

THE LAW OF ASSOCIATIONS IN UKRAINE IN THE ABSENCE OF SYSTEMATIZED LEGISLATION

Prof. DDr. Oleksandr Bilash, LL.M.

Uzhhorod National University, Ukraine

e-mail: oleksandr.bilash@uzhnu.edu.ua; <https://orcid.org/0000-0002-1248-7798>

Abstract. The article is devoted to the issues of legal regulation of citizen associations in Ukraine since the content itself and structure of the right to “freedom of association” at the level of the Constitution are not detailed. At the same time, legal regulation at the level of laws also introduces ambiguity into the conceptual apparatus and leads to the conclusion that legal regulation in this area is not systematized. The article examines the constitutional provisions of the right to freedom of association in political parties and public organizations to exercise and protect one’s rights and freedoms and satisfy political, economic, social, cultural, and other interests, and analyzes the term “association” in the legislation of Ukraine. Features, which are common to all associations of citizens are highlighted, such as the voluntary nature of the association; the presence of specific intangible, but legally permitted goals; self-organization and self-regulation; and lack of authoritative powers in citizens’ associations. The article proposes to include creative unions, religious organizations, and the association of condominiums to the three types of associations foreseen by the Constitution: political parties, public organizations, and trade unions.

Keywords: associations of citizens; the right to freedom of association; political parties; religious organizations; public organizations; creative unions

INTRODUCTION

In foreign literature and legislation, the term “freedom of association” is used, which means the right of a person to join or leave a group voluntarily, the right of a group to take collective action to ensure the interests of its members, the right of an association to accept or refuse membership based on certain criteria. Freedom of association covers organized and professional organizations such as trade unions, public associations, and non-governmental organizations, extends to voluntary organizations, and can apply to political parties, groups, and organizations with or without legal entity status. The association involves joint actions and the achievement of a common goal under the conditions of compliance with certain rules of conduct (corporate norms) [Giese 2008, 34]. Freedom of association is a fundamental right and affects the realization of a number of other rights, and the level

of democracy in a country can be measured by how freedom of association is enshrined in national legislation and how authorities implement the law in practice.¹

The equivalent of “freedom of association” in the Ukrainian legal sphere is the concept of “freedom of association”. This right is enshrined in the provisions of Article 36 of the Constitution of Ukraine. The content and structure of this right at the level of the Constitution are not detailed, but separate forms of manifestation of this right are provided for, in particular, participation in political parties, public organizations, and trade unions, which, obviously, do not limit the possible participation of citizens in associations, but indicate only the main ones of them.

Legal regulation at the level of laws also does not define the association, moreover, it introduces ambiguity into the conceptual apparatus due to confusion in the concepts of “association of citizens”, “public associations”, and “public organizations”. The scientific literature contains attempts to interpret and systematize the normative array [Boyko 2015, 48-53; Vikhliayev 2013, 70-73; Davydova and Mendzhul 2020, 51-57], however, the structural and content hierarchy of these concepts has not been established.

Therefore, it should be noted specifically that the constitutional provisions define the association of citizens as a generalizing concept similar to what is denoted by “association” in the English-language literature, and “Verein” in the German-language literature. Associations include voluntary associations of people who have united and pursue the goal of achieving a certain “ideal” in the political, religious, cultural, public, and environmental spheres, may also implement important economic and socio-political tasks, but their goals are not to make a profit and pursue commercial interests. Such associations include public associations (including public organizations and unions), creative unions, religious organizations, political parties, trade unions, and their associations, and associations of condominiums. The name of the organizational and legal forms of these associations contains an indication of the direction of activity or their specialty: *public* associations, *religious* organizations, *trade* unions, etc.

1. CONSTITUTIONAL PROVISIONS

Article 36 of the Constitution provides citizens with the right to freedom of association in political parties and public organizations to exercise and protect their rights and freedoms and satisfy political, economic, social, cultural, and other interests. Foreign nationals are also entitled to this

¹ ECHR, *Gorzelik and Others v. Poland*, 17.02.2004, No. 44158/98.

freedom, as Article 11 of the ECHR grants everyone the right to freedom of association with others, including the right to form and join trade unions to protect their interests.

Freedom of association means the legal and factual possibility to form or join associations of citizens voluntarily, without coercion or prior permission (Decision of the Constitutional Court of Ukraine of December 13, 2001, No. 18-пп/2001). According to Part 4 of Article 36 of the Constitution of Ukraine, no one can be forced to join any association of citizens.

The right to freedom of association is not absolute, so its limitations are permitted. In particular, the constitutional provisions determine that such a restriction must be: 1) established by law; 2) carried out in the interests of national security and public order, public health protection, or protection of the rights and freedoms of other people. At the same time, none of such restrictions should completely void the right to freedom of association or infringe on the very essence of this right.

