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# Table of contents

## Part One

### Ecumenical Theological Thought

WOJCIECH GÓRALSKI Diocesan Synod Today. In What Shape? . . . . .	7
NICOLAE V. DURĂ The Regime of the Synodality in the Eastern Church of the First Millennium and Its Canonical Basis . . . . .	29
CĂTĂLINA MITTELU The Council of Metropolitan See and Its Canonical Basis. An Orthodox Approach . . . . .	53
MARCIN HINTZ Synod as the Embodiment of the Church — the Evolution of Lutheran Under- standing of Synodality . . . . .	77
ANDRZEJ PASTWA Synodality — Participation — Co-Responsibility. Remarks on the Determi- nants of the <i>Aggiornamento</i> of the Church Law . . . . .	95
PRZEMYŚLAW SAWA Synodality, Discernment, Catholic Movements . . . . .	115

Part Two  
Reviews

Laurent Schlumberger: <i>À l'Église qui vient</i> . Lyon: Olivétan, 2017, 316 pp. — SŁAWOMIR ZIELIŃSKI . . . . .	145
Antonio Sorrentino: <i>Zreformować reformę [Riforma della riforma]</i> . Trans. A. Żądło. Kielce: Wydawnictwo Jedność, Kielce 2019, 260 pp. — PRZEMYSŁAW SAWA . . . . .	151
Registrácia cirkví a náboženských spoločností v zemiach Vyšehradskej štvorky, Rakúsku a na Ukrajine [ <i>Registration of Churches and Religious Societies in the Visegrad Four Countries, Austria, and Ukraine</i> ]. Ed. Damián NĚMEC. Praha 2019, 320 pp. — LUCIA MADLEŇAKOVA . . . . .	157
Notes on Contributors . . . . .	161

Part One

# Ecumenical Theological Thought





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## Diocesan Synod Today In What Shape?

**Abstract:** The Second Vatican Council shaped a new model for a diocesan synod, which was adopted, among others, in Poland, and is characterised by a departure from making the norms of particular law and the popularisation of the council teaching in particular Churches. On the other hand, after the promulgation of the new Code of Canon Law in 1983, the diocesan synods adjusted the diocesan law to the code norms. When this period of the reception of the code law to the diocesan legislation achieved its result, the final resolutions of the subsequent diocesan synods, which were usually extensive, do not meet — to a large extent — the requirements set by the documents of the Holy See: Instruction of the Congregation for Bishops and the Congregation for the Evangelisation of Nations of 1997 and the Directory of the Congregation for Bishops *Apostolorum successores* of 2004. The author calls for the use of these enunciations so that diocesan synods can be an effective tool for the renewal of a particular Church.

**Keywords:** diocesan synod, legislation, synodal resolutions, diocesan bishop

If the concept of *Ecclesia semper reformanda* is still topical, and undoubtedly it is, then the institution of a synod has also not lost any of its topicality. Since the first centuries of the Church's existence, it has constituted a well-tested tool of Church reform and rejuvenation.<sup>1</sup> It was confirmed by the Second Vatican Council,<sup>2</sup> which also initiated a new era

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<sup>1</sup> See M. PISTOCCHI: *De synodo diocesana*. Taurini 1922, p. 9.

<sup>2</sup> The Council expressed its wish that the “honourable institutions of Synod and Council obtain more power, which would contribute more properly and effectively to a better response to the decrease in the number of faithful and the observance of obedience in various Churches, suitable to the circumstances.” *Dekret o pasterskich zadaniach*

in the history of synodal assemblies. Post-conciliar synods, both particular (plenary and provincial) as well as diocesan, which are shaped in the spirit of the Vatican II doctrine, in contrast to the traditional synods, are characterised by a more pastoral dimension of their end resolutions, the participation of lay people in the proceedings and the way a synod is prepared, as well as its duration.<sup>3</sup>

When it comes to diocesan synods, which were introduced in Poland in the mid-13th century, constituted a significant factor for implementing reforms in specific dioceses (done, first and foremost, through codifying its own specific law) for many centuries. However, after the Second Vatican Council, similarly to other countries, they gained a more pastoral character and became channels through which the conciliar teaching could reach the vast circles of clergy and lay followers. In this way, the conciliar message found its application in undertaking various pastoral activities within the area of the respective Churches.<sup>4</sup> The synodal resolutions, which are very often exceedingly spacious, and in which a broad vista of thematic threads were included, constitute some of the valuable achievements of the conciliar thought that was adopted by these Churches.<sup>5</sup>

This profile of pastoral diocesan synods changed the very moment that Pope John Paul II promulgated the new Code of Canon Law on January 25, 1983.<sup>6</sup> This event — for understandable reasons — could not

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*biskupów w Kościele “Christus Dominus”, no. 36. In: Sobór Watykański II. Konstytucje, Dekrety, Deklaracje. Tekst polski. Pallotinum 1967.*

<sup>3</sup> See E. SZTAFROWSKI: “Synod diecezjalny w doktrynie soborowej i jej wyraz w posoborowych synodach polskich.” *Prawo Kanoniczne* 30 (1987), no. 1—2, p. 62; J. GRĘŻLIKOWSKI: “Instytucja synodu diecezjalnego w Kościele w Polsce po Soborze Watykańskim II.” *Studia Włocławskie* 4 (2001), pp. 107—109; W. GÓRALSKI: *Wprowadzenie do historii ustawodawstwa synodalnego w Polsce*. Lublin 1991, p. 249; IDEM: “Czy synody są nadal szansą dla Kościoła?” *Homo Dei* 61 (1992), no 1—2, p. 3; IDEM: “Instytucja synodu w Kodeksie Prawa Kanonicznego Jana Pawła II.” *Prawo Kanoniczne* 31 (1988), no 3—4, pp. 35—44.

<sup>4</sup> W. GÓRALSKI: “*Ecclesia semper reformanda*. W nurcie synodów polskich — wczoraj i dziś.” In: *Oddanie i wytrwałość. Recepcja II Polskiego Synodu Plenarnego*. Eds. W. GÓRALSKI, H. SEWERYNIAK. Warszawa 2004, p. 61.

<sup>5</sup> The following diocesan synods should be mentioned: Włocławek (1967), Poznań (1968), Gdańsk (1973), Warszawa (1971—1974), Katowice (1972—1975), Kraków (1972—1979) and Gnieźno (1978—1981). See. T. PIERONEK: “Posoborowe synody diecezjalne w Polsce.” In: *Służyć Prawdzie i Miłości. Pamięci Księdza Biskupa Dr. Stefana Baryły, III Ordynariusza Częstochowskiego*. Ed. J. KOWALSKI. Częstochowa 1984, pp. 392—412; W. GÓRALSKI: “Ruch synodalny w Polsce po Soborze Watykańskim II.” *Roczniki Nauk Prawnych* 8 (1998), pp. 140—151.

<sup>6</sup> CODEX IURIS CANONICI auctoritate Ioannis Pauli PP. II promulgatus. AAS 75/ II (1983); Polish text: *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus. Code of Canon Law*. Polish translation was approved by the Episcopal Conference of Poland. Pallotinum 1984.



remain without impact on the further course of synodal activity in specific Churches, especially since this codification (in force from 1983), as the very Legislator defined it in the Pastoral Constitution *Sacrae discipline leges*, constituted the new Code “as some sort of complement of the teachings of the Second Vatican Council.”<sup>7</sup> Apart from that, the new Code of Canon Law legitimised the basic structure of the diocesan synod (can. 460—468) together with specifying the form of the final synodal documents (declarations and synodal decrees). It is no wonder then that the diocesan synods that were initiated during that period concentrated on the reception of code norms first by updating their own particular laws.<sup>8</sup>

When the new 1983 CIC instructions were considered by the synodal legislatures of specific dioceses, the concluding resolutions of the newest synodal assemblies seemed to have been returning to the post-conciliar model, in which the legal norms only constituted an insignificant area, in their profiles.

