

## Becoming a church denomination

Text: Jos Aarnoudse (director VKB). Image: PR, Maartje Geels/HH

**In the Netherlands you can be a legal entity as a religious organization in various ways. You can organize a church as a foundation or association or even as a company, if you wish so. Then you are bound by the rules that apply to that legal form. But in the Netherlands, there is also the 'church denomination' in the Civil Code. This is a separate form in order to better regulate freedom of religion. A 'church denomination' has more freedom to organize according to its own religious beliefs. But how do you become such a 'denomination'? Or how do you change an existing legal form (imagine that the start was via a foundation) to that of a 'church denomination'? I talk about this with Teunis van Kooten. He is an undisputed expert in the field of the 'church denomination' in the Netherlands, and is himself a church steward in a Protestant congregation.<sup>1</sup> Van Kooten, with his law firm, is a partner of the VKB.<sup>2</sup>**



### Becoming a church denomination

How does one become a "church denomination" as defined by law? For the well-known and established churches in the Netherlands this is obviously not a question, but it is the case for newcomers. Anyone can start a church. Usually it starts small, with a living room group or a house congregation. But when it grows and you need to rent space or buy a building, buy equipment, provide for a pastor, how do you proceed? What legal form do you choose then? There are various legal forms for a legal entity, such as a foundation, an association, or a private company (BV), but also a church denomination. The denomination is particularly intended for religious organizations. You may then legally shape your own church organization in line with your own religious doctrine or conviction.

### Serious religious organization

It is important that it concerns a serious religious organization. This means that you cannot suddenly call everything 'religion'. It does not necessarily have to be Christian, although the term is traditionally 'church denomination' in the Civil Code of the Netherlands. But it must be an organization of a certain size that develops recognizable religious activities on a structural basis. There is no prior test. However, the seriousness of your organization can be challenged by an interested party (such as the tax authorities) before a judge. So, if you start something like the Donald-Duck Church on the basis of the Universal Principles of Duck Spirituality, there is a good chance that you will fall through the (duck) trap.

### Everything starts with making a "church order."

So, we assume a serious Christian group that functions as a smaller or larger church community. Everything starts with having a statute, say a kind of church order. That seems easier than it is. There is no single biblical model for the organization of a church. In the tradition of Christianity, different models have emerged, all of which have biblical elements, but have different organizational outcomes. You have the episcopal (bishop's) model, with a central leader who appoints staff (like Moses in the desert). But you also have the bottom-up model, where the charismatic congregation is

<sup>1</sup> Teunis van Kooten promoveerde in 2017 aan de Vrije Universiteit in Amsterdam op een proefschrift, dat voluit heet: *'Het kerkgenootschap in de neutrale staat. Een verkenning en analyse van de positie van het kerkgenootschap binnen de Nederlandse rechtsorde'*.

<sup>2</sup> Zie: [Van Kooten Advocaten - VKB | Vereniging Kerkrentmeesterlijk Beheer](#)

the starting point, say the ministry of all believers. You find that especially in the evangelical traditions. In fact, there the congregational assembly of professing, adult baptized members are assigned an important guiding role. But you also have the model of multi-headed leadership, as developed in the tradition of the Calvinistic churches, the so-called presbyterian-synodal system. A church congregation is then led by a council of elder (with pastors and deacons as well, depending on how it is viewed). Where in that tradition the church exists supra-local, it is led by a synod with delegates from the local congregations.

In newer churches, often also of a charismatic, evangelical, or Pentecostal content, you actually encounter all three forms. Sometimes the pastor is clearly the leading figure (a kind of bishop), sometimes there is a council of elders, but it is more of a sounding board or advisory board for the pastor/bishop. But sometimes there is clearly a council of elders as the highest body. Etc.

