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## CHALLENGES IN REGULATING THE ORGANIZATION OF RELIGIOUS TRAVELS AS AN ECONOMIC ACTIVITY\*\*

### Summary

*The author analyzes the legal entities involved in organizing and providing services in the domain of religious tourism in the Republic of Serbia. Due to the dichotomy that results from the combination of spiritual and secular elements, religious tourism is distinguished by the services offered by both legal entities established by churches and religious communities and by “ordinary” secular tourist agencies. For this reason, the author devotes the most of the work to answering the following queries. First, is it possible for “ordinary” travel agencies to list organizing religious vacations of any kind as one of their explanatory activities? The second query relates to the legal standing of organizations established by churches and other religious groups for the aforementioned purposes under state law. Comparative legal study and Serbian legislation both point to a flaw in the legislator's methodology. It is evident in their failure to distinguish between various religious travel categories, which would have supported the various legal standings of the participating legal organizations. The solution to address the identified flaw is offered in the conclusion, which distinguishes between the legal position of organizations that arrange pilgrimages and those that arrange other kinds of religious travels.*

**Keywords:** pilgrimage, religious tourism, economic activity, churches and religious communities.

### 1. Introduction

According to the literature on tourism, religious tourism is the oldest type of travel, both historically speaking and within the context of

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Christianity and other global religions.<sup>1</sup> Religious tourism's historical roots can be traced to its association with pilgrimage, or the act of traveling to a place of worship. A central component of all major global religions is pilgrimage; in the Judeo-Christian tradition, it is interpreted as a "journey to the house of God" (Psalm 55.14), as God's call to believers, similar to the words with which God addresses Abraham: "Go from your country and your kindred and your father's house to the land that I will show you" (Genesis 12:1). The first documented Christian pilgrimage is Egeria's journey (Latin: *Itinerarium Egeriae*), compiled by a nun from a monastery in southern France or northwestern Spain. This trip was probably taken by her between 381 and 384 AD. Muhammad is said to have called Muslims to pilgrimages and experiences in God's name, according to the Quran in Islamic tradition.

Although elements of tourism can be recognized in the mentioned forms of travel, involving a greater or lesser number of people inspired solely by religion (as they imply movement from one distant place to another), it cannot be said that this is a contemporary form of religious tourism. In the 1980s, as awareness of the economic and religious significance of this type of travel started to grow, the concept of religious tourism began to take shape in Europe. Around this period, religious travel began to be acknowledged as a phenomenon.<sup>2</sup> The development of religious tourism in its current form dates back to the gradual promotion, planning, and management of such visits by churches and other religious communities. Religious organizations started to make their actions apparent when they

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<sup>1</sup> There are testimonies about this phenomenon dating back to the era of tribalism, which is confirmed by the research of anthropologists and archaeologists in Europe, Asia, and Africa. G. Lanczkowski, *Die heilige Reise-Auf den Wegen von Gottern und Menschen*, Herder, Freiburg 1982, 150. For a more detailed historical overview of the phenomenon of religious tourism, one can refer to G. Rinschede's work "Forms of religious tourism", *Annals of Tourism Research* 19/1992, 53–56. Certain roots can be found among Celtic and Illyrian tribes that had their sacred places and gathering sites, such as temples and graveyards. While among the Romans, gatherings at such places had more political, sports, or entertainment significance, among the ancient Greeks, these gatherings at specific locations had a religious connotation. See R. Roussel's, *Les Pèlerinages à Travers les Siècles*, Payot, Paris 1954, 11–21. Today, Christianity, Islam, Buddhism, and Hinduism have their centers to which adherents of these religions go on pilgrimages.

<sup>2</sup> Although certain forms of such journeys existed earlier, the phenomenon of tourism is primarily associated with the post-industrial era. The distinction between tourism and travel itself becomes clear with the diversification of socio-economic activities that has occurred in the last two centuries, coinciding with population growth and the emergence of a somewhat different discourse. For further insights, see V. Pușcașu's, "Religious Tourism or Pilgrimage?", *European Journal of Science and Theology* 3/2015, 132.

started to explore new markets and progressively stopped organizing traditional religious travel in favor of creating new tourism experiences. In this way, religious tourism could be thought of as a natural expansion of traditional pilgrimages. It became evident over time that understanding religious rituals and protocols, as well as socio-cultural and religious exchanges, were giving rise to a new kind of entrepreneurship. Legal entities involved in religious tourism started to offer new products in this market to meet the increasing demands of travelers, whose motivations remained religious and spiritual, by leveraging the existing religious hegemony, its social position, significance, and the existing network of believers.