The Constitutional Court of Ukraine also emphasizes that the state must create such legislative mechanisms for the activities of citizens' associations that will ensure the free development of the individual, the possibility of realizing one's creative potential and individual abilities in political, economic, social, cultural, or other spheres of public life. Any restrictions on the right to freedom of association, including the imposition of additional duties on citizens in connection with the implementation of this constitutional right, must be established by law (available, provided for, and formulated with sufficient precision), pursue one or several legitimate goals, and must also be necessary for a democratic society, that is, due to an "urgent public need", comply with the principle of proportionality (Decision of the Constitutional Court of Ukraine (Grand Chamber) of June 6, 2019, No. 3-p/2019).

The interference of state authorities, local self-government bodies, their officials and servicemen in the activities of citizens' associations carried out within the framework of the law is not allowed, since the internal organization, relations of members of citizens' associations, their subdivisions, and the charter responsibility of members of these associations are regulated by corporate norms established by the associations of citizens themselves, which are based on the law, and issues that belong to their internal activity or exclusive competence are subject to independent resolution. Therefore, the intervention of state authorities, local self-government bodies, their officials and servicemen in the activities of citizens' associations carried out within the framework of the law is not allowed (Decision of the Constitutional Court of Ukraine dated May 23, 2001, No. 6-пп/2001).

2. GENERAL TERMS

2.1. The content of the term “association” in the legislation of Ukraine

The concept of “association” is not defined in the law, but it is used by the legislator when interpreting the concepts of “public association” (in the Law ‘On Public Associations’), “political party” (in the Law ‘On Political Parties in Ukraine’).

The Guidelines on Freedom of Association published by the European Commission for Democracy through Law define an “association as an organized independent non-commercial body in the form of a voluntary association of persons bound by a common interest, activity, or purpose.” It is noted that the association does not necessarily have to be a legal entity, but must have a certain institutional form or structure.²

In order to generalize various types of associations of citizens, the Law ‘On State Registration of Legal Entities, Individual Entrepreneurs, and Public Organisations’ introduces the concept of “public formations”, which means political parties, structural units of political parties, public associations, local branches of a public association with the status of a legal entity, trade unions, their associations, trade union organizations, trade unions and their associations provided for in the charter, creative unions, local branches of creative unions, permanent arbitration courts, employers’ organizations, their associations, separate units of foreign non-governmental organizations, representative offices, and branches of foreign charitable organizations.

Also, this law defines the possibility of the existence of public formations, both those that have the status of a legal entity and those that do not.

2.2. The features of an association

Common features of all citizen associations include: 1) *the voluntary nature of the association*, which is expressed in the possibility of joining and leaving the association of citizens by free decision, the prohibition of mandatory membership. Accordingly, the charter of the association must contain provisions on the procedure for acquiring and terminating membership, conditions of participation; 2) *the presence of specific intangible, but legally permitted goals*. The activity of the association is not aimed at making a profit (Article 1 of the Law ‘On Public Associations’, Article 1 of the Law ‘On Trade Unions, Their Rights and Guarantees of Activity’), however, they may receive income and profit. A non-profit organization is an organization

² Organization for Security and Co-operation in Europe, 2015, *Guidelines on Freedom of Association*. OSCE’s Office for Democratic Institutions and Human Rights (ODIHR), <https://www.osce.org/odihr/132371> [accessed: 07.12.2023].

registered under the procedure specified for a non-profit organization and entered by a controlling body in the Register of Non-Profit Institutions and Organizations, and the founding documents of which contain a prohibition on the distribution of received income (profits) among founders, members, employees, etc. (clause 133.4.1 of the Tax Code). Accordingly, in this case, it is not the goals of the association (primary and secondary), but the directions of profit use that are decisive. Thus, the income or property of a public association is not subject to distribution among its members (participants) and cannot be used for the benefit of any individual member (participant) of the public association or its officials (Part 6, Article 3 of the Law 'On public associations'); 3) the achievement of program goals of the association is carried out based on *self-organization and self-regulation*. If the association is founded as a legal entity, the corporate regulatory act is the charter (regulations); 4) *lack of authoritative powers in citizens' associations*, except for cases when the state delegates certain authority to them and enshrines them in legislation [Aver'yanov 2004, 249]. Granting certain public associations or their representatives a certain competence indicates that such associations of citizens and their representatives have acquired the public nature of their activities, and therefore gives the right to the state to introduce appropriate control over the activities of associations of citizens and their representatives in such cases (Decision of the Constitutional of the Court of Ukraine (Grand Chamber) dated June 6, 2019, No. 3-p/2019).

2.3. Types of associations and their goals

Depending on the set goals and tasks, associations can be divided into separate types. As already noted, the provisions of the Constitution provide for the existence of three types of associations: political parties, public organizations, and trade unions. However, the features highlighted above allow us to expand the list of such species, so we suggest including: 1) public associations; 2) creative unions; 3) religious organizations; 4) political parties; 5) trade unions and their associations; 6) associations of condominiums.