### **Think things through beforehand**

Before you go to a (church) lawyer to put together the right 'church order' for your church, you need to be clear about these issues. And even more: what role do you want paid clergy to have in your church. And if they are going to be paid, do you want to use your own kind of contract (that is possible), or should normal Dutch labor law apply? Do you want to be able to work with branch offices in the long run, say parishes or new plantings? Do you want those themselves to then become a 'church denomination' that will join with other like-minded local communities to form an association or a federation? Or

do you want the whole to remain a single 'church denomination', with parts getting an independent status (and thus also legal personality in the sense of the law).

Because that is also possible. However, it will then have to be decided how much autonomy the local church communities will have (in the spiritual and business fields) in relation to the central organization.



Mr. Van Kooten has regularly had delegations come to his

office who wanted to establish a church denomination, but upon further questioning had not the faintest idea how they saw this. This puts you right in the middle of the theological questions about being a church. But you have to 'solve' these first before you can make a clear basic statute. Of course, at the beginning there does not have to be a detailed church order, as established churches in the Netherlands know it, but fundamental issues do have to be settled. When it comes to the establishment of a migrant or international church, which is a part of a larger, international, church body/denomination, which already has a detailed church order, this can help, although it will have to be translated to the Dutch context.

Van Kooten Advocaten has therefore drawn up a checklist for those considering setting up a church denomination. It saves work if you go well prepared to a lawyer. And it also

Copyright: Samen Kerk in Nederland (SKIN) – [www.skinkerken.nl](http://www.skinkerken.nl)

Nederlandse tekst: Jos Aarnoudse (directeur VKB). Beeld: PR, Maartje Geels/HH

saves costs, because yes, a Christian law firm can charge reasonable rates, especially in light of what a lawyer in the Netherlands generally costs, but professional hours have to be paid.

### **Legal puzzle pieces**

Most of the energy is therefore expended in putting together the so-called 'statute'. Now, at Van Kooten Advocaten they do have various models. They have the various legal 'lego blocks' or 'puzzle pieces' on the shelf, so to speak, so that they can be fitted together properly, depending on your wishes, but it is important that a consistent document is drawn up both 'theologically' and 'legally'.

Added to that are issues such as the following.

(a) If you want to be an ANBI-institute as a 'church denomination' as well (thus benefiting from tax rules around gift deduction), then you are bound by rules that apply to it (e.g., that material matters are always managed by several people, your administration is in good order, and the necessary financial information of the church denomination is published on a website).

(b) Anyway, the Dutch law is an important limit to what you can regulate in a church order. Despite the far-reaching freedom of religion in the Netherlands, some things really cannot be done. A religious movement that allows polygamy or marriages at an age that is very young by Dutch standards, that is not possible in the Netherlands. However, some things can be done. For example, some Dutch anti-discrimination rules can be ignored within a church denomination when it comes to making distinctions in participation in activities or holding positions (e.g., no women as pastors or leaders).

(c) Finally, how should and how can the relationship best be regulated in the case of a possible 'mother church' or 'mother organization' abroad?

### **Registering at the Chamber of Commerce**

When the statute is ready, you are a 'church denomination' and should register as such at the Chamber of Commerce. As of 2008, there is an obligation to register at least for the so-called 'highest aggregation level' of a church or an association of churches. So, if several independent church congregations together form a federation, the federation can be registered if all the individual congregations (as a 'church denomination') are also registered, but the federation must be registered if not all the individual church congregations are registered. If one central 'church denomination' has independent components (branches), registration of the central denomination suffices, but the individual components, provided they are legal persons under the statute of that denomination, can also be registered.

### **Converting an existing legal form into a 'church denomination'**

Now, even if you started in the form of a foundation or an association, can you convert these forms to a church denomination and vice versa? The Civil Code provides for such a change of legal form. Usually, it concerns an association that wants to become a foundation, or a BV (private limited company) that wants to convert to a foundation. This can all be done without problems (provided, of course, that the applicable rules are met). For a long time, Dutch case law was unclear as to whether this was also possible for the legal form of a 'church denomination'. Since a ruling by the Supreme Court in 2017, this clarity has been achieved: it can be done under certain conditions.