The growth of religious tourism inevitably resulted in changes, both organizationally and in the structure of the travelers who chose religious journeys. Even though new tourists respect and will respect the sanctity of the places they visit and participate in all permitted religious rituals, their increasing numbers have resulted in and continue to result in some degree of commercialization, positive and negative economic outcomes, and specific socio-cultural implications. This undoubtedly necessitates some level of organization and management from one or more centers. In order to establish and sustain this type of tourism, it became clear that collaboration is required among religious entities, which are the primary providers of services related to religious experiences, the state, which provides appropriate infrastructure, and private businesses that provide services such as transportation and lodging.<sup>3</sup> However, it has been observed that this type of tourism is mostly conducted through informal channels, both in Europe and elsewhere.<sup>4</sup> The majority of journeys are conducted outside of regular tourist agencies, primarily through church organizations and their specialized guides.

Despite the informal nature of organizing and leading religious pilgrimages, elements of entrepreneurship can be identified. There are visible direct suppliers to tourists (hotels, agencies, restaurants), and then there

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<sup>3</sup> M. Bywater, „Religious travel in Europe”, *Travel and Tourism Analyst* 2/1994, 39–52. should also be noted that the entities involved in the organization of religious tourism have different dynamics in non-secular countries. In Saudi Arabia, for example, the Ministry of Hajj is in charge of organizing the pilgrimage to Mecca, resulting in the merging of state and religious roles. In India, there are state institutions in the form of public charitable funds that oversee temples and pilgrimage planning. For further information K. Shinde, „Policy, planning, and management for religious tourism in Indian pilgrimage sites”, *Journal of Policy Research in Tourism, Leisure and Events* 4/2012, 280, 281.

<sup>4</sup> Therefore, this tourism is referred to as the “informal sector of domestic tourism”. See K. Shinde, „Entrepreneurship and Indigenous Entrepreneurs in Religious Tourism in India”, *International Journal of Tourism Research* 12/2010, 526.

is the service sector, which assists direct suppliers in providing services (travel organizers, tourist publications, and so on).<sup>5</sup> Such characteristics suggest that there are misuse risks and opportunities in the emergence of various quasi-tourist agencies, which may operate unofficially and generate income while avoiding certain responsibilities.

As a result, several legal issues concerning this matter must be addressed. The first question is when these activities become economic activities that require formalization and legal regulation. Then there is the question of whether there are regulations on religious entrepreneurship, whether tourist agencies or legal entities that have been by established churches and religious communities are engaged in this form of entrepreneurship; additionally, a question arises whether the application of autonomous regulations is sufficient for regulating religious entrepreneurship or whether the application of state law regulations is required. Furthermore, a question that most likely goes beyond the scope of the law is whether tourist agencies whose founders are not churches and religious communities have a legitimate right to organize religious journeys, especially pilgrimages, considering the motive that inspires believers to embark on such journeys. It could be said, therefore, that the central question is two-fold: on the one hand, it is a question of the legal conditions that legal entities established by churches and religious communities must meet to organize religious journeys; on the other hand, it involves the legitimacy and religious foundation of organizing such journeys by tourist organizations whose founders are not churches and religious communities.

## **2. Organizing religious journeys as an economic activity of churches and religious communities**

In terms of comparative law, there is a significant gap in understanding how religious tourism, in its various manifestations, operates within the current institutional frameworks established by the state, particularly because a portion of the matter is governed by autonomous acts of churches and religious communities. Furthermore, business related to pilgrimages, and religious tourism in general, often remains beyond the scope of formal frameworks and state mechanisms, which can lead to a threat to the religious and cultural sustainability of the visited religious site.

It is also worth noting that the acceptance of religiously inspired travel as a necessary part of modern life has prompted churches and religious communities to establish special legal entities under their auspices that

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<sup>5</sup> These elements are derived from the definition of entrepreneurship developed by C. Gee, J. Makens, D. Choy, *The Travel Industry*, Van Nostrand Reinhold, New York 1989, 5.

deal with tourism and travel.<sup>6</sup> Apart from them, “ordinary” tourist organizations, alongside their regular travel programs, also engage in organizing religious journeys.<sup>7</sup> As a result of changes in socioeconomic, religious, and cultural activities associated with modern pilgrimage and religious tourism, this type of economic activity has unquestionably evolved. While engaging in economic activities by legal entities whose founders are not churches and religious communities is undeniable, as it is very precisely regulated by laws and bylaws, engaging in economic activities by legal entities established by churches and religious communities, such as organizing religious journeys, is largely unregulated. This means that investigating the feasibility of engaging in economic activities by legal entities established by churches and religious communities is a preliminary issue that must be addressed before further discussion on the subject.

### *2.1. Basic Principles of Regulating Economic Activities of Churches and Religious Communities*

The matter of economic activities of churches and religious communities is regulated by provisions dedicated to the legal status of churches and religious communities,<sup>8</sup> that generally permit such activities. The prerequisite for engaging in economic activities is that these activities are additional, used to achieve the set goals of the church and religious community, and do not constitute a form of their participation in general economic

<sup>6</sup> Regarding other aspects of the church’s activities on this matter, see B. Vukonić, *Turizam i religija: rasprava o njihovom suodnosu*, Školska knjiga, Zagreb 1990, 165.