When discussing diocesan synods today, it seems suitable to, first and foremost, present the *status iuris* of this institution as defined not only in the CIC, but also in the subsequent documents of the Holy See and then to show the character of the end resolutions of the Polish synods after the publication of the new CIC and of the already mentioned post-synodal documents, in order to identify the expectations from the subsequent synodal assemblies.

<sup>7</sup> Ibidem, p. 13.

<sup>8</sup> The following diocesan synods should be mentioned: Częstochowa (1976—1986), Lublin (1977—1985), Gniezno (1981), Tarnów (1981—1986), Kielce (1983—1991), Włocławek (1985—1991), Wrocław (1985—1994), Koszaliń—Kołobrzeg (1986—1990), diocese in Lubaczów (1987—1990), Płock (1987—1991), Białostok (1991—2000), Poznań (1992—1993), Pelpliń (1992—2000), Drohiczyn (1994—1997), Łowicz (1995—1999), Przemyśl (1995—2000), Gniezno (1995—2000), Łomża (1995—2005), Łódź (1996—1998), Sandomierz (1996—1999), Zamość—Lubaczów (1996—2001), Ełk (1997—1999), Warszawa—Praga (1998—2000), Warszawa (1998—2003), Radom (1999), Pelplin (1999—2000), Gdańsk (2001), Rzeszów (2001—2004), Sosnowiec (2001—2004), Opole (2002—2005), Poznań (2004—2008), Warmia (2006—2012), Kalisz (2007—2009), Toruń (2007—2011), Legnica (2007—2012), Płock (2012—2015); synods in progress: Radom (since 2008), Zielona Góra—Gorzów (since 2017), Siedlce (since 2012), Katowice (since 2012), Opole (since 2015), Koszalin—Kołobrzeg (since 2016), Tarnów (since 2016), Elbląg (since 2016). See W. GÓRALSKI: “Charakterystyka i ocena II Polskiego Synodu Plenarnego i współczesnych synodów diecezjalnych w Polsce.” In: *II I Polski Synod Plenarny a synody diecezjalne*. Eds. J. KRUKOWSKI, M. SITARZ, A. PASTWA. Lublin 2015, pp. 24—26.

## 1. Diocesan Synod in CIC and in the post-Code documents of the Holy See

A new regulation was introduced pursuant to Directive no. 36 of the *Christus Dominus* Decree (in the hope that the honourable institutions of the Synod and Council could obtain more power, which would contribute more appropriately and effectively to a better response to the decrease in the number of the faithful and the observance of obedience in various Churches, which were suitable to the circumstances) as a part of the post-synodal CIC.

At this point, it seems important to remark that ten years before promulgation of the new Code, on February 22, 1973, the Congregation of the Bishops issued an *Ecclesiae imago* instruction concerning the topic of the pastoral service of bishops,<sup>9</sup> a fragment of which was dedicated to the diocesan synod (nos. 163—165). Here, the attention was focused on the objectives of that meeting (supporting the diocesan bishops in delineating the way to perform pastoral work in a diocese, solving difficulties concerning preaching and managing, triggering the actions of a general character and correcting any possible mistakes in the areas of doctrine and customs). What was also emphasised was the need to correctly prepare synods and organise its work, which also included the lay followers and monastic representatives in the synod as well as trying to spread interest regarding the synod among the common followers. Finally, several remarks were offered that discussed the way of conducting a synod (preceding the sessions with a liturgical service, especially the Eucharist, freedom of synodal debates over the projects of end resolutions with the active participation of a bishop, putting the resolutions into force and promulgating them only by the bishop).

The 1983 CIC defines a diocesan synod as an “assembly of the chosen reverends and other faithful of a particular Church, who for the good of the entire diocesan community support the diocesan bishop” (can. 460). The synodal assembly is, therefore, a form of cooperation between the representatives of a diocesan presbytery and laity with their bishop who, however, is the only legislator during the synod and signs the synodal

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<sup>9</sup> SACRA CONGREGATIO PRO EPISCOPIS: *Directorium de pastoralis ministerio “Ecclesiae imago”* (22.02.1973), Typis Polyglottis Vaticanis 1973; Polish text: KONGREGACJA BISKUPÓW: *Dyrektorium Ecclesiae imago* na temat pasterskiej posługi biskupów. In: *Posoborowe prawodawstwo kościelne (dokumenty prawno-liturgiczne)*. Prep. E. SZTAFROWSKI, v. 6, p. 1. Warszawa 1975, pp. 15—352 and in: *Ustrój hierarchiczny Kościoła. Wybór źródeł*. Ed. W. KACPRZYK, M. SITARZ. Lublin 2006, pp. 403—516.

declarations and decrees; all of the other participants have an exclusively advisory voice (can. 466).<sup>10</sup>

The question of how often a synod should take place was left to the diocesan bishop by the Legislator, when appropriate to the circumstances and while making the decision he should consult the Presbyterian Council (can. 461 § 1). It is also diocesan bishop's task to convene a synod and to preside over it with the possibility of delegating a general curate or bishop's curate to specific sessions (can. 462 §§ 1—2).

When it comes to the participants, can. 463 §§ 1—2 provides three categories of individuals (*ex officio*, out of choice, and nominated), which span both the clergy and laity as well as members of the consecrated life institutions; at the same time, it precisely defines the method for selecting the remainder of members. Moreover, it provides the possibility of inviting people who belong to different Churches or church communities that do not maintain full unity with the Catholic Church (can. 463 § 3) to the synod (only in the capacity of observers). A member of the synod who faces some difficulties cannot be substituted for by someone else (can. 464). The order in which the topics that are suggested during the synod should be subjected to a free discussion during the synodal sessions is also significant (can. 465). What is of a more formal nature is the regulation regarding the obligation of a diocesan bishop to submit the content of any synodal declarations and decrees to the metropolitan and the Episcopal Conference (can. 467), which is similar to the norm that allows a diocesan bishop to suspend or dissolve a diocesan synod (can. 468 § 1) or the decision that should a Bishop's post be vacated, or should there be an obstacle in its functioning, the synod is to be suspended until a new diocesan bishop issues a recommendation to continue it or deems it to be terminated (can. 468 § 2).<sup>11</sup>

Regarding the CIC norms, on July 7, 1997, the Congregation for Bishops and Congregation for the Evangelisation of Peoples published an Instruction regarding diocesan synods: *De synodis dioecesanis agendis* (signed on March 19, 1997), which is binding for those syn-

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<sup>10</sup> See M. SITARZ: "Podstawowe zasady w sprawowaniu władzy ustawodawczej biskupa diecezjalnego." In: *II Polski Synod Plenarny a synody diecezjalne*. Eds. J. KRUKOWSKI, M. SITARZ, A. PASTWA. Lublin 2015, pp. 95—97; F. COCCOPALMERIO: "Il sinodo diocesano (can. 460—468)." In: *Raccolta di scritti in onore di Pio Fedele*. Perugia 1984, pp. 407—408.