Also, due to the absence of a general law on the association of citizens, the question arises of including in their list other non-entrepreneurial societies (Article 85 of the Civil Code) and non-profit organizations (Resolution of the Cabinet of Ministers of Ukraine No. 440 of July 13, 2016). It concerns commodity exchanges, chambers of commerce and industry, credit unions, self-regulatory organizations, retirement funds, social insurance funds, etc. We believe that associations whose purpose is to carry out banking or credit activities, mutual insurance, and savings banks are not associations of citizens in the sense given above. Also, associations that aim to carry

out professional activities, such as bar associations, chambers of commerce and industry, etc., are also not aimed at the realization of public goals.

It should be noted that despite the fact that the Classifier of Organizational and Legal Forms of Business has included self-organization bodies of the population in the group “800: public associations, trade unions, charitable organizations, and other similar organizations”, they are not associations of citizens, but subjects of local self-government, although they are formed on a voluntary basis (order of State Committee for Technical Regulation and Consumer Policy of Ukraine of May 28, 2004, No. 97).

In order to establish the limits of the association’s activity, the founders determine the purpose of the association’s activity. However, it should not contain the property interest of the members, which is also confirmed by judicial practice (ruling of the Kharkiv District Administrative Court dated February 27, 2015 in case No. 820/1107/15).

3. FORMATION OF ASSOCIATIONS

The general rules for the formation of all associations of citizens foresee the need for their *state registration*, regardless of whether they are formed with or without the status of a legal entity, following the procedure provided for by the Law ‘On State Registration of Legal Entities, Individual Entrepreneurs, and Public Organisations’. Peculiarities of state registration of types of public formations are determined by separate laws, which are special concerning the above.

3.1. The formation of public associations (public organizations and unions)

The process of creating public associations has two stages: 1) *initiative-establishing*, which includes expression of intent (initiative) of the founders, development, and approval of the charter, formation of management bodies; 2) *registration*, which provides for state registration [Bilash and Mendzhul 2021, 24].

The initiative to create a public association is recorded at the statutory meeting of the founders and formalized in the protocol. The number of founders cannot be less than two persons. To create a public union, legal entities under private law participate in this process through managers or other authorized representatives. The founders take part in the process of creating a public association: for public organizations – natural persons who have reached the age of 18 (for youth and children’s public organizations – 14 years), and for public unions – legal entities under private law.

After the registration of the association, the founders become its members together with others who have joined the organizations already after registration, and members of the public union can be both legal entities under private law and natural persons.

Registration of a public association is carried out by the authorities of the Ministry of Justice of Ukraine in the regions, and cities of Kyiv and Sevastopol. Article 17 of the law defines the list of documents to be submitted by the applicant for state registration of a legal entity (regardless of whether it is a public organization and its type), and Article 19 – requires the list of documents to be submitted for state registration of a public association, which does not have the status of a legal entity. In particular, the main documents submitted for state registration of the creation of a legal entity are: 1) application; 2) founders' decision to create a legal entity; 3) information about the governing bodies of public formation; 4) founding document; 5) register of persons (citizens) who participated in the statutory congress (conference, meeting).

When creating a public formation without the status of a legal entity, the following documents are submitted: 1) an application for state registration; 2) a decision on the formation of a public association; 3) information about the founders of the public association – for an individual; name, location, identification code – for a legal entity); 4) information about the person authorized to represent the public association.

State registration data are entered into the *Unified State Register of Legal Entities, Individual Entrepreneurs, and Public Organizations*. The data of this register is actually open since the norms of the law and the information system make it possible for the applicant to obtain information about the beneficiary owners, location and types of activities, information about making registration changes, etc. based on a free online request, which is executed immediately once it is sent. The request on a paid basis is provided only for information about the founder of the legal entity, the head of the legal entity, the person who has the right to sign without a power of attorney of the legal entity, as well as when choosing a date other than the current one.

Information on public associations is also entered in the Unified Register of Public Formations. The unified register consists of the following sections: register of political parties; register of public organizations; register of charitable organizations; register of creative unions; register of chambers of commerce and industry; register of permanently active arbitration courts; register of charters; register of associations of local self-government bodies. The holder of both of these registers is the Ministry of Justice of Ukraine, which ensures their functioning.

The grounds for a refusal to register public associations may be those established for all types of public associations (contained in Part 1 of Article 37 of the Constitution of Ukraine, Article 4 of the Law of Ukraine 'On Public Associations'); 2) those established for all legal entities (provided in Article 28 of the Law 'On State Registration of Legal Entities, Individual Entrepreneurs, and Public Organisations'). Refusal to carry out state registration of a public organization must be justified (decision of the Brovary district court of the Kyiv region of November 24, 2015 in case 361/4162/15-a).