<sup>7</sup> In the Republic of Serbia, a similar situation exists. An internet search indicates that primarily the Pilgrimage Agency of the Serbian Orthodox Church “Dobročinstvo”, as well as several agencies whose founders are not churches and religious communities (Deus Travel d.o.o., Pellegrini travel, Evro Turs, etc.), are involved in organizing pilgrimage journeys. In neighboring Romania, there are agencies engaged in religious tourism, including those affiliated with Orthodox parishes. D. H. Hampu, M. M. Coroş, „Religious Tourism: Pilgrimages – A Business of the Church's Travel Agencies”, in: *Modern Trends in Business, Hospitality and Tourism* (eds. Marius Dan Gavriltea, Monica Maria Coroş), Presa Universitara Clujeana, Cluj–Napoca 2021, 254.

<sup>8</sup> In Europe, an exception in this regard is Austria, where this issue is explicitly regulated by general economic regulations, Bundesabgabenordnung, *BGBI* 1961/194 idFBGBII 2005/2, para. 34. Outside of Europe, an example of such an exception is Malaysia, where all Islamic institutions, that is, institutions operating by Sharia law, must be registered according to regulations governing companies. This includes, among other things, the Pilgrims’ Board (*Lembaga Tabung Haji*), which, by registering by the Companies Act of 1965, obtains the status and other characteristics of an economic entity. For more about companies in Malaysia see Z. A. Abd Ghadas, H. binti Abd Aziz, „Legal Framework of Shari’ah Corporations in Malaysia: Special Reference to Waqf Corporation”, *Journal of Modern Accounting and Auditing* 3/2017, 121.



life.<sup>9</sup> These provisions are frequently accompanied by explicit recognition of rights that churches and religious communities may have in this regard; these rights typically include property rights, the right to profit or dividends from managing property, and so on.<sup>10</sup>

Aside from these fundamental definitions and regulations, provisions pertaining to the legal status of churches and religious communities generally refer to the application of norms on the economic activities of companies. Both national and supranational<sup>11</sup> regulations generally allow for certain exceptions regarding the economic activities of churches and religious communities due to the non-profit nature of their operations, as well as for religious reasons and the symbolic significance of undertaking certain activities.<sup>12</sup> These exceptions largely relate to tax relief<sup>13</sup> but also include duties regarding activity

<sup>9</sup> In Germany, under these conditions, there is a prescribed amount of profit that a church can generate to be exempt from the duty to pay taxes. V. Đurić, M. Trnavac, „Privredna delatnost crkava i verskih zajednica”, *Strani pravni život* 3/2018, fn. 22.

<sup>10</sup> Similar provisions can be found in the regulations of Bulgaria (Zakon o veroispovestima Bugarske, *Državni vesnik*, br. 120/2002, 33/2006, 59/2007, 74/2009, 68/2013, 61/2015, 79/2015) and Croatia (Zakon o pravnom položaju verskih zajednica, *Narodne novine*, br. 83/02).

<sup>11</sup> It refers to provisions of European Union law; while European Union law does not contain provisions regulating relations between states on the one hand and churches and religious communities on the other, it is clear that churches and religious communities' economic activities are subject to provisions related to competition law. There is no explicit exclusion of these provisions' applicability to these entities and their activities. For more details on the principles of applying European Union regulations see M. Glintić, „Odnos država članica EU prema načelu primata prava EU”, *Pravni život* 12/2014, 357–370; M. Glintić, „Sporazum o stabilizaciji i pridruživanju pred Evropskim sudom pravde”, *Strani pravni život* 3/2013, 112–114. Also, J. Vukadinović Marković, „Ostvarivanje prava na naknadu štete zbog povrede prava konkurencije pred nacionalnim sudovima i arbitražnim tribunalima”, in: *Naknada štete i osiguranje: savremeni izazovi* (eds. Zdravko Petrović, Nataša Mrvić Petrović), Institut za uporedno pravo, Beograd 2016, 183–185.

<sup>12</sup> Some of the exceptions are contained in the following regulations: Regulation (EC) No 1749/1999 of the Commission of 23 July 1999 amending Regulation (EC) No 2214/96, concerning the sub-indices of the harmonised indices of consumer prices; Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks; Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed; Regulation (EC) No 607/2009 of the Commission of 14 July 2009 laying down certain detailed rules for the implementation of Council; Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labeling and presentation of certain wine sector products. For more details see J. Čeranić Perišić, M. Glintić, A. Višekruna, „Upotreba oznaka geografskog porekla u privrednoj delatnosti crkava i verskih zajednica”, in: *Prilozi državno-crkvenom pravu Srbije* (eds. Vladimir Čolović, Vladimir Đurić), Institut za uporedno pravo, Beograd 2021, 197–211.