<sup>11</sup> See W. WÓJCIK: "Synod diecezjalny w nowym Kodeksie Prawa Kanonicznego." *Prawo Kanoniczne* 29 (1986), no. 1—2, pp. 93—122; W. GÓRALSKI: „Instytucja synodu w Kodeksie Prawa Kanonicznego Jana Pawła II.” *Prawo Kanoniczne* 31 (1988), no 3—4, pp. 35—44; IDEM: "Synod diecezjalny narzędziem odnowy i reformy Kościoła partykularnego." *Kronika Diecezji Sandomierskiej* 89 (1996), pp. 477—479.

ods that were to commence three months after the publication of the document.<sup>12</sup>

This lengthy enunciation, which was carefully prepared by the already mentioned curia dicastery,<sup>13</sup> which outlines the correct way for applying the code norms, firstly presents the nature and purposefulness of a diocesan synod, where any forms of setting the synod against the bishop, who is the only legislator in his particular Church, are deprecated and which also accentuates the community-creating character of a synod. The document then discusses the content of a synod, suggesting a canonical way to select the members of a synodal assembly. What constitutes a novelty here is an instruction according to which the person whose opinion differs from the Church's doctrine or who declines the authority of a bishop should be deprived (by the means of a bishops' decree) of the possibility to participate in a synod. What is also a novelty is the possibility for the diocesan bishop to summon all priests to a synod if a given diocese enjoys a significant number of these.<sup>14</sup>

The issue of summoning individuals to and preparing a synod was also mentioned (summoning, preparation committee and synod regulations, specific preparatory stages). Before a synod is summoned, the Presbyterian Council should be asked and any information that a bishop gathers when visiting a given diocese has to be considered. The bishop should form a preparation committee (it should include experts in the field of canon law) and a synod secretary's office. The regulations should, first and foremost, define the composition of the synod, the way in which the election of the participants to the synodal assembly, offices and synodal committees will be conducted, as well as the course of the synodal sessions (among others, concerning speaking out about various matters and voting). When it comes to the specific preparatory stages, the Instructions assume a spiritual, catechistic, and informational preparation (first stage); a diocesan consultation that makes it possible for the followers to present their needs and postulates within the area of the topic of the synod (second stage) and the bishop specifying the issues to be considered during the synod, among others, with the possibility of outlining the synodal

<sup>12</sup> CONGREGATIO PRO EPISCOPIS, CONGREGATIO PRO GENTIUM EVANGELIZATIONE: *De synodis dioecesanis agendis Instructio* (7.07.1997), AAS 89 (1997), pp. 706—727.

<sup>13</sup> See A. LONGHITANO: "I sinodi regionali e diocesani: esperienze e prospettive." In: *La sinodalité la participation au gouvernement dans l'Église. Actes du VII Congrès International de Droit Canonique*, Paris, Unesco, 21—28 septembre 1990, *L'Année Canonique*, hors série (1990), v. 2, p. 615.

<sup>14</sup> CONGREGATIO PRO EPISCOPIS, CONGREGATIO PRO GENTIUM EVANGELIZATIONE: *De synodis...*, nr I—II; See T. TOZKRUT: "Nowa Instrukcja o synodach diecezjalnych." *Prawo Kanoniczne* 42 (1999), no. 1—2, pp. 146—151.

documents with divisions into the specific matters as well as a theological and canonical introduction (third stage).<sup>15</sup>

The next part of the document was dedicated to the course of a synod, where attention was paid to conducting the synodal sessions (connected with the synodal liturgy), in particular, in the fundamental moments of the assembly (among others, opening and concluding). It was recommended that the synodal sessions, at least the most important ones, take place in a cathedral. At the same time, it was stressed that the participants to the synod must deliver a confession of faith according to can. 833. It was also explained that a bishop should familiarise himself with the suggested topics, eliminating any that are inconsistent with the Church's doctrine or the Papal Magisterium, or any that concern a matter that is restricted to a different entity (e.g. the Holy See). It was also emphasised that a bishop should listen attentively to the opinions of the participants of the synodal assembly and to assess them according to his own conscience, and then to subsequently issue the appropriate instructions to the committees that are editing the end resolutions. It was emphasised at the same time that these end resolutions should be formulated quite precisely (rather than broadly), so that they could become "a pastoral guide in the diocese." What constitutes a novelty is the instruction according to which the decision of a bishop to suspend or dissolve a synod (can. 468) should be consulted with the *Consilium Presbyterale*.<sup>16</sup>

The last issue in the document concerned the end resolutions of the synod — the synodal declarations and decrees. The introduction itself contains a statement that suggests that the types of resolutions that are mentioned, on the one hand, are about actual legal norms, which might be referred to as "constitutions" or are an indication of decisions that were binding in the past, while on the other hand, they might be about unambiguous statements regarding the truth about the doctrine of faith or the doctrine of Catholic morality, first and foremost, in these matters, which refer to the life of a particular Church.<sup>17</sup>

What should be deemed significant was the decision to leave the signing of any synodal declarations and decrees to the diocesan bishop, since only (as the sole legislator in a diocese) he is their author, which is expressed in the Instruction. Therefore, the document prohibits publishing — as synodal — the documents that have not been signed by a bishop. At the same time, it remarks that through the synodal decrees, a bishop recommends their preservation as canonical norms, which standardise

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<sup>15</sup> CONGREGATIO PRO EPISCOPIS, CONGREGATIO PRO GENTIUM EVANGELIZATIONE: *De synodis...*, no. III; T. TOZKRUT: *Nowa Instrukcja...*, pp. 151—152.

<sup>16</sup> *Ibidem*.

<sup>17</sup> *Ibidem*, p. 153.

diocesan life within the areas that the law entrusts him with and adapts the general Church discipline to the specificity of a particular Church. It also adds that the law stipulates that a synodal decree against the rights of a superior would be invalid, that is the law of the common Church, general decrees of particular synods and the Conference of Bishops, as well as assemblies of the Church province bishops within the area of their authority.<sup>18</sup>

Subsequently, the instruction, which was included in can. 467, ordered a diocesan bishop to inform the Metropolitan and the Episcopal Conference about any synodal declarations and decrees; the Instruction emphasises that the objective here is to strengthen the community of the episcopate and to create normative harmony in the Churches of the same region.<sup>19</sup> It is also recommended — as the *novum* constitutes — that these synodal documents (by the papal legate) also be sent to the Congregation for Bishops or the Congregation for the Evangelisation of Peoples, and the Instruction includes a statement that suggests that the documents will appropriately studied there.<sup>20</sup>

What also constitutes a novelty of the Instruction is the recommendation that should the synodal documents, and first and foremost, synodal decrees not include an order to execute them, it shall be the diocesan bishop's decision, after concluding the synod, to determine how to execute them, which might be entrusted to some diocesan offices.<sup>21</sup>

A supplement was attached to the Instruction in which the matters concerning teaching, sanctifying, and pastoral service in the area of which, according to CIC, the diocesan bishop is competent were presented.<sup>22</sup>

In turn, the Congregation for Bishops, on February 22, 2004, issued a Directory entitled *Apostolorum successores* on the pastoral service of bishops,<sup>23</sup> in which it stresses the privileged place of a synod among

<sup>18</sup> Cf. can. 135 §2 CIC.

<sup>19</sup> CONGREGATIO PRO EPISCOPIS, CONGREGATIO PRO GENTIUM EVANGELIZATIONE: *De synodis...*, no. V, 4.

<sup>20</sup> Ibidem, no. V, 5.

<sup>21</sup> Ibidem, no. V, 6.

<sup>22</sup> Ibidem. *Pastoralia munia quae Codex Iuris Canonici concedit legum ferendarum potestati Episcopi dioecesanis*; the possibility to make specific laws by diocesan bishops was emphasised by, among others, E. CORECCO in his work: *Ius universale — ius particulare*. In: *Ius in Vita et in Missione Ecclesiae. Acta Simposii Internationalis Iuris Canonici occurrente X Anniversario Promulgationis Codicis Iuris Canonici Diebus 19—24 Aprilis 1993 in Civitate Vaticana Celebrati*. Libreria Editrice Vaticana 1994, p. 573.