3.2. The formation of creative unions

Despite the similarity in the name of creative unions with such a type of public association as a public union, as well as despite the contiguity of the goals and tasks of creative unions and public associations, creative unions are a separate type of associations of citizens and are not a sub-type of public associations connections. This is evidenced by the clarity of the legislative regulation of their areas of activity, state support for the development of creative unions through the provision of grants and placement of state orders, their involvement in the drafting of legislation, the development of national programs, and other socially important cultural activities. Their difference from public associations is also evidenced by the procedure for their formation and activity established by the Law 'On Professional Creative Workers and Creative Unions', as well as by the legally defined governing bodies. However, if the association of professional creative workers is rejected for the status of a creative union, they have the right to legalize their association as a public organization [Gaeva 2000, 146-54].

In accordance with the provisions of Article 8 of the law, a creative union is created by a group of professional creative workers of the relevant professional direction in the field of culture and art (all-Ukrainian – consisting of at least 100 people, regional (local) – at least 20 people), who have completed and published works of culture and art or their interpretations. Members can be professional creative workers who have reached the age of 18. The decision to form a creative union is made by a general meeting (congress, conference) of a group of creative workers.

All creative unions are subject to state registration. All-Ukrainian creative unions are registered by the Ministry of Justice of Ukraine, and regional (local) creative unions are registered by territorial bodies of the Ministry of Justice of Ukraine under the procedure established by the Law 'On State Registration of Legal Entities, Individual Entrepreneurs, and Public Organisations'. The decision to introduce changes to the charter of the creative union, its territorial unit, changes in the composition of the elected bodies of the creative union or its territorial unit shall be made in the manner determined

by the charter and shall be formalized in the protocol of the meeting of the creative union's authorized body, the subject of state registration shall be only notified about the following.

3.3. The formation of religious organizations

In Ukraine, the procedure for creating religious organizations is regulated by the Laws 'On Freedom of Conscience and Religious Organizations' and 'On State Registration of Legal Entities, Individual Entrepreneurs, and Public Organisations'. The general procedure for the formation of religious organizations is confusing, which gives rise to thoughts about "ineffective dialogue between the government and society" [Sopilko and Vozniak 2013, 76], although, in fact, it is the result of the imperfection of the special regulation of the Law 'On Freedom of Conscience and Religious Organizations' on the procedure for the formation of religious organizations [Bilash 2019, 300-301].

In particular, from the provisions of this law, which determine that the notification of state authorities on the formation of a religious community is not mandatory (Article 8) and that the charter (regulations) of a religious organization, which under civil legislation determines its legal capacity, is subject to registration (Article 14), conclusions are the following: 1) a religious organization can operate without the status of a legal entity, but the above applies only to a religious community; 2) religious administrations, centers, monasteries, religious brotherhoods, missionary societies (missions), spiritual educational institutions, as well as associations can act only in the status of a legal entity; 3) "state registration of a legal entity" in the sense of the Law 'On State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations' for religious organizations means "registration of the charter (regulations)" of this organization, as provided by the Law 'On Freedom of Conscience and Religious organization'.

Therefore, the creation of a religious organization can go through one stage – initiative-establishing, which involves the approval of the charter by the founders at the founding meeting and the adoption of a decision on the creation of a religious organization, as well as two stages, the second of which is the state registration of a legal entity (registration of the charter of a religious organization). The charter of a religious organization is adopted at a general meeting of religious citizens or at religious congresses and conferences. Mandatory components of the charter of a religious organization are defined in Article 12 of the Law 'On Freedom of Conscience and Religious Organizations': 1) type of religious organization, its religious affiliation, and location; 2) the place of a religious organization in the organizational structure of a religious association; 3) property status; 4) the right

of a religious organization to establish enterprises, mass media, other religious organizations, and establish educational institutions; 5) the procedure for introducing changes and additions to the charter; 6) the procedure for resolving property and other issues in the event of termination of the activity of a religious organization.

Registration of the charter of a religious community is carried out by regional state administrations, whilst religious centers, administrations, monasteries, religious brotherhoods, missions, and spiritual educational institutions submit their charters (regulations) for registration to the State Service of Ukraine for Ethnopolitics and Freedom of Conscience.

The Law 'On Freedom of Conscience and Religious Organizations' establishes a list of documents submitted for state registration of a religious organization for each of its types (Article 14), grounds for refusal to register the charter (regulations) of a religious organization (Article 15), the procedure for terminating a religious organization organizations (Article 17).