<sup>13</sup> Certain exceptions are provided regarding value-added tax. One exception relates to value-added tax on the final import of certain types of goods, such as goods for fairs and



registration, as well as the status and legal form of the entity, which are issues requiring special attention.<sup>14</sup>

## 2.2. Economic Activities of Churches in the Law of the Republic of Serbia

In the Republic of Serbia, the matter of performing economic activities by churches and religious communities is primarily regulated by the Law on Churches and Religious Communities. According to this law, churches and religious communities registered in accordance with this law have the status of legal entities.<sup>15</sup> Since their primary function must not be lucrative, “they can be considered non-profit unincorporated associations whose purpose is manifested in the public or broader interest, or in exercising rights and satisfaction of the needs of their believers, which, in terms of business, implies that the surplus of their income over expenses is allocated to improvement of the performance of their activities.”<sup>16</sup>

However, to generate income for their functioning, the Law on Churches and Religious Communities allows them to engage in economic activities. Although the law does not specify material conditions for churches and religious communities to engage in economic activities, it does specify a formal requirement that information on the church’s and religious community’s economic activities be entered in the Register of Churches and Religious Communities.<sup>17</sup>

Churches and religious communities themselves cannot have the status of economic entities, but they are generally allowed to establish other legal entities engaged in economic activities.<sup>18</sup> The first question is whether churches and religious communities can establish economic entities to engage in economic activities under the rules of state or autonomous church legislation, and the second is whether these entities must be entered

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similar religious or ritual events for religious or ritual. Another exception includes the import of literature with tourist information that is distributed free of charge to promote the idea of visiting other countries to participate in religious assemblies and events. Directive 2009/132/EC of the Council of 19 October 2009 determining the scope of Art. 143(b) and (c) of Directive 2006/112/EC as regards exemption from value-added tax on the final importation of certain goods.

<sup>14</sup> V. Đurić, „Pravo EU i državno crkveno pravo”, in: *Harmonizacija zakonodavstva Republike Srbije sa pravom Evropske unije* (eds. Duško Dimitrijević, Brano Miljuš), Institut za međunarodnu politiku i privredu, Hans Seidel Foundation, Beograd 2011, 554.

<sup>15</sup> Art. 9, para. 1 of the Law on Churches and Religious Communities, *Official Gazette of the Republic of Serbia*, No. 36/2006.

<sup>16</sup> V. Đurić, M. Trnavac, 100.

<sup>17</sup> Art. 21, para. 2 of the Law on Churches and Religious Communities.

<sup>18</sup> Art. 26, para. 3 of the Law on Churches and Religious Communities.

in the Register of Churches and Religious Communities or state registers of economic entities.

This question arises because, according to the Law on Churches and Religious Communities, organizational units and institutions of churches and religious communities may be afforded attributes of a legal entity by the decision of the competent body of the church or religious community and by their autonomous regulations.<sup>19</sup> Also, art. 21, para. 2 of the Law on Churches and Religious Communities stipulates that information about economic activities conducted by the church, religious community, their organizational unit, or institution must be entered in the Register of Churches and Religious Communities.<sup>20</sup> This leads to the question whether only organizational units and institutions, whose founder is a church or religious community, should be established by the rules of autonomous church legislation, or if these rules should also be applied to economic entities whose founder is a church or a religious community. Regarding this question, there is a legal gap, the filling of which is further complicated by art. 10 of the Rulebook on the Content and Manner of Maintaining the Register of Churches and Religious Communities,<sup>21</sup> which specifies that the registry sheet should contain information from the aforementioned art. 21 of the Law on Churches and Religious Communities. Despite the fact that this law contains a provision on economic activities, the mentioned Rulebook art. 10 does not state that the registry sheet should include information on economic activities, i.e., there is no mention of economic entities.

Given the negative consequences of informal economic activities and all potential forms of abuse caused by the legal gap, it is reasonable to conclude that granting authorization to churches and religious communities to engage in economic activities through their autonomous regulations, which would then be recorded only in the Register of Churches and Religious Communities, would be overly broad. This approach would also avoid the imposition of state regulations on economic entities. This conclusion is unarguable, especially given that the Law on Churches and Religious Communities envisages churches and religious communities conducting economic and other activities through regulations governing such activities. This implies that churches and religious communities should be subject to the same obligations and responsibilities as other economic entities.

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<sup>19</sup> Art. 9, para. 2 of the Law on Churches and Religious Communities.

<sup>20</sup> It refers to religious schools, cultural institutions, humanitarian, and health organizations whose founder is the church, religious community, or religious organization

<sup>21</sup> Rulebook on the content and manner of maintaining the Register of Churches and Religious Communities, *Official Gazette of the Republic of Serbia*, No. 36/06.