<sup>23</sup> CONGREGATIO PRO EPISCOPIS: *Direttorio per il ministero pastorale dei vescovi „Apostolorum Successores”* (22.02.2004). Città del Vaticano 2004; Polish text: CONGREGATION FOR BISHOPS: *Dyrektorium „Apostolorum successores” o pasterskiej postudze biskupów*. In: *Ustrój hierarchiczny Kościoła. Wybór źródeł*. Ed. W. KACPRZYK, M. SITARZ. Lublin 2006, pp. 517—711.



the structures that helps bishop to manage a diocese, quotes the definition of this institution and acknowledges a synod to be a “suitable place of adaptation of laws and norms of the common Church to a specific diocesan situation.”<sup>24</sup> Subsequently, the composition of the synod was mentioned (as a representation of the diocese), the possibility of observers from different Churches to participate in a synod, the rights and obligations of a bishop in a synod, preparation of a synod and its course.<sup>25</sup> The disposition of the 1997 Instruction of the Congregation for Bishops and Congregation for the Evangelisation of Peoples repeats the recommendation that a bishop also needs to send the final synodal documents (resolutions) to any “interested dicasteries of the Holy See, especially to the Congregation for Bishops and Congregation for the Evangelisation of Peoples.”<sup>26</sup>

## 2. The character of the most recent synods concluded after the promulgation of the new CIC and the issuance of the postcode documents

The delineation by the 1983 CIC and post-Code documents of the Holy See (*De synodis dioecesanis agendis* Instruction from 1997 and the *Apostolorum successores* Directory from 2004) of a new model for diocesan synods imposed the obligation to comply with the new regulation, among others, with reference to the shape of the final synodal resolutions, on diocesan bishops. Indicating “the synodal declarations and decrees” (can. 466), the aim of the Legislator seemed to have been to end some solutions that, very often, were of an experimental nature.<sup>27</sup> He unambiguously claimed that synodal resolutions should not be restricted exclusively to quoting conciliar documents, acknowledging facts and describing situations, postulates, and initiatives. What is also meaningful within this area is the mentioned disposition of the 1997 *De Synodis dioecesanis agendis* Instruction on the need to make legal norms at

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<sup>24</sup> Ibidem, no. 169.

<sup>25</sup> Ibidem, no. 168 and 170—175.

<sup>26</sup> Ibidem, no. 175.

<sup>27</sup> See W. GÓRALSKI: “Instytucja synodu w Kodeksie Prawa Kanonicznego...,” pp. 35—44; G. CORBELLINI: *Il sinodo diocesano nel nuovo Codex Iuris Canonici*. Roma 1986, pp. 146—157.

a synod. It is not without a reason that the *Supplement* attached to the document includes the presented issues that the CIC recommends be regulated by a bishop.<sup>28</sup>

An analysis of the end resolutions of particular diocesan synods, which were concluded within the mentioned period, makes it possible to acknowledge that — in contrast to the post-conciliar synods that were concluded before the new CIC was promulgated — are, as a rule, characterised by a quite wide reference to this codification, which should be accepted as a fully understandable and appropriate phenomenon.

Strictly legislative decisions of synodal assemblies are, first and foremost, included in the so-called statute section, which is usually the first one; moreover, as a rule, they are included in the long appendices. Since, apart from the *stricte* (as understood through the prism of can. 8 § 2), the resolutions of synods include general decrees (as understood through the prism of can. 29), therefore, are the so-called dispositions, including the general rules that regulate a specific matter (not expressed once); such decrees are acts in the strict meaning of this word. Apart from that, it is also possible to encounter general executive decrees in synodal resolutions, in which the means for applying an act are defined more precisely or which include a request to adhere to a given act (can. 31 § 1). It has to be said that these decrees are issued by the executive power, and therefore, they are not acts because their only aim is to exclusively implement the acts.<sup>29</sup>

Among synod resolutions it is also possible to find normative acts that can be defined as instructions. Therefore, it seems important to clarify that according to can. 34 § 1, an instruction is an executive power act that explains the regulations of the acts and also reveals and defines the arguments that have to be considered when observing them; these are issued for those who are obliged to implement the acts. Meanwhile, the term “instruction” that appears in the synodal resolutions, *de facto* means a general decree (as specified by can. 29); hence, it has the character of an “act.”<sup>30</sup>

What is characteristic of synodal documents are the various statutes and regulations for legal entities (e.g. chapters, seminaries, associations, etc.) as well as for various bodies that do not have a legal personality (e.g. Consilium Presbyterale, Diocesan Pastoral Council, Parish Council, etc.).

<sup>28</sup> W. GÓRALSKI: “Sprawowanie władzy ustawodawczej przez biskupów...,” pp. 24—25; IDEM: *Charakterystyka i ocena...*, pp. 43—44.

<sup>29</sup> See R. SOBAŃSKI: *Nauki podstawowe prawa kanonicznego. Teoria prawa kanonicznego*, v. 1. Warszawa 2001, pp. 42—45; W. GÓRALSKI: “Sprawowanie władzy ustawodawczej przez biskupów...,” pp. 24—25.

<sup>30</sup> W. GÓRALSKI: “Charakterystyka i ocena...,” p. 45.



According to can. 94 § 1, statutes in their correct meaning are ordinances (collections of regulations) that are issued according to the law for groups of people or objects and define their goal, tasks, structure, management, and means of functioning. In § 3 of this canon, the regulations concerning acts are adapted to the statute regulations that are created by the executive power. In the meantime, the rules and regulations such as the disciplinary regulations (sets of norms that are binding during the assemblies that are convened by the Church authorities or as a result of the initiative of the followers due to various celebrations), define everything that concerns establishing assemblies and supervising the way they work (can. 95 § 1). Even though the disciplinary regulations are not used for regulations that refer to acts, when these are announced by the appropriate executive power, they can obtain the character of an act.<sup>31</sup>

Considering the character of the specific types of normative acts that belongs — pursuant to the Code regulation — to their essence, and that refers to the particular elements of the synod resolutions, a variety of terminology is used, which does not always match the Code definitions, which establish the qualifications of synodal resolutions according to the names and definitions they were given, but instead according to their real character, which they are characterised by, should be perceived to be correct.<sup>32</sup>

When we consider the specific categories of synodal resolutions, we can observe that a great deal of space is dedicated to executive decrees, which are the legal acts by means of which the legislators define the way code norms should be implemented more precisely and also encourage us to follow them. This seems justified since the reception of the code norms in a synodal legislation constitutes a crucial objective that is undertaken by synods. In the statutes of many synods, it is explicitly stressed that for more important issues — for practical reasons — the resolutions that are adopted by synodal assemblies refer to the CIC norms. In some cases, it is possible to find an indication of the relevant canon (or canons) of the Code next to the reference, in other cases, we can find the quoted content of a given instruction of common law. There are also synods which, as a rule, do not refer to code canons, but limit themselves to exclusively considering their instructions.<sup>33</sup>

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<sup>31</sup> See T. PAWLUK: *Prawo kanoniczne według Kodeksu Jana Pawła II*, v. 1: *Zagadnienia wstępne i normy ogólne*. Olsztyn 1985, p. 248; E. SZTAFFROWSKI, *Podręcznik prawa kanonicznego*, v. 1. Warszawa 1985, p. 211; W. GÓRALSKI: “Sprawowanie władzy ustawodawczej przez biskupów...,” p. 25.

<sup>32</sup> Ibidem, pp. 25—26; See R. SOBAŃSKI: *Nauki podstawowe...*, p. 53.

<sup>33</sup> W. GÓRALSKI: “Charakterystyka i ocena...,” p. 45.

When it comes to cases of defining the means of applying the relevant code rules more precisely, the decision of the synodal statutes relates to a great many areas of life. For instance, many synods, when defining with greater precision the way can. 222 § 1 (on the obligation of the faithful to redress the needs of Church) should be implemented, indicate when and for what purposes contributions (contribution plate and collection boxes) are to be collected in a given diocese. A different example can be the fact that a synod defines a specific date for submitting the annual report on managing the parish property, which constitutes a more specific application of can. 1287 § 1, which is similar to the precise — in relation to can. 1281 §§ 1—2 — synodal decisions regarding the alienation of Church property.<sup>34</sup>

It is easy to see that the general executive decrees defining the means of implementing the code norms more precisely include numerous statutes of diocesan institutions and instructions also contained in the so-called annexes which are an integral part of synodal resolutions.<sup>35</sup>

Synodal legislators, who are urged to observe the code norms, use the form of literal quotation or a paraphrase of a given code canon (along with indication clear reference to it) as well as formulating norms in the spirit of a given canon, accompanied only by a general reference to the provisions of canon law.<sup>36</sup>

In other cases, we encounter a general disposition that recommends the observance of norms in a specific field, for instance, procedural law or criminal law.<sup>37</sup>

Undoubtedly, a special and significant place in the resolutions of the diocesan synods is occupied by particular acts in the strict sense of the term and by general decrees (so-called resolutions) such as the acts proper, both of which adapt the diocesan law to the norms of the code. It is not easy to precisely distinguish between the two in specific cases. By adopting laws and general decrees, the synodal legislators regulate the entirety of the matters concerning their own particular Churches. These types of normative acts are in conformity with the provisions of the CIC and therefore constitute particular law of the *iuxta legem communem*.<sup>38</sup>

In an attempt to undertake a concise characteristics of the acts and simultaneous general decrees that are present in synodal resolutions, we should first say that some of them are, to a large extent, similar in terms

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<sup>34</sup> Ibidem, pp. 45—46.