The term for consideration of documents submitted for state registration and other registration actions regarding religious organizations is 1 month: within a month, the registration body reviews the application, the charter of the religious organization, makes the appropriate decision, and within ten days, notifies the applicants in writing about it.³ In some cases, the registration authority may request the opinion of the local state administration, the executive committee of the village, settlement, city council, as well as specialists. In this case, the decision to register the charters (regulations) of religious organizations is made within three months. The result of the registration procedures is the inclusion of a religious organization in the Unified State Register of Legal Entities, Individual Entrepreneurs, and Public Organizations where, in addition to general information that applies to all legal entities, the type of religious organization (community, center, monastery, etc.) and its religious affiliation are indicated.

The registering body may refuse to register the charter (regulations) of a religious organization if its charter or activity contradicts the current legislation.

3.4. The formation of political parties

The formation of a political party is conducted in two stages: the initiative-establishing stage, which involves the adoption of a decision to create a party at the founding congress, and the stage of state registration.

³ During the state of war period in Ukraine, the term of providing the administrative registration service is suspended and renewed within a month after the termination or abolition of martial law in the relevant territory of Ukraine.

A political party is created by a group of citizens of Ukraine consisting of at least 100 people by deciding to create a political party at its founding congress (conference, meeting), which must be supported by the signatures of at least 10,000 citizens of Ukraine who have the right to vote in elections, collected in at least two-thirds of the districts of at least two-thirds of the regions of Ukraine, the cities of Kyiv and Sevastopol, and in at least two-thirds of the districts of the Autonomous Republic of Crimea. The decisions of the Constitutional Court of Ukraine of June 12, 2007 No. 2-пн/2007 (the case on the formation and registration of party organizations) and of October 12, 2007 No. 9-пн/2007 in the case on the constitutional submission of the Ministry of Justice of Ukraine on the official interpretation of the provisions of the sixth part of Article 11 of the Law of Ukraine 'On Political Parties in Ukraine' are important in this context. This decision recognizes that all the listed administrative-territorial units have equal status and rights in matters related to the creation of political parties, therefore the provisions of Part 6 of Art. 11 of the law regarding the requirement for each political party to form party organizations in the Autonomous Republic of Crimea was recognized as unconstitutional. Therefore, the legislative provision that a political party ensures the formation and registration of its regional organizations in most oblasts of Ukraine, the cities of Kyiv, Sevastopol, and the Autonomous Republic of Crimea should be understood as the obligation of a political party to form and register regional and equivalent party organizations no less than in fourteen out of twenty-seven administrative-territorial units of Ukraine.

At the founding congress (conference, meeting) of the political party, the charter and program of the political party are approved, its governing and control and auditing bodies are elected. However, the activity of a political party can be carried out only after its registration under the procedure defined by the Law 'On State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations'. The subject of registration is the Ministry of Justice of Ukraine (for political parties) or its territorial bodies (for structural entities of political parties).

When registering a political party, in addition to the general list of documents submitted for the registration of a public formation, the registration body is provided with the program of the political party, a register of persons who participated in the founding congress (conference, meeting), as well as a list of signatures of citizens of Ukraine.

Registration of regional, city, and district organizations or other structural entities provided for by the party charter, as well as the legalization of the primary branches of a political party, is carried out only after the registration of the political party. The subject of state registration is notified of the formation of regional, city, district organizations, or other structural

formations of a political party, provided for by the party's charter, within 10 days from the date of their formation. Their registration is carried out with the acquisition of the status of a legal entity if such a status is provided for by the party's charter, or without the status of a legal entity.

Every year, the Ministry of Justice publishes a list of registered political parties and their legal addresses.⁴

3.5. The formation of trade unions and their associations

The peculiarity of the formation of trade unions and their associations is resulted from the fact that, unlike other public associations and legal entities, the beginning of their activity cannot be determined by the moment of registration, since this is equivalent to the requirements for prior permission for the formation of a trade union and prevents the exercise of the right to create trade unions “based on the free choice of their members.” As the Constitutional Court established in its decision, the constitutional provisions require the establishment by law of such a procedure for the registration of trade unions, which would be an act of granting the status (rights) of a legal entity and no more (Decision of the Constitutional Court of Ukraine of October 18, 2000 No. 11-пІ/2000).

Accordingly, the Law ‘On Trade Unions, Their Rights, and Guarantees of Activity’ links the formation of trade unions and their acquisition of the status of a legal entity with the adoption of a decision by the founders on their creation and the approval of the charter (Article 16 of the law). At the same time, a special legalization procedure has been established for notifying the state authorities about the establishment of a trade union body. Trade unions and their associations are legalized by notification of compliance with the declared status. Organizations of trade unions can have the status of primary, local, district, regional, republican, or all-Ukrainian.