<sup>1</sup> Teunis van Kooten promoveerde in 2017 aan de Vrije Universiteit in Amsterdam op een proefschrift, dat voluit heet: *'Het kerkgenootschap in de neutrale staat. Een verkenning en analyse van de positie van het kerkgenootschap binnen de Nederlandse rechtsorde'*.

<sup>2</sup> Zie: [Van Kooten Advocaten - VKB | Vereniging Kerkrentmeesterlijk Beheer](#)

How do you as a foundation become a church denomination? Well: the board has to decide on this in a legally valid way (that is according to the procedure for an amendment of the articles of association). Then comes the same procedure as for founding a church denomination: the compilation of a "church order". Based on that, conversion can be requested from a court. If it is properly prepared, this can be done in one go. The conversion must then be confirmed by notarial deed. The big advantage is that the legal entity remains the same and that there is no need for a transfer of assets and liabilities, name, change of banking relations, etc. However, the statutes of the church denomination must provide that the assets present in the foundation (which were therefore earmarked for the purpose of the foundation) will continue to be spent on the same purpose within the church denomination. This of course does not apply to any new assets that may be created. However, if the objective of the church denomination is simply an extension of that of the foundation (i.e., everything needed to be a church of Christ in this day and age, possibly for a certain target group, or tied to a certain church denomination), this will not be a problem. A disadvantage of the conversion of a foundation into a church denomination may be that the authorized board members are no longer listed in the trade register of the Chamber of Commerce (based on privacy laws about religious affiliation), so that when doing business, you may have to go to a lot of trouble to prove who is authorized to act on behalf of the church denomination.

Conversely, the conversion can also take place: from a church denomination to a foundation, provided of course that this is permitted by the 'church order'. Some religious organizations are organized in the legal form of an association. If they wish to become a church denomination, a legally valid decision by the general assembly with a 9/10th majority suffices and permission from the court is not required. However, this still needs to be recorded by a notary.

### **What does it all cost?**

What does an operation like this cost? It is and remains custom work. As is clear: most of the work will go into drawing up and fine tuning a basic 'Church Order' to start with. If it concerns a simple independent church congregation, with a council of elders, a pastor, distinction of spiritual and administrative leadership (because of ANBI), without ties to a foreign country, then you have to take into account that it will cost a few thousand euros (in case of a conversion, the court fees are added). But if a regulation for a more complex situation has to be drafted, it can really add up. Incidentally, anyone who comes to Van Kooten will receive a clear quotation in advance, after an initial estimate of what is required, so that there can be no ambiguity about the expectation of financial costs.

Now you may say: it can be quite expensive. Can't that be developed gradually, in a growth process for example. No doubt every church community develops over time, but in order to become a "church denomination" in the sense of the law, you need a beginning that regulates sufficiently to be able to stand (also legally) if questions were to be asked. This is a one-time investment. It is extremely important to have the legal basis of your church congregation in place from the beginning in order to prevent all kinds of hassles in the future. And of course, as in any organization and thus in the case of a church denomination: a church order is also changeable. So, in the church order there will also have to be regulated, in which way adjustments can be determined (by council of elders, pastor, bishop, synod, general assembly of members, depending on the model of control). Because also in and around the church life goes on, so that sometimes new rules are needed, or on the contrary, old rules are superfluous. But a good basis is the right and necessary (!) beginning.

Appendix: checklist 'founding a denomination' Van Kooten Advocaten

Advice: if you are seriously considering setting up a church denomination or converting another legal form into a church denomination: contact Van Kooten Advocaten, partner of the VKB:  
[www.vankootenadvocaten.nl](http://www.vankootenadvocaten.nl)

<sup>1</sup> Teunis van Kooten promoveerde in 2017 aan de Vrije Universiteit in Amsterdam op een proefschrift, dat voluit heet: *'Het kerkgenootschap in de neutrale staat. Een verkenning en analyse van de positie van het kerkgenootschap binnen de Nederlandse rechtsorde'*.

<sup>2</sup> Zie: [Van Kooten Advocaten - VKB | Vereniging Kerkrentmeesterlijk Beheer](#)