<sup>35</sup> Ibidem, p. 46.

<sup>36</sup> Ibidem.

<sup>37</sup> Ibidem.

<sup>38</sup> Ibidem, p. 47.

of the solutions regarding specific areas or issues. It even appears that some statements are, sometimes literally, taken over or adopted by one or more synods from another, previously held, synod (this phenomenon was not infrequent during the synods of earlier epochs). It should also be noted that the rulings of synods that are contained in the acts are quite abundant in terms of quantity, which certainly stems from the need to regulate a vast amount of legislative matters. In addition, synodal acts are characterised by a large degree of detail, especially in areas such as diocesan structures, the faithful, the types and forms of pastoral work, the service of preaching and the service of consecration.<sup>39</sup> Finally, we should also mention that the synodal legislators consider the particular law that is in force in the Church region (country), which have been adopted by the Episcopal Conference of Poland, among others, the resolutions of the Second Polish Plenary Synod (1991—1999).<sup>40</sup>

In the end resolutions of the synods, two formulas can be identified: a doctrinal-juridical one and a strictly juridical one. In the application of the former, much space is devoted to reminders about the Council teachings, as well as to describing the religious situation of a particular Church, some declarations, indications, etc. are formed, which usually constitute a programme of pastoral renewal. The legislation, on the other hand, has the character of the conclusions that have been drawn from these doctrinal-pastoral arguments. However, in the strictly juridical formula, this doctrinal-sociological layer is completely omitted, and only legal norms are specified.<sup>41</sup>

The most common deficiencies of the acts that are undertaken at synods are placing provisions in the instructions or regulations, when a given matter should be regulated by an act; the inappropriate distribution of the same matter between acts and instructions or regulations; the too wordy formulation of provisions; the lack of proper clarity between instructions that are of an obligatory or optional nature, and a lack of a reference to Canon Code when it is literally placed in an act.<sup>42</sup> As far as the latter is concerned, it is inappropriate to repeat code provisions and to include them in synodal statutes (a synod is not a collection of common law). This practice may give the impression that the synodal legislation includes the “most important” norms of the CIC and the norms of diocesan law.<sup>43</sup>

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<sup>39</sup> Ibidem.

<sup>40</sup> Ibidem.

<sup>41</sup> Ibidem, pp. 47—48.

<sup>42</sup> Ibidem.

<sup>43</sup> The point is that such a “binding” of common law to particular law should not blur the differences between them, nor should it give the impression that the use of a body of laws that are adopted at a synod is sufficient. We should, therefore, not refer

### 3. Expectations towards subsequent synods

The careful “tracking” of the already numerous Polish diocesan synods that took place after the promulgation of the new CIC and the publication of two important documents on the synods by the Holy See (in 1997 and 2004) enables us to make a number of comments regarding the diocesan legislators. It is about an attempt to outline a vision of a synod that would correspond, in the possibly greatest extent, to what the Code states in the respect that is “enriched” by the dispositions of these documents. This is even more so since the modern diocesan synod — as shown by experience — in many cases does not fully meet the requirements set out in it. Suffice it to say that many synodal assemblies are concluded with a ceremonial liturgy and a promulgation of the end resolutions by the diocesan legislator, then carefully published in the form of a several-hundred-pages-long “synodal book,” which eventually becomes a dead letter collecting dust on the shelves of the clergy. The results of the research on the reception of synodal resolutions would certainly be interesting, especially when it comes to the frequency of referring to them by both the diocesan bishop and the diocesan presbytery, not to mention the lay faithful.

Here we can ask: In many cases, isn't the convening of a synod random? Is it not the case that here and there a synodal assembly takes place only because it seems appropriate for the reason that it has already taken place in other dioceses, and that the foregoing suggest simply a contemporary trend? However, the aim is that a diocesan synod should really be both a privileged place to exercise the authority/pastoral service of the diocesan bishop and an effective instrument of a religious-moral and pastoral renewal of the “particle” of the Church that is entrusted to it. In order for this to happen, for a contemporary diocesan synod to fulfill its role, it is necessary to fulfill certain conditions, which apply to all stages of the *synodal iter*.

First of all, we should remember, and it is reminded to us in the 1997 Instruction of the Congregation for Bishops and the Congregation for the Evangelisation of Nations (hereinafter: Instruction), that a diocesan synod, according to can. 460, is “an assembly of elected priests and other faithful of the particular Church who, for the good of the entire diocesan community, provide assistance to the diocesan bishop.”<sup>44</sup>

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to the provisions of the Code and should limit ourselves only to the formulation of legal norms of a specific nature (with possible references to the appropriate canons).

<sup>44</sup> CONGREGATIO PRO EPISCOPIB, CONGREGATIO PRO GENTIUM EVANGELIZATIONE: *De synodis...*, no I.

The significant moment is the very decision to open a synod and the choice of the issues that are to be addressed in the synodal reflection. The bishop, knowing the needs of his diocese, after a wider consultation (eventually with the *Consilium Presbyterale*), when he decides on whether to conduct a synod, should decide on its subject matter. This can cover all of the matters of a particular Church, as well as specific areas or even just one thread (e.g. marriage and family or Catholic education). The latter option seems to guarantee a greater effectiveness of the expected result, that is, deepening of the awareness of all of the faithful in a given field. In each case, the diocesan bishop should remember that a synod is to serve “the good of the entire diocesan community” (can. 460), which is also mentioned in the Instruction.<sup>45</sup>

The success of a synod largely depends on the proper preparation of this event. We can distinguish here into long-term and imminent preparation.

The long-term preparation, which should begin with informing the faithful of the diocese (with an occasional pastoral letter sent at the appropriate time) of the bishop’s initiative with a call to pray for the intentions of this work. It is important for the bishop to make both the clergy and the laity aware of the importance of this work, as well as members of the institutes of consecrated life and Apostolic associations, with the necessary explanation of the place and role of the synod in the life of a particular Church. At that time, a preparatory commission should already be in place to assist the bishop in undertaking and carrying out the further pre-synodal (mainly organisational) activities; such a commission is mentioned in the Instructions.<sup>46</sup>

As far as the imminent preparation is concerned, this should include, above all, the establishment of the principal commission of the synod by the bishop, his secretariat, the general secretary, the subject commissions (in accordance with the matter(s) proposed by the preparatory commission) and the press office. A glaring mistake (sometimes made) would be to appoint a chairman of the synod who is the diocesan bishop (can. 462 § 2). When it comes to the composition of these bodies, it would be appropriate to consider the competence of the individuals (e.g. by appointing experts in a given field) and to include lay faithful in these bodies.

An important moment, subsequently, is the preparation of a document that includes the synod regulations, which requires the bishop’s approval. The regulations should precisely define everything that con-

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<sup>45</sup> *Ibidem*.

<sup>46</sup> *Ibidem*, no. III.

cerns the synodal activities<sup>47</sup>; it is a kind of “guide” on the synodal method.

A synod should be officially opened with a liturgical part and a synodal session (the bishop’s speech and several occasional speeches by experts on the institution of synod) at the appropriate time.