The next question that needs to be addressed is the conditions under which churches and religious communities can engage in economic activities, given that the Law on Churches and Religious Communities does not specify these. The only thing the Law requires is that economic activities be carried out in accordance with the regulations governing such activities. Because of this legal gap, it is necessary to consult the provisions of the Act on Associations, which will be applied to issues not covered by the Law on Churches and Religious Communities.<sup>22</sup> The Act on Associations expressly states that an association may engage in economic or other profit-making activities if they are aligned with the statutory goals and are on a smaller scale, proportionate to the scope required to achieve the association's goals.<sup>23</sup> These conditions are clearly defined and should be applied to the economic activities of churches and religious communities, i.e., entities established for that purpose.

As a result, autonomous legislation of churches and religious communities is required to clearly define economic activities that will be linked to specific statutory goals. This activity cannot be transformed into the primary activity of a church or religious community, which necessitates a balance between action objectives and economic activity. The latter is an exception, not a rule. Revenue from economic activities may only be used for the purposes specified in autonomous acts.

### *2.3. Organizing Pilgrimages as an Economic Activity of Churches and Religious Communities*

Companies Act, a regulation to be applied to matters related to the economic activities of churches and religious communities, envisions that a company represents a legal entity conducting activities with the aim of gaining profit.<sup>24</sup> This implies that the application of the presented rules on mandatory registration and adherence to business rules should only be applied in cases where the activities of legal entities established by churches and religious communities are lucrative (provided they are of smaller scale and determined by the statute).<sup>25</sup>

The fact that the church's activities are defined as non-lucrative presents a particular challenge in regulating the economic activities of

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<sup>22</sup> Act on Associations, *Official Gazette of the Republic of Serbia*, No. 51/09, 99/11 – other laws.

<sup>23</sup> Art. 37 of the Act on Associations.

<sup>24</sup> Art. 2 of Companies Act, *Official Gazette of the Republic of Serbia*, No. 36/2011, 99/2011, 83/2014 – other law, 5/2015, 44/2018, 95/2018, 91/2019, and 109/2021.

<sup>25</sup> The aforementioned duty is also envisaged by Art. 46 of the Law on Tourism, *Official Gazette of the Republic of Serbia*, No. 17/2019.

churches and religious communities, or legal entities established for these purposes. When it comes to organizing and conducting religious travels, it is justified not to view these activities as profitable only when the primary goal of such journeys is not profit, especially when travelers do not bear the costs of travel, lodging, and meals during the journey. This is especially true when it comes to organizing pilgrimages, which tourismology defines as a specific type of religious travel and will be discussed further below.

From a legal standpoint, pilgrimages can be defined as a personal needs travel that can be organized by trade unions, pensioner associations, student, scouting, and mountaineering organizations, social and child protection institutions for their members and beneficiaries, as well as other associations and organizations, but without the intention of profit. This justifies a different legal treatment of this type of activity.<sup>26</sup>

It should be noted, however, that this legal solution is not without drawbacks, as the following paragraph of the same article anticipates that such journeys cannot be publicly advertised because they are only intended for members and beneficiaries of the organizing association or institution. The difficulty stems from the inability to clearly identify who the members and beneficiaries of the churches are and how to reach them in the absence of public advertising. Is this requirement met if trip plans with specific dates are available on agency websites?

By the same logic, if various religious travels are organized in a way that unquestionably involves profit, there is a basis to classify such activity as an economic activity that must be registered in the appropriate registers.<sup>27</sup> In such cases, the activity of the mentioned legal entities is identical to the activities of a travel agency, defined by the Law on Tourism as the agencies offering, organizing and selling tourist journeys and excursions.<sup>28</sup>

<sup>26</sup> It is art. 84, para. 1 of the Law on Tourism.

<sup>27</sup> Earning income from this type of tourism is inevitable because estimates indicate an exceptionally large number of religious tourists annually. Globally, it is said that this form of tourism brings in a multibillion-dollar profit. See K. Wright, *The Christian Travel Planner: Christian travelers Guide*, Thomas Nelson, Nashville 2008, 33. Bidding with precise amounts is not possible for numerous reasons and often varies from region to region. However, as an example, in 2012, in Saudi Arabia, the contribution of religious tourism to the total gross domestic product was 12%. This data is provided according to M. Bader, *Religious Tourism in Jordan, Current situation, future developments and prospects: A case study on Islamic and Christian holy sites*, doctoral dissertation, Catholic University of Eichstätt-Ingolstadt, Eichstätt 2012, 38. See also S. J. Rajinder, „Pilgrimage in Sikh tradition”, in: *Tourism, Religion and Spiritual Journeys* (eds. Dallen Timothy, Daniel Olsen), Routledge, London 2006, 206–219.