At the same time, the legalization carried out by the bodies of the Ministry of Justice of Ukraine is the same state registration (“state registration is a certification of the fact of the existence of the relevant status of a trade union, its organization or association”: clause 4 part 1 of Article 1 of the Law ‘On State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations’. For their legalization, founders or heads of elected bodies submit applications, charters (regulations), protocols of congresses, conferences, founding or general meetings of trade union members with a decision on its approval, and information about elected bodies. The registration body

⁴ Ministry of Justice of Ukraine, *Register of political parties*, <https://minjust.gov.ua/m/str31094> [accessed: 07.12.2023].

does not have the right to refuse the registration of a trade union, but it has a month to consider the submitted documents and to include the trade union, association of trade unions in the register of citizens' associations and issue a certificate of legalization.

3.6. The formation of associations of condominiums

The association is formed by owners of apartments and non-residential premises in a condominium (condominiums) in accordance with the procedure provided for by the Law 'On Association of Condominiums'. The formation of an association involves two stages: initiative-establishing, the holding of the founding meeting of co-owners, who decide on the establishment of the association and approve its charter, as well as the stage of state registration. State registration of an association is carried out under the procedure established by the Law 'On State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations'. For registration, an application, the protocol of the founding meetings, and the charter of the condominium are submitted.

4. ASSOCIATION ACTIVITIES

4.1. Rights and obligations

Among the list of rights of citizens' associations, which belong to them regardless of their type, the following rights can be included: freely conduct their activities within the limits provided by legislation and constituent documents, disseminate information about their activities; to represent and protect the rights and legitimate interests of its members; address state authorities, local self-government bodies, their officials, and servicemen; to receive public information that is in the possession of subjects of authority, other managers of public information; to participate in the development of projects of regulatory and legal acts issued by state authorities, local self-government bodies and related to the sphere of activity of the association and important issues of state and social life; to hold peaceful meetings, etc.

In addition, an association with the status of a legal entity has the right to be a participant in civil legal relations, a founder of mass media, other legal entities, etc.

Individual rights of citizens' associations are acquired if they are provided for by charters on their activities. Such rights include, in particular, the right to defend in court the personal non-property and property rights of both its members, as well as the rights and legally protected interests of other persons who applied to it for such protection (Decision of the Constitutional Court

of Ukraine of November 28, 2013 No. 12-пн/2013; Decision of the Grand Chamber of the Supreme Court in case No. 367/4695/20). However, it should be noted here that an association can act as a plaintiff in a court of law for the protection of its own rights, for example, the right to access public information, regardless of whether such an association is formed with the status of a legal entity or not.

The rights of citizen associations of various types are also defined in special laws. For example, political parties have the right to participate in the elections of the President of Ukraine, the Verkhovna Rada of Ukraine, to other state authorities, local self-government bodies and their officials, to maintain international relations with political parties, public organizations of other states, ideologically, organizationally and financially support youth, women's and other associations of citizens, provide assistance in their creation, etc. Religious organizations have the right to establish and maintain freely accessible places of worship or religious gatherings, to manufacture and distribute objects of religious purpose, religious literature, and other informational materials of religious content, to form societies, brotherhoods, associations, other associations of citizens for charity, study and distribution religious literature and other cultural and educational activities.

All associations of citizens are obliged to keep legal documents, documents that contain information about the activities carried out by the association, make financial and other reports, and ensure record-keeping and preservation of accounting documents. For non-profit organizations, financial statements shortened by indicators are provided, which can be used by non-profit organizations.

4.2. Association management

As it was noted, the internal organization, relations of members of citizens' associations, their subdivisions are regulated by corporate norms established by the citizens' associations themselves. However, information about the management bodies of a legal entity and information about the head of an association without the status of a legal entity are displayed in the United State Register of Legal Entities, Individual Entrepreneurs and Public Organisations.

Laws that regulate the activities of certain types of citizen associations approach the definition of governing bodies in different ways. For some types of associations, full freedom to define governing bodies and their powers in statutory documents is established. In particular, the Law 'On Public Associations' specifies that the powers of the head, the highest governing body, other governing bodies of the public association, the procedure for their formation and changes in composition, the term of authority,

as well as the procedure for determining the person authorized to represent the public association, are defined in the charter. Similar provisions are contained in special laws regarding trade unions, political parties, and religious organizations.

Concerning creative unions and the association of condominiums, the governing bodies and their main powers are determined by legislation, not by charter. In particular, the activities of the creative union are managed by the general meetings (congress, conference), the board, the presidium, and the chairman of the board. The general meeting approves the charter of the union, determines the main areas of activity of the creative union for the next period, hears the report of the board on the activity of the creative union and the report of the inspection committee, elects the board, presidium, chairman of the board and the inspection committee of the creative union, makes decisions on the reorganization or liquidation of the creative union, etc. The management of the union's activities in the period between general meetings belongs to the competence of the board. The current activities of the creative union are managed by the presidium and the chairman of the board of the creative union, and the inspection committee exercises control over financial and economic activities, correct management of affairs, timely consideration of letters, appeals, statements, and complaints (Chapter III of the Law 'On Professional Creative Workers and Creative Unions').