Undoubtedly, an important stage of during the synod is the preparation of the drafts of end resolutions by the responsible committees, which requires a great deal of time, and then, a broad consultation of these in the diocese. Therefore, the drafts that are developed by these bodies (after consultation period with the bishop) should be sent to the parish and community synodal groups for discussion and addition of comments. Such a broad consultation should ensure that the idea of the synod that will be realised in these projects will pave the way for the diocesan community as a whole, while at the same time giving them the opportunity to express themselves freely on the crucial issues of the synodal debate. It is not difficult to find here a form of the kind of catechisation that is conducted in relation to all of the dioceses.

The Instruction states that a synod should be composed of synodal sessions.<sup>48</sup> These play a leading role here because they become the fora for a free and creative exchange of ideas among the participants of the synodal assembly, and thus, they are a special place for an intra-Church dialogue on the scale of a particular Church. It is here, according to the meaning of the Greek word *synodeuein*, that the diocesan Church creates a “common path” that will lead to a deepening of its own ecclesial consciousness as well as to reform and renewal. The basic plane of understanding on this path is the relationship of the diocesan bishop with the other participants. The direction, pace, and endpoint of this journey is determined by the bishop, who, as the Dogmatic Constitution on the Church *Lumen Gentium* of the Second Vatican Council states, “by virtue of his office has the sacred right and duty towards the Lord to legislate for his people, to exercise judgment and to direct all that belongs to the fields of worship and the apostolate.”<sup>49</sup>

If a synod constitutes an effective tool for the development of Church life, it is because it makes the People of God not only the addressees of the bishop’s ordinances and directives, but also their subjects.<sup>50</sup> After all,

<sup>47</sup> See *ibidem*.

<sup>48</sup> *Ibidem*, no IV, 1.

<sup>49</sup> Dogmatic Constitution on the Church *Lumen gentium*, no. 22, in: *Sobór Watykański II. Konstytucje, Dekrety, Deklaracje*. Polish text. Pallotinum 1967.

<sup>50</sup> See G. FELICIANI: “Corresponsabilità ecclesiale nella struttura gerarchica della Chiesa.” In: *Comunione ecclesiale e strutture di corresponsabilità*. Eds. J. BEYER, G. FELICIANI, H. MÜLLER. Roma 1990, pp. 37—39.

all of the participants of synod can speak freely in the synodal hall or in the bishop's cathedral. It can be said that in these places, the Church office meets the charismata that are represented by all of those who participate in the Episcopal authority. The legislative activity of the entire diocesan community, whose shepherd chooses the "collegial," or rather, collective form of exercising his *potestas legislativa*, is actualised here.<sup>51</sup>

The result of the work of a diocesan synod are the end resolutions, which are the synodal decrees and declarations that are signed and promulgated by the diocesan bishop, which means, as the Instruction states, that he is their author.<sup>52</sup> As was mentioned above, the Instruction explains that these "decrees" should be understood to be the true norms of law.<sup>53</sup> It should, therefore, be assumed that a synod cannot limit itself to descriptions of facts, statements, encouragements or postulates, but that some of its resolutions should be normative. Of course, this should be borne in mind, first of all, by the bishop.

The legal norms that are adopted at a synod should be adapted to the needs of the dioceses, and all effort should be made to avoid simply repeating the Code provisions, even in the form of paraphrasing them. These are norms that would adapt the common law to the needs of a particular Church, even in the form of their specification. As far as any declarations are concerned, they should be texts in which the thought of a particular Church is presented, which is authoritatively approved by the diocesan bishop with regard to the problems of the moment.<sup>54</sup> At this point, we can appeal for a far-reaching discipline in the selection and formulation of these texts because they can often be accused of being *per abusum*.

The declarations and decrees of a synod, which are developed by this synod and recognised as its own by the diocesan bishop, cannot remain on paper alone, otherwise the entire synodal endeavour would be fruitless or even useless. No wonder that the Instruction draws attention to the execution of the final documents, and especially, to the decrees. The responsibility rests with the diocesan bishop, who ought to ensure that the manner in which the resolutions are implemented is determined by the synodal documents themselves or by a separate decree.<sup>55</sup> It seems appropriate for the diocesan administrator to establish a proper commis-

<sup>51</sup> W. GÓRALSKI: "Synod diecezjalny narzędziem odnowy...", p. 483.

<sup>52</sup> CONGREGATIO PRO EPISCOPIS, CONGREGATIO PRO GENTIUM EVANGELIZATIONE: *De synodis...*, no. V, 3.

<sup>53</sup> *Ibidem*, no V, 2.

<sup>54</sup> See G. CORBELLINI: *Il sinodo diocesano...*, pp. 159—160.

<sup>55</sup> CONGREGATIO PRO EPISCOPIS, CONGREGATIO PRO GENTIUM EVANGELIZATIONE: *De synodis...*, no. V, 6.



sion (with a chairman at the head) to oversee the implementation of what is defined in the synodal documents, especially the decrees.

## Final remarks

The phenomenon of synodality, rooted in the theology of the episcopate and in the theology of the Church as a community part from, obviously, being embedded in the structures of the Church, encompasses particular Churches where synodality is a special way of exercising legislative power by the bishop. The soul of synodality is the community that determines its dynamism. While *communio* is situated primarily on the ontological-sacramental plane, the *synodalitas* appears, mostly, on the ecclesiological-structural plane and is sometimes referred to as the “operative structure of a community.”<sup>56</sup> We can say that synodality is a particular expression of community.<sup>57</sup>

Through the diocesan synod, this particular place for exercising legislative power by the shepherd with the broad participation of the entire People of God of a given diocese, the unity of the particular Church, which is heading towards renewal, strengthens. A diocesan synod provides an opportunity to deepen the awareness of its participants that the living organism of a particular Church unites the clergy and laity, which was more broadly revealed by the Second Vatican Council by opening the synodal halls more widely for the latter.

The new model of a diocesan synod that was formed after *Vaticanum II* was more precisely defined in the post-conciliar CIC, which indicated the objectives and structure of this institution, so important in the life of a particular Church. The Code norms were supplemented by the 1997 Instruction of the Congregation for Bishops and the Congregation for the Evangelisation of Nations, *De synodis dioecesanis agendis*, and then, the Directory of the Congregation for Bishops *Apostolorum successores* of 2004.

While the synodal assemblies in the Polish Church that were initiated after the Second Vatican Council mainly focused on understanding the Council teachings, the numerous synods that have been held since the promulgation of the new Code of Canon Law have been focused on adapting the diocesan law to this codification. Even though the code

<sup>56</sup> P. AMENTA: “Il sinodo diocesano quale organo di partecipazione alla potestà legislativa del vescovo.” *Periodica* 84 (1995), p. 641.

<sup>57</sup> See E. CORECCO: “Struttura sinodale o democratica della chiesa particolare?” In: *Miscellanea en honor de J. Becerril y A. Miralles*. Madrid 1974, pp. 269—299.



norms have already found their significant reflection in the legislation of particular Churches, the synodal activity continues.

The analysis of the end resolutions that have recently been concluded by the diocesan synods shows that these resolutions leave much to be desired, not only with regard to their very profile, but also in other areas. What constitutes another problem is the implementation of the synodal resolutions and the resulting phenomenon of the relatively “short life” of synods.

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WOJCIECH GÓRALSKI

## Le synode diocésain aujourd'hui — sous quelle forme ?

### Résumé

Le Concile Vatican II a créé un nouveau modèle de synode diocésain, qui a été adopté, entre autres, en Pologne, et qui se caractérise par le renoncement à l'établissement de normes de droit particulier et par la diffusion de la doctrine conciliaire dans les Églises particulières. Après la promulgation du nouveau Code de droit canonique en 1983, les synodes diocésains, à leurs tours, ont adapté le droit diocésain aux normes du code. Lorsque cette période de réception de du droit de code à la législation diocésaine a atteint son résultat, les résolutions finales des synodes diocésains ultérieurs, en règle générale étendues, ne répondent pas — dans une large mesure — aux exigences des documents du Saint-Siège: l'Instruction de la Congrégation pour les évêques et la Congrégation pour l'évangélisation des nations de 1997 et aussi le Directoire de la Congrégation pour les évêques *Apostolorum successores* de 2004. L'auteur de l'article insiste sur le besoin de suivre les dispositions de ces énonciations, afin que les synodes diocésains puissent être un outil efficace pour le renouvellement de l'Église particulière.