<sup>28</sup> Art. 3, para. 1, p. 3 of the Law on Tourism.

The fact that this type of economic activity is not appropriately registered is not a sufficient argument to claim that it does not represent an economic activity because it is the responsibility of the entity conducting this economic activity to register it, and neglecting this duty does not diminish the economic nature of the given activity.<sup>29</sup>

### **3. Distinguishing Pilgrimage from Religious Tourism as the Basis for Different Legal Regimes**

To support the idea of the need for differentiation between organizing pilgrimage, on the one hand, and other types of religious tourism that have developed over time as a response to the needs of a growing market, on the other hand, one must consider tourismological acquisitions. Specifically, even though the religious motive is predominant in all forms of religious travel, differences exist due to the complexities of the phenomenon of religious tourism.<sup>30</sup>

Regarding religious tourism in general, it is observed as a selective type of tourism,<sup>31</sup> i.e., a specific form of thematic tourism driven by the religious and spiritual motives of a particular category of tourists.<sup>32</sup> For a long time, a symbol of equality was placed between pilgrimage and religious tourism, which is unjustified because it ignores all other activities and motives of various forms of religious tourism.

Pilgrimage is defined as a “dynamic element, structured, inherent in faith itself and developed over thousands of years to define a form of spiritual purification, through a sacred path to the extent that it connects a person with the divine, while empirically and mystically representing pilgrimage’s goal.”<sup>33</sup> Due to the religious significance of this journey, theological debates have been initiated on the terminological meanings of the

<sup>29</sup> Compare V. Đurić, M. Trnavac, 102.

<sup>30</sup> In support of this, M. Nolan, S. Nolan, „Religious sites as tourism attractions in Europe”, *Annals of Tourism Research* 19/1992, 68–72.

<sup>31</sup> Selective tourism essentially represents tourism driven by specific motives, either on the side of tourist supply or on the side of tourist demand. A similar definition of religious tourism can be found in the paper of R. Sharpley, P. Sundaram, „Tourism: a sacred journey? The case of ashram tourism, India”, *International Journal of Tourism Research* 3/2005, 161. Also, G. Rinschede, 52.

<sup>32</sup> I. Hegeđuš, I. Koščak, „Vjerski turizam u Republici Hrvatskoj”, *Zbornik radova Međimurskog veleučilišta u Čakovcu* 2/2014, 17–23. Also, B. Pirjavec, O. Kesar, *Počela turizma*, Mikrorad, Zagreb 2002, 16.

<sup>33</sup> Z. Cerović *et al.*, *Strategija razvoja vjerskog turizma grada Rijeke do 2020. godine*, Opatija 2015, 13, <https://de.scribd.com/document/378726043/Strategija-razvoja-vjerskog-turizma-grada-Rijeke-do-2020-godine#>, 19. 8. 2023.

concept of pilgrimage, motivations for embarking on pilgrimage,<sup>34</sup> religious practices, symbolism of the path itself, and more. However, pilgrimage was never discussed in theological context, neither as a form of tourism nor as religious tourism.<sup>35</sup> This was one of the first indications that pilgrimage should be distinguished from other types of religious journeys. It was defined indirectly as a journey (conditionally as tourism) because it was the only available mode of travel for a long time.<sup>36</sup>

However, with all of the transportation options that enable reaching the most remote places, as well as the spreading idea of spirituality, it is clear that tourists partly become pilgrims, just as pilgrims become “ordinary” tourists who, while focusing on the spiritual aspects of their journey, also want to enjoy the comforts that modern tourism provides.<sup>37</sup> Traditional pilgrimage destinations have become gathering places for various types of tourists over the last few decades, ranging from those motivated by religious reasons to those interested in historical heritage, cultural or artistic value of the visited place.<sup>38</sup>

Today’s central question is whether pilgrimage is a tourist product like any other on the market, to which laws and established economic rules should apply. The image of mass tourism suggests consumption, triviality, and leisure, which contradicts the concept of pilgrimage, which is fundamentally associated with values of sobriety, asceticism, and participation in profound religious processes. Greater accessibility of religious tourism has resulted in the emergence of various tourism forms characterized by the spiritual-secular dichotomy.<sup>39</sup> Both types of visitors can be satisfied by visiting religious sites. On the one hand, these settings are perfect for spiritual retreats. When visiting this type of location, “ordinary” tourists

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<sup>34</sup> Semantically, the word *pilgrimage* originates from the Latin word *peregrinus* (Greek: *proskinita/proskinitis*), which allows for a broader interpretation encompassing those who wander, strangers, and newcomers.

<sup>35</sup> V. Puşcaşu, 138.

<sup>36</sup> In developing countries, tourism is still accessible for the majority of the population mainly in the form of religious tourism. This situation is similar to the position of the lower and middle classes in the Middle Ages when they were unable to embark on longer journeys due to their economic circumstances. Leisure time during that period was focused on the church and the community that emerged around it. G. Rinschede, 52.