In the same way, the Law 'On Association of Condominiums' in Article 10 defines the governing bodies of the association, which are the general meeting of co-owners, the board, the inspection committee of the association, regulates in detail their powers and the procedure of formation.

4.3. Accounting

The Law 'On Accounting and Financial Reporting in Ukraine' dated July 16, 1999 No. 996-XIV defines the need for accounting and financial reporting by all legal entities, regardless of their organizational and legal forms, and forms of ownership. This also applies to associations that have the status of a legal entity. However, for the unification of citizens, it is important to include them in the Register of Non-Profit Institutions and Organizations, after which they cease to be taxpayers of corporate income tax. At the same time, they retain the obligation to keep accounting records and keep accounting documents.

According to the provisions of Article 133 of the Tax Code, an association is non-profit if it simultaneously meets the following requirements: a) formed and registered in the prescribed manner; b) the founding documents contain a prohibition on the distribution of received income (profits)

among the founders, members of such an organization, employees (except for payment of their labor, calculation of a single social contribution), members of management bodies and other related persons; c) the constituent documents provide for the transfer of assets to one or more non-profit organizations or their inclusion in the budget income in the event of termination of the legal entity (except for the association of condominiums and housing and construction cooperatives); d) entered by the controlling body in the Register of Non-Profit Institutions and Organizations.

Income (profits) of a non-profit organization can be used only to fund expenses for the maintenance of the organization itself and the realization of its statutory goals. The income of non-profit religious organizations can also be used for charitable activities, including the provision of humanitarian aid, charitable activities, and charity.

5. TERMINATION OF ASSOCIATIONS

General grounds for termination of activities of citizens' associations include: 1) the decision of the association itself through liquidation (self-dissolution) or reorganization, adopted by the highest governing body (for a public association), a general meeting, congress, conference (for a political party, trade union, creative union) or co-owners of apartments (for the association of condominiums) in the manner determined by the statute; 2) by a court decision on the prohibition, liquidation (forced dissolution) of an association or cancellation of the registration of a political party.

In addition to the above two reasons, the association of condominiums can cease its activity as a result of the purchase by one person of all premises in an apartment building.

A court prohibition on the association of citizens is carried out at the request of the registration body in the event of: 1) conviction of his authorized persons for committing a criminal offense against the foundations of national security of Ukraine, provided for in Article 111-1 of the Criminal Code of Ukraine; 2) detection of signs of violation by the association of the requirements of Articles 36 and 37 of the Constitution of Ukraine or the requirements of special legislation.

Unlike other legal entities, citizens' associations cannot be terminated by a court decision in the event of a lawsuit by the tax authorities, if the organization does not submit tax records.

Additional grounds of special legislation regarding termination of associations in a court order for different types of associations of citizens may differ. In particular, in relation to a religious organization, they are: 1) committing actions by a religious organization related to the preaching of hostility,

intolerance towards non-believers and believers of other faiths, activities of political parties and providing them with financial support, arbitrary seizure of religious buildings or appropriation of religious property; 2) a combination of ritual or preaching activities of a religious organization with encroachments on the life, health, freedom, and dignity of a person; 3) systematic violation by a religious organization of the procedure for conducting public religious events (worships, rites, ceremonies, marches, etc.) established by law; 4) encouraging citizens to fail to fulfill their constitutional duties or actions that are accompanied by gross violations of public order or encroachment on the rights and property of the state, public or religious organizations.

For a political party, the grounds for banning a political party are the discovery of the facts of the political party's actions aimed at: a) liquidation of the independence of Ukraine, change of the constitutional order by violent means, violation of the sovereignty and territorial integrity of the state, undermining of its security, illegal seizure of state power, propaganda of war, violence, incitement of inter-ethnic, racial, religious hostility, encroachment on human rights and freedoms, public health; b) propaganda of communist or national socialist (Nazi) totalitarian regimes and their symbols; c) violation of the equality of citizens depending on their race, skin color, political, religious and other beliefs, gender, ethnic and social origin, property status, place of residence, on linguistic or other grounds; d) dissemination of information containing justification, recognition as legitimate, denial of the armed aggression of the Russian Federation against Ukraine.

Grounds for canceling the registration of a political party are the discovery within three years from the date of registration of the political party of inaccurate information in the documents submitted for registration, failure of the political party to nominate its candidates for the elections of the President of Ukraine and the elections of People's Deputies of Ukraine for ten years.