**Mots clés:** synode diocésain, législation, arrêté synodal, évêque diocésain

WOJCIECH GÓRALSKI

## Sinodo diocesano oggi: in quale forma?

### Sommario

Il Concilio Vaticano II ha creato un nuovo modello di sinodo diocesano, che è stato adottato, tra l'altro in Polonia, e che è caratterizzato dalla rinuncia allo stabilire le norme del diritto particolare e dalla diffusione della dottrina conciliare nelle chiese particolari. Dopo la promulgazione, nel 1983, del nuovo Codice di Diritto Canonico, i Sinodi diocesani, a loro volta, hanno adattato il diritto diocesano alle norme del codice. Quando quel periodo di ricezione della legge di codice dalla legislazione diocesana ha raggiunto il suo risultato, le risoluzioni finali dei sinodi diocesani successivi, di regola di ampie dimensioni, non soddisfano — in larga misura — i requisiti dei documenti della Santa Sede: l'Istruzione della Congregazione per i vescovi e la Congregazione per l'evangelizzazione delle nazioni del 1997 e anche il Direttorio della Congregazione per i vescovi *Apostolorum successores* del 2004. L'autore dell'articolo insiste sul bisogno di seguire le disposizioni di queste enunciazioni, affinché i sinodi diocesani possano essere uno strumento efficace per il rinnovamento della Chiesa particolare.

**Parole chiave:** sinodo diocesano, legislazione, risoluzioni sinodali, vescovo diocesano





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## The Regime of Synodality in the Eastern Church of the First Millennium and Its Canonical Basis

**Abstract:** The synodal form of organisation — sought and established for His Church by Her Founder, that is, by Our Lord Jesus Christ, and affirmed by His Apostles — was also expressly reaffirmed by the canonical legislation of the Eastern Church of the first millennium.

By adapting the form of administrative-territorial organisation of the Church to that of the Roman State — sanctioned by the canons of the Ecumenical Synods (cf. can. 4, 6 Sin. I Ec.; 2, 6 Sin. II Ec.; 9, 17, 28 Sin. IV Ec.; 36 Sin. VI Ec.) — in the life of the Eastern Church several types of synods appeared, starting with the eparchial (metropolitan) synod of a local Church and ending with the patriarchal synod, both still present in the autocephalous Churches of Eastern Orthodoxy.

**Keywords:** synodality, synodality regime, canonical bases

### Introduction

First of all, let us mention the fact that the actuality and the importance of the topic of this article, that is, the regime of Synodality in the Eastern Church of the first millennium, were also proved and brought up to date by the Decisions of “the Holy and Great Synod of the Orthodox Church” assembled in Crete (Greece) in 2016.

Indeed, at the Crete Assembly on 16—26 May 2016, the Synod drafted and published a document on “The Relations of the Orthodox Church with the contemporary Christian world.”

Among other things, in the said text the hierarchs of the Orthodox Church — chaired by His Holiness Bartholomew, Ecumenical Patriarch —

state that “the preservation of authentic faith is ensured only by the synodal system, that represents, always, within the Church, the highest authority in matters of faith and canonical rules (can. 6 Sin. II Ec.)”<sup>1</sup>

What it means is that only through the “synodal system” and, *ipso facto*, through the affirmation and application of the synodality regime that the apostolic faith formulated by the Fathers of the Ecumenical Synods is preserved, which is expressly confirmed by the text of the canonical legislation of the Eastern Orthodox Church in the first millennium, wherein it is stipulated that the matters “decided” by the Synods of the ecumenical Church, regarding the “faith, are not to be changed, [...], but to be maintained firmly [...]”<sup>2</sup> (can. 1 Sin. II Ec.), and, thus, “[...] let no one be allowed to reveal, or to write, or to make another faith (ἐτερον πιστιν)” (can. 7 Sin. III Ec.).<sup>3</sup>

The same Fathers of the Third Ecumenical Council (Ephesus, 431) decided that, if “a metropolitan of a diocese” (province) join “the assembly of the apostates,” or adhere to the heretical doctrines, this one “has no power in any way to do anything in opposition to the bishops of the province, since he is already cast forth from all ecclesiastical communion (ἐκκλησιαστικῆς κοινωνίας) [...], and shall be degraded from his episcopal rank (τοῦ βαθμοῦ τοῖς ἐπισκοπῆς ἐκβληθῆναι)”<sup>4</sup> (can. 1 Sin. III Ec.).

Therefore, according to this ecumenical decision, if a metropolitan is deserting his synod, adhering to the heretical doctrines, he has to be deposed from his episcopal ranks.

Then, we would like to inform the reader of our paper that, for its elaboration, we went *ad fontes*, that is, both to the canonical ones, and to the ecclesiological and historical ones.

Finally, concerning the structure of our paper, the reader of the paper will easily realise that we made some subheadings in order to divide the text into self-contained parts.

<sup>1</sup> THE HOLY AND GREAT SYNOD: *The Relations of the Orthodox Church with the World of Christianity* (official document), apud <https://basilica.ro/sfantul-si-marele-sinod-relatiile-ortodox-ortodox-cu-sambul-lumii-crestine-document-official> (accessed 3.03.2019).

<sup>2</sup> Apud *The Syntagma of the Divine and Sacred Canons (Athenian Syntagma)*, ed. G. A. RHALLI, M. POTLI, vol. II, Atena, 1852, pp. 192—193. See also the Romanian text in *Canons of the Orthodox Church. Notes and Comments (Canoanele Bisericii Ortodoxe. Note și comentarii)*, ed. I. N. FLOCA, Sibiu, 1992, p. 64.

<sup>3</sup> *Athenian Syntagma...*, vol. II, p. 200; *The Canons of the Orthodox Church (Canoanele Bisericii Ortodoxe)...*, p. 74.

<sup>4</sup> *Athenian Syntagma ...*, vol. II, pp. 192—193; *Select Library of the Nicene and Post-Nicene Fathers of the Christian Church*, ed. P. SCHAFF and. H. WACE, 2nd series, vol. 14, SAGE Software Albany, Oregon 1996, p. 563 (apud <http://www.agape-biblia.org/orthodoxy/The%20Seven%20Ecumenical%20Councils.pdf>); *The Canons of the Orthodox Church (Canoanele Bisericii Ortodoxe)...*, pp. 72—73.

## 1. The synodality including the whole body of the Church (clergy and laity)

The Greek word *συνδικότης* (synodality) — derived from the word *συνδος* (synod) — is expressed in the Latin Church through ‘conciliarity’<sup>5</sup>, derived in turn from the Latin word *concilium*. However, the two terms, synod and *concilium*, are synonymous, even though the notion of *concilium* has a “much more institutional connotation”<sup>6</sup> than the Greek term, that is, the *synodos*, which expressly refers to the “Assemblies of bishops.” But, the regime of the synodality is not confined only to the “assembly of the bishops,” since it includes the whole body of the Church, namely clerics and laity, as even the Ecumenical Councils attested by their synodal letters sent “to the bishops, presbyters, deacons and all the people in every province and city.”<sup>7</sup>

As one of the acclaimed theologians of the Orthodox Church remarked, in the ancient Church “believers were not passive objects of the holy work of the hierarchy, but active collaborators of it,”<sup>8</sup> hence the finding that, by the participation of the laity at the Synods of the Church of the first centuries, expression was actually given to the participation of the laity in the communion life of the Church.