<sup>37</sup> W. Turner, E. Turner, *Image and Pilgrimage in Christian Culture*, Columbia University Press, New York 1978, 20.

<sup>38</sup> H. Karen, N. Bond, R. Ballantyne, „Designing and Managing Interpretive Experiences at Religious Sites: Visitors’ Perceptions of Canterbury Cathedral”, *Tourism Management* 36/2013, 211.

<sup>39</sup> M. Nolan, S. Nolan, 70.



can be accompanied by a priest who can explain the cultural, historical, or architectural significance of a particular religious site.<sup>40</sup>

The first phenomenon to be observed is the secularization of pilgrimage, which manifests itself in the commercialization and commodification of pilgrimage sites. The other phenomenon is that, in addition to religious motives for visiting religious sites, other motives such as leisure activities and relaxation emerge.<sup>41</sup> Both phenomena necessitate the use of certain external providers of services, such as organizing trips, hiring guides, and engaging in leisure activities, indicating that this type of travel must be considered as part of tourism.<sup>42</sup>

As a result, according to modern sociological approaches, there is a tendency of classifying the manifestations of religious tourism within a tripartite division: the first type is sacred travel, which is defined as the act of going to a sacred place by a religiously motivated person (pilgrimage); the second type is religious tourism, which is defined as an individual's travel for cultural-historical purposes, regardless of the religious significance of a sacred site; and the third type is pseudo-sacred travel, defined as an action motivated by a sense of respect (towards new "gods" or new "sacred places" of modern society), which involves visiting places with little religious significance.<sup>43</sup> In this context, scholars often refer to a scale developed in the 1990s by Valene Smith, where at one end of the scale is a devout pilgrim, at the other end a secular tourist, and in between several forms of tourists appear – more pilgrim than tourist, religious tourist, and more tourist than pilgrim.<sup>44</sup> Rinschede observes elements of this division as well, emphasizing that religious tourism can take the form of pilgrimage (travel to Mecca, Medjugorje, etc.), strictly religious tourism, travel for a religious event (for Catholics, this could be World Youth Day, for example), and travel for the purpose of visiting churches, monasteries, and cathedrals.<sup>45</sup> Aside from personal

<sup>40</sup> R. Blackwell, „Motivations for Religious Tourism, Pilgrimage, Festivals and Events”, in: *Religious Tourism and Pilgrimage Festivals Management, An International Perspective* (eds. Razaq Raj, Nigel D. Morpeth), CABI, Oxfordshire 2007, 39.

<sup>41</sup> K. Shinde (2010), 523.

<sup>42</sup> Therefore, it may be a correct way to understand religious tourism as a “modern metamorphosis of pilgrimage and travel.” E. Cohen, „Pilgrimage and Tourism: Convergence and Divergence”, in: *Sacred Journeys: The Anthropology of Pilgrimage* (ed. Alan Morinis), Praeger, Connecticut 1992, 59.

<sup>43</sup> The division taken from V. Puşcaşu, 136.

<sup>44</sup> V. L. Smith, „Introduction: The Quest in Guest”, *Annals of Tourism Research* 1/1992, 5. Compare M. Stausberg, *Religion and Tourism: Crossroads, destinations and encounters*, Routledge, New York 2011, 53. For other types of religious tourism, see D. N. Hampu, M. M. Coroş, 253.

<sup>45</sup> G. Rinschede, 57–58.



motivations that may lead someone to choose pilgrimage or another type of religious tourism, it is worth noting that, on the one hand, pilgrimage has explicitly recognized cultural significance that modern tourism does not. Religious tourism, on the other hand, is more “open” than pilgrimage in terms of duties, routes, patterns of behavior, and interactions with travelers.<sup>46</sup> For a journey to be characterized as a pilgrimage, the person must go through a phase of spiritual transformation, from secular to spiritual, while religious tourism simply remains an external phenomenon with no deeper implications for the individual.<sup>47</sup>

This would imply that religious tourism is a type of tourism that, unlike pilgrimage, is aimed at non-believers.<sup>48</sup> Consequently, religious tourism encompasses, in addition to the attraction element (objects, sites, events, and various occurrences), traditional elements of tourist offerings, such as transportation, accommodation, meals, shopping, and, at the very least, souvenirs.<sup>49</sup> All the mentioned characteristics of pilgrimage, on the one hand, and other types of religious tourism, on the other hand, clearly indicate that their organization and implementation must take place in different ways, which has significant financial implications justifying different legal regimes.

From this vantage point, the question of whether ordinary secular tourist agencies can organize pilgrimage journeys when considering the motivations for such journeys arises. They can promote and organize travel, and everything associated with it, but religion remains a domain over which they have little influence and which necessitates cooperation and services from religious entities. If religious entities' elements were omitted, tourists who did not receive what they expected would likely be dissatisfied.