Termination of association activities is subject to state registration. For state registration of the termination of a public association that does not have the status of a legal entity, a decision of the authorized public association management body on its self-dissolution is submitted. However, the termination of the activity of an association with the status of a legal entity occurs in two stages, where the decision to terminate the public association is made at the first stage and the state registration of the termination at the second stage. State registration of the termination takes place on the condition that there is no debt owed to the controlling authorities and there are no pending executive proceedings. Therefore, for state registration of the decision to terminate the association-legal entity, adopted by the body of the association, the decision of the relevant body of the legal

entity on termination, a document approving the personal composition of the termination commission (reorganization commission, liquidation commission) or liquidator is submitted. For state registration of the termination of an association-legal entity based on a court decision, an application for state registration of the termination of a legal entity as a result of its liquidation and a certificate of the archival institution on the acceptance of documents subject to long-term storage are submitted.

CONCLUSIONS

It can be concluded that in the Ukrainian normative sphere, there are two concepts with synonymous meanings: “association of citizens”, which is used in some laws that regulate certain types of associations, and “public formation”, which is used in legislation that regulates the issue of their state registration. The term “association” is also used, but it means “an association of associations”, such as an association of condominium associations. Special laws determine the specifics of making changes to the activities of certain types of citizen associations. In particular, the Law ‘On Freedom of Conscience and Religious Organizations’ establishes that in case of a decision to change its affiliation, a religious organization shall notify the State Service of Ukraine for Ethnopolitics and Freedom of Conscience, or regional state administrations, which shall ensure the publication of this decision on their official website.

The internal organization, relations of members of citizens’ associations, their units, and the charter responsibility of these associations’ members are regulated by corporate norms established by the public associations themselves (Decision of the Constitutional Court of Ukraine No. 6-пп/2001 of May 23, 2001). However, the relations between citizens’ associations and administrative bodies regarding their registration and legalization, control over their activities, and the application of coercive measures (for example, due to the pursuit of prohibited goals) are regulated by the norms of administrative law, requirements and restrictions are also established imperatively by the norms of public law. The legal grounds in this case are the provisions of the laws ‘On Public Associations’ of March 22, No. 4572-VI, ‘On Professional Creative Workers and Creative Unions’ of October 7, 1997, No. 554/97-BP, ‘On Freedom of Conscience and Religious Organizations’ of April 23, 1991, No. 987-XII, ‘On Political Parties in Ukraine’ of April 5, 2001, No. 2365-III, ‘On Trade Unions, Their Rights, and Guarantees of Activity’ of September 15, 1999, No. 1045-XIV, ‘On Association of Condominiums’ of November 29, 2001, No. 2866-III, ‘On State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations’ of May 15, 2003, No. 755-IV. Despite the large layer of legislation regarding

the rights of citizens' associations, unfortunately, even today it remains unsystematized.

REFERENCES

- Aver'yanov, Vadym, (ed.). 2004. *Administratyvne pravo Ukrainy. Akademichnyy kurs. Zaha'na chastyna*. Kyiv: Yurydychna dumka.
- Bilash, Oleksandr. 2019. "Registration of Religious Communities in the Ukraine." In *Registrácia cirkví a náboženských spoločností v zemích Vyšehradskej štvorky, Rakúsku a na Ukrajině. Registration of Churches and Religious Societies in the Visegrad Four Countries, Austria and Ukraine*, edited by Damian Němec, 283-315. Praha: Leges.
- Bilash, Oleksandr, and Mariya Mendzhul. 2021. *Pravovyy status hromads'kykh ob'yednan' ta relihiynykh orhanizatsiy v Ukraini*. Uzhhorod: RIK-U.
- Boyko, Iryna. 2015. "Pravo na svobodu ob'yednannya: sutnist', zmist i formy realizatsiyi." *Zhurnal skhidnoyevropeys'koho prava* 13:48-53.
- Davydova, Nataliya, and Mariya Mendzhul. 2020. "Hromads'ke ob'yednannya ta hromads'ka orhanizatsiya: dykhotomiya ponyat'." *Porivnyal'no-analitychne pravo* 3:51-57.
- Gaeva, Nadiya. 2000. "Problemy pravovoho zabezpechennya diyal'nosti hromads'kykh orhanizatsiy." *Pravova derzhava* 11:146-54.
- Giese, Karim. 2008. "Vereinsrecht." In *Besonderes Verwaltungsrecht*, edited by Sussane Bachmann, Gerchard Baumgartner, Rudolf Feik, et al. Vienna: Springer.
- Sopilko, Iryna, and Ivan Vozniak. 2013. "Suchasnyy stan pravovoho rehulyuvannya svobody virospovidannya v Ukraini ta perspektyvy yoho vdoskonalennya." *Yurydychnyy visnyk* 1:71-77.
- Vikhliaiev, Mykhailo. 2013. *Reprezentatyvnist' ta spetsyfichnist' hromads'kykh ob'yednan' yak sub'yektiv administratyvnoho prava Ukrainy*. Kherson: Hel'vetyka.