

The Relation between the Scope of Corporate Purposes and the Limits of Duty to Cooperate of the Constituent Member in connection with the Freedom of Thought or Conscience

Souichi YAMADA

Professor

According to the Supreme Court in Japan, on the one hand it is ultra vires for a tax accountant association to make political contributions by segregated funds collected individually obligatorily from constituent members of the corporation. It is the infringement of the freedom of thought or conscience which the constituent member holds for the corporation to make political contributions. The freedom of thought or conscience which is secured by article 19 of the Constitution of Japan is applied indirectly through the application of article 43 of Japanese Civil Law. The infringement of the freedom of thought or conscience is judged by article 43 of Japanese Civil Law.

On the other hand it is intra vires for a trade union to make political contributions, but it isn't the duty of the constituent member who is contrary to them to make political contributions by segregated funds collected individually obligatorily from constituent members of the corporation. It is beyond the limits of duty to cooperate for the constituent member to make political contributions by segregated funds collected individually obligatorily from constituent members of the corporation. The freedom of thought or conscience which is secured by article 19 of the Constitution of Japan isn't applied indirectly through the application of article 43 of Japanese Civil Law, but through the application of article 90 of Japanese Civil Law. The infringement of the freedom of thought or conscience is judged by article 90 of Japanese Civil Law.

Which is correct?

I think the former is correct.

I suppose the latter leads to the difference between contributions from general treasury funds of a corporation and contributions by segregated funds collected individually obligatorily from constituent members of a corporation. That is to say it is possible for a trade union to make political contributions from general treasury funds

of the corporation, but it is impossible for a trade union to make political contributions by segregated funds collected individually obligatorily from constituent members of the corporation as far as there is the constituent member who is contrary to them.

But I think it makes no difference whether contributions from general treasury funds of a corporation or contributions by segregated funds collected individually obligatorily from constituent members of a corporation. I think it is ultra vires for a trade union to make political contributions whether from general treasury funds of the corporation or by segregated funds collected individually obligatorily from constituent members of the corporation.

According to the Supreme Court in Japan, it is intra vires for a judicial scrivener association to make contributions in order to support restoration from disasters, and it is the duty of the constituent member who is whether for or against them to make contributions in order to support restoration from disasters by segregated funds collected individually obligatorily from constituent members of the corporation as far as the decision is made by majority rule. It is within the limits of duty to cooperate for the constituent member to make contributions in order to support restoration from disasters by segregated funds collected individually obligatorily from constituent members of the corporation. It isn't the infringement of the freedom of thought or conscience which the constituent member holds for a corporation to make contributions in order to support restoration from disasters, on the premise that the freedom of thought or conscience which is secured by article 19 of the Constitution of Japan is applied indirectly through the application of article 90 of Japanese Civil Law.

But I think it isn't the infringement of the freedom of thought or conscience which the constituent member holds for a corporation to make contributions in order to support restoration from disasters, on the premise that the freedom of thought or conscience which is secured by article 19 of the Constitution of Japan is applied indirectly through the application of article 43 of Japanese Civil Law.

Ultra vires doctrine, that is to say, article 43 of Japanese Civil Law plays an important part in order to protect the constituent member's interests, in other words minority interests within the corporation.