In terms of other types of religious tourism, the question is how much it differs from other types of tourism, justifying religious entities'

<sup>46</sup> E. Cohen, 56–58. However, there are different opinions: “The distinction between pilgrimage driven by faith and tourism for cultural and recreational purposes no longer holds, as modern pilgrimages involve such a vast number of people that they can be organized in the same way as mass tourism.” L. Tomasi, „Homo viator: from pilgrimage to religious tourism via the journey”, in: *From Medieval Pilgrimage to Religious Tourism: the Social and Cultural Economics of Piety* (eds. William H. Swatos, Jr., Luigi Tomasi), Bloomsbury Publishing, Connecticut 2002, 21.

<sup>47</sup> As emphasized in certain papers, “Hajj is Hajj, and tourism is tourism!”, See M. Bader, 57.

<sup>48</sup> T. Hitrec, „Vjerski turizam”, in: *Hrvatski turizam: plavo, bijelo, zeleno* (eds. Sanda Čorak, Vesna Mikačić), Institut za turizam, Zagreb 2006, 287.

<sup>49</sup> For more details see B. Pirjavec, O. Kesar, 20; V. L. Smith, 5. The multiplicity of new forms of religious tourism is also discussed by J. Digance, „Pilgrimage at Contested Sites”, *Annals of Tourism Research* 1/2003, 148–149.

involvement in this type of tourism. The intention, motivation, and essence of such journeys remain religious, but the journey itself takes on a tourist character when it occurs. As presented, these journeys differ in terms of both the people who choose them and the organization of the tourism industry.<sup>50</sup>

#### 4. Conclusion

This paper sought to answer several key questions about the organization of tourist journeys as a type of economic activity that can be undertaken by both traditional tourist organizations and legal entities that organize churches and religious communities. The first question is when these activities become economic activities that require some level of formalization and legal regulation. According to a review of comparative and national law, economic activity can be discussed when it is aimed at profit. When it comes to regular tourist agencies, this condition is unquestionably met. However, meeting this condition for legal entities established by churches and religious communities with the goal of organizing religious tourism contradicts the definition of churches and religious communities' activities as non-lucrative. This means that the lucrative economic activity of these legal entities can be permitted only when directed toward achieving goals of lesser scope as determined by autonomous acts, answering the question of whether autonomous regulations can be applied in this area. Otherwise, there are no compelling reasons to exempt churches and religious communities' economic activities, i.e., the legal entities that established them, from the general regime otherwise applicable to economic activities.

Meeting the mentioned conditions regarding the legal regime of permitted economic activities is possible in the context of organizing religious journeys by legal entities established by churches and religious communities if pilgrimage journeys are distinguished from other religious journeys. Despite the fact that both types of journeys are inspired by religious motives, their organization and implementation differ significantly, beginning with the fact that religious journeys, as opposed to pilgrimage journeys, involve a slew of additional activities, with significant financial implications. This transition enters the realm of profitable operations, requiring adherence to economic rules.

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<sup>50</sup> J. Kaur, „Pilgrim's progress to Himalayan shrines: Studying the phenomenon of religious tourism”, in: *Studies in tourism, wildlife parks, conservation* (eds. Tej Vir Singh, Jagdish Kaur, Devinder Pal Singh), Matropolition, New Delhi 1982, 224–237.

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## ИЗАЗОВИ У РЕГУЛИСАЊУ ОРГАНИЗОВАЊА РЕЛИГИЈСКИХ ПУТОВАЊА КАО ПРИВРЕДНЕ ДЕЛАТНОСТИ

### Сажетак

*Ауторка анализира правна лица која се баве организовањем и пружањем услуга из домена религијског туризма у Републици Србији. Како религијски туризам карактерише дихотомија елемената духовног и световног, тако се овом врстом туризма баве и туристичке агенције чији оснивач нису цркве и верске заједнице, и правна лица која за те потребе оснивају цркве и верске заједнице. Стога ауторка централни део рада посвећује најпре питању да ли „обичне” туристичке агенције могу да региструју организовање свих врста религијских путовања као своју самосталну делатност; а затим питању које се, из визуре државног права, тиче правног статуса правних лица која цркве и верске заједнице оснивају за наведене потребе. Позитивно-правна и упоредноправна анализа указују на основни недостатак у постојећој регулативи, а то је непостојање разлике између различитих врста религијских путовања која би оправдавала другачије правне статусе правних лица која се баве њиховим организовањем. У закључном делу рада предлаже се прављење разлике између статуса правних лица која организују поклоничка путовања, тј. ходочашића, и оних која организују друге врсте религијског туризма.*

**Кључне речи:** ходочашће, религијски туризам, привредна делатност, цркве и верске заједнице.

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