the legal continuum that was formed in Europe. But at the same time, the religious dominant of the axiological dimension of European public consciousness has become key in the process of shaping the values of the future EU. Thus, the idea of integration or unification of Europe itself has clear and historically proven sources from the religious teachings of Catholicism on the creation of a single public civilizational space and its protection under the bosom of the church from external enemies. Integration became possible due to many common features of the historical path of development of European



countries, among which the dominance of the Christian religion and religious dogmas and the teachings of the Catholic Church became a determining element in the process of forming the worldview principles of Europeans.

Thirdly, the social system and social order that prevailed in European countries represented a system of stable, purposefully organized, long-lasting, but at the same time identical ties between the various elements of the sociosphere, which ensured the unity of worldview and the unity of legal understanding. This became the key to the spread of a unified system of value guidelines on the European continent. But such a distribution took place on the basis of moral and ethical preferences, which, in turn, were formed in different societies under the influence of a single Christian religion. Subsequently, they received an external manifestation in the form of a system of legal norms.

Thus, we can quite reasonably argue that the modern dimension of understanding the place of religion in lawmaking and the influence, in particular, of Christianity on the formation of EU law are personified through the moral, ethical and value components of religious teaching. Regulators of public relations, which were laid down in religious dogmas, were acceptable to most societies, therefore, their unification and further transformation into general regulators is not surprising. On the contrary, attention is drawn to the fact that Christianity, while remaining a conservative teaching, firstly, was able to interpret religious dogmas in such a way that they corresponded to modern challenges of civilizational development, and secondly, found the opportunity to determine religious norms in guidelines for interfaith unification (Jenkin, 2007).

Conclusion

An analysis of the theoretical and methodological aspects of the formation of state-church relations in the processes of European interstate integration led to a number of conclusions. Firstly, it has been established that European interstate integration has become one of the classic manifestations of globalization processes. The idea of uniting the countries of Europe on the basis of socio-economic and public-political integration and cooperation of efforts has become a prerequisite for maintaining European identity. The civilization choice of European countries was marked by the need to confront the two poles of the new world order that developed after the Second World War. The ideas of liberal democracy and the ideas of a communist society are widespread and the greatest level of confrontation is precisely in the conditions of European countries of the western and eastern parts of the continent. Therefore, European integration, which in the first stages was understood as the unification of opportunities for rapid economic growth and the reduction of barriers to the movement of goods, capital and labor, became the alternative that the representatives of the capitalist circles strove to see in overcoming. The latter were regarded as a direct threat to the existence of the ideas of a liberal economy.

Secondly, European interstate integration resulted in integration processes in all spheres of social life of a person and citizen. The religious sphere was no exception and showed rather intense trends in the transformation of the model of state-church relations. After the Second World War, the Vatican tried to restore its own monopoly position in the field of ensuring the spiritual needs of man and in the formation of civilizational guidelines and principles for the development of European civilization. In this context, the Church needed some contact with secular authorities in order to expand its sphere of influence. The church needed to exercise such an influence on the educational sphere, as well as on the social processes of the humanitarian direction. Through the efforts of Pope Pius XII and John Paul II, the Catholic Church has become an active subject of political relations, which significantly influenced the transformation of the model of state-church relations, which was marked by a clearer delineation of the role of the state and the church in the formation of the moral and ethical foundation of the policy of European integration. In addition, due to the activities of its own



newest orders, the Church was able to achieve high results in solving the problems of socio-economic restoration of post-war Europe and humanitarian problems.

Thirdly, it was established that it was the church, after activating its own political mission, that significantly expanded and strengthened its dominants over the problem of forming the axiological dimension of European integration. Through Christian teaching, the Vatican disseminated and substantiated the idea of European interstate integration, referring to the legitimization of basic Christian values by translating them into human and civil rights. One of such examples of embodiment is religious rights, the provision and consolidation of which took place everywhere in European countries, and then gained recognition at the level of EU law. The moral and ethical values of the new European civilization were a kind of synthesis of the ideas of liberal democracy and the principles of Christian teaching. The church tried through religious dogmas and norms to justify and lay in the public consciousness the basic principles of liberal democracy in order to significantly increase the level of economic and social freedom.

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