



IV. RECOMMENDATIONS AND SUGGESTIONS FOR GOVERNMENT INSTITUTIONS

The fourth part of the report sets out recommendations and suggestions for government agencies, which above all arose from this survey (first and foremost from the interviews with experts) and as a result of previous contacts between the Estonian Institute of Human Rights and religious societies and members thereof.

The following suggestions and recommendations were proposed in the hope that they could serve as a starting point for discussions between state institutions and representatives of religious societies and specialists and would lead to solutions that make it possible to guarantee religious freedom even more effectively in Estonia.

The list of recommendations and suggestions is certainly not an exhaustive one. To the knowledge of the Institute of Human Rights, the Ministry of the Interior's religious affairs department has prepared a juridical analysis of legal acts in force, which also includes suggestions for possibly amending these legal acts. Further, the interviews with experts contained in part II of this report also include a number of suggestions that do not appear in this part but which do likewise deserve discussion and analysis.

1) Status of religious societies as legal persons

Under legal acts in force (General Part of the Civil Code Act, Churches and Congregations Act, Non-profit Associations Act), religious societies (churches, congregations, associations of congregations, monasteries and convents, church institutions operating under international agreement) is a subset of non-profit association and the registry of religious societies is a sub-register of the non-profit associations and foundations register. In the 1990s, religious societies were an independent category of legal person and **discussion with regard to reinstating such a legal status could be considered.** Monasteries and church institutions operating on the basis of international agreement that are essentially non-profit associations nevertheless do not have the legal structure characteristic of non-profit associations. Making it possible for religious societies to be eligible for a special type of legal person would not contravene the articles



of the Constitution and it could be rationalized – on the basis of the example of other countries as well – by taking into account pre-existing particularities in the structure and operations that have developed over the course of history (often over hundreds of years).

2) Definition of “religious society”

The definition of religious society derives from the Churches and Congregations Act. **Whether the current substance of the term religious society conforms completely to what the drafters of the 1992 Constitution had in mind requires more thorough legal analysis.**

3) Enabling the territorial structural units of churches to have status of legal persons

First and foremost, this would be a **discussion about whether bishoprics of churches registered in Estonia could be given status as a legal person.** Both Orthodox Churches have expressed the wish to add such a provision to the Churches and Congregations Act. Insofar as both are churches that are part of a larger international structure, it should definitely be borne in mind what decisions have been made by other countries to resolve similar issues.

4) Protection of confessional secrets

It is evident from Section 22 of the Churches and Congregations Act that confessional secrets are absolute. Yet, for instance, Subsection 72 (3) of the Code of Criminal Procedure allows the obligation to be disregarded in certain cases. This is expected to be an area where discussion could bring out different opinions, but **discussion of this issue is undoubtedly necessary.**

5) Refining the Income Tax Act in connection with the conditions and procedure for preparing the list of persons with income tax incentives

Recent years have brought up in practice a number of disputes (e.g. in connection with Christian private schools but also with many other religious societies) where civic organizations and the Tax and Customs Board have had differing interpretations of Section 11 of the Income Tax Act, as a result of which the civic organizations were not included on the list of associations with income tax incentives. As a result of the legal disputes, the civic organizations were added to the list later on, but certainly **the discussion on relevant provisions in the Income Tax**



Act is worth to be reviewed in more detail. To the knowledge of the Estonian Institute of Human Rights, a preliminary document has been prepared at the Ministry of Finance, but it has not reached the Cabinet's agenda.

6) Reporting on religious societies

Representatives of religious societies have noted that while they understand the obligations imposed on religious societies as legal persons, **there should be a review of the requirements and forms for reporting which cover reports that the religious societies submit to the state** (i.e., whether they have to as detailed as the current procedures mandate, or whether simpler reporting forms – or if not simpler, at least differentiated according to amount of revenue – might be considered).

7) Terminology pertaining to religious societies and clergy in legal acts

The terminology pertaining to religious societies and clergy is inconsistent in the legal acts currently in force, and the essence of certain terms is not always unequivocally understood. **Thus the terminology in various legal acts should be made consistent.**