The same Romanian Orthodox theologian also remarked that in the “Old Church” there was a “complementarity” between the “episcopal synodality” and the “Church communion,” that is, the *pleroma* of the Church, concretely expressed by “the fact that representatives of the clergymen, monks and the faithful also participated in synods and their opinion was asked for before adopting the synodal definitions.”<sup>9</sup>

Since “any approach to conciliarity is an essential tribute to a particular ecclesiology, whether explicit or not,” we must therefore start “from a vision of the Church”<sup>10</sup> in which “Conciliarity” meaning “Synodality” is perceived both as the work of the Holy Spirit (cf. the Acts of the Apos-

<sup>5</sup> Ș. LUPU: *Synodality and / or Conciliarity: an Expression of Church Unity and Catholicity (Sinodalitatea și / sau conciliaritatea: expresie a unității și catolicității Bisericii)*. “Dialog teologic”, IV, 7 (2001), pp. 31—49.

<sup>6</sup> M. STAVROU: *Linéaments d’une théologie orthodoxe de la conciliarité*. “Irenikon”, 4 (2003), p. 472.

<sup>7</sup> Letter sent by the two hundred “Holy and Blessed Fathers” who met at Ephesus (431). In: *Select Library of the Nicene and Post-Nicene Fathers...*, p. 562.

<sup>8</sup> D. STĂNILOAE: *Theological Bases of the Hierarchy and its Synodality (Temeiurile teologice ale ierarhiei și ale sinodalității ei)*. “Studii Teologice”, XXII, 3—4 (1970), p. 172.

<sup>9</sup> Ibidem, p. 173.

<sup>10</sup> M. STAVROU: *Linéaments d’une théologie...*, p. 473.

bles, XV, 1—29), and as a participation of the whole Church, as was the synodality expressed and lived by the Eastern Church from the apostolic age through the regime of its synodality,<sup>11</sup> which was neither reduced to the realities of the “eucharistic ecclesiology” (according to N. Afanasiev), nor to those of the “Sobornicity” (according to A. Klomiakov), as they refer eminently to spiritual-religious aspects, and not to the ecclesiological-canonic content of regime of the synodality.

From the early centuries of Christianity, the Church was aware that each *episcopus* (bishop) was *in Ecclesia* (in the Church), and that the respective *ecclesia* (local Church) was represented by the *episcopus* (bishop) (cf. to St. Cyprian of Carthage † 256), hence the affirmation — by the Eastern canonical legislation from the 3rd and 4th centuries — “of the old canonical principle of the absolute ontological equality between all the bishops, each of them possessing in his local Church, through the grace of the Holy Spirit, the authority and power received from the Apostles.”<sup>12</sup>

## 2. About the forms of government of the Church of collegial-synodal type, and their ecclesiological interpretations

Ecclesiologists and canonists of the Eastern Orthodox Church emphasised the fact that “the form of government, of collegial-synodal type, was sought and established, for His Church, by our Lord Jesus Christ,”<sup>13</sup> and not by any Center or Ecclesial Primate See, and that only the forms of administrative-territorial organisation — which the Church adopted for itself during the first millennium, as a natural consequence of the impact of the geo-political factor of that time — contributed to the hierarchisation of the episcopal Sees following the political criterion, that is, the political importance of the citadel where their hierarchs resided.

The administrative-territorial organisation of eparchial type, and, *ipso facto*, the metropolitan Synod, appeared at the end of the 3rd century, as a natural consequence of the adaptation process of administrative-territorial

<sup>11</sup> See N. V. DURĂ: *Le Concile des Apôtres, prototype de tous les conciles, modèle de la synodalité orthodoxe*. “La Lumière du Thabor”, 49—50 (2003), pp. 61—84.

<sup>12</sup> M. STAVROU: *L'autorité ecclésiastique dans le monde byzantine*. “Contacts”, 202 (2003), p. 153.

<sup>13</sup> See N. V. DURĂ: *Le Régime de la synodalité selon la législation canonique, conciliaire, oecuménique, du I<sup>er</sup> millénaire*, Ed. Ametist 92, Bucharest, 1999, pp. 120—128.



church organisation to the administrative-territorial system of the Roman Empire, in spite of the fact that, *in illo tempore*, the relations between the Roman State, the pagan, and the Church, were still antagonistic.<sup>14</sup>

About the process of accommodating or adapting the form of church organisation to the administrative territorial system of the Roman Empire, is expressly referred to — in the text of ecumenical canonical legislation — only from the period of the first ecumenical Synod (Nicaea, 325), in whose canons were expressly stated both the territorial principle and the principle of synodality (cf. can. 4, 6 Sin. I Ec.; 3 Sin. II Ec.; 1 and 8 Sin. III Ec.; 9, 17, 28 Sin. IV Ec.; 9 and 19 Antioch; 52 Carthage).

Some Orthodox ecclesiologists also found that “malgré les avancées récentes du dialogue œcuménique, [...], l'Église romaine et les Églises d'Orient se trouvent, en ce début de troisième millénaire, encore séparées par plusieurs différends théologiques, les plus importants étant sans nul doute un sérieux clivage ecclésiologique autour de l'interprétation de la primauté de l'évêque de Rome.”<sup>15</sup>

Unfortunately, this ecclesiological cleavage, concerning the interpretation of the primacy of the apostolic bishop of Rome — between the two Churches, namely the Roman Catholic and the Eastern (Orthodox) — has been perpetuated and deepened, despite the fact that obvious efforts to overcome these divergences.

Certainly, an evident testimony in this regard is represented by the papers presented at the Scientific Symposium organised by the Pontifical Council for the Promotion of “Christian Unity” assembled in Rome in 2004, at the initiative of His Eminence Cardinal Walter Kasper, entitled “The Petronian Ministry. Catholics and Orthodox in dialogue.”<sup>16</sup>

<sup>14</sup> See N. V. DURĂ: *The Organization of the Ethiopian Church and its Canonical Basis (Organizarea Bisericii etiopiene și bazele ei canonice)*, Ed. IMBOR, Bucharest, 1990; IDEM: “Scythia Mynor” (*Dobrudja*) and its Apostolic Church. *The Archiepiscopal and Metropolitan See of Tomis (4th—14th centuries)* („Scythia Mynor” (*Dobrogea*) și *Biserica ei apostolică. Scaunul arhiepiscopal și mitropolitan al Tomisului (sec. IV—XIV)*), Ed. Didactică și Pedagogică, Bucharest, 2006; IDEM: *The Edict of Milan (313) and its Impact on the Relations between the State and the Church. Some Historical, Legal and Ecclesiological Considerations (Edictul de la Milan (313) și impactul lui asupra relațiilor dintre Stat și Biserică. Câteva considerații istorice, juridice și eclesiologice)*. “Mitropolia Olteniei”, 5—8 (2012), pp. 28—43; N. DURĂ, C. MITITELU: *Canon Law Legislation and European Legal-Canonical Institutions in the First Millennium (Legislația canonică și instituțiile juridico-canonic europene, din primul mileniu)*, Ed. Universitară, Bucharest, 2014; IDEM: *The State and the Church in IV—VI Centuries. The Roman Emperor and the Christian Religion*. In: *SGEM Conference on Political Sciences, Law, Finance, Economics & Tourism*, I (2014), Albena, pp. 923—930.

<sup>15</sup> M. STAVROU: *L'autorité ecclésiastique...*, p. 148.

<sup>16</sup> The only Orthodox canonist invited to this scientific Symposium was the signatory of these lines, who presented the paper entitled “*Petrine Primacy*”: *The Role of the Bishop*

In our opinion, the perception and interpretation of *pro-domo*, which each of the two “Sister” Churches (cf. Pope John Paul II) continues to express, are not intended to lead to a “convergence” of opinions, able to smooth the way to the fulfillment of the *pium desiderium* (the pious desire) for the restoration of the ecclesial unity lost in 1054, but will continue to have the gift of generating and feeding more and more the alienation of the two Churches and, *ipso facto*, the deepening of the ecclesiological cleavage between the two.

Undoubtedly, divergent interpretations, of an ecclesiological and canonical nature, can be clarified and homogenised only by returning to *ad fontes*, that is, to the canonical legislation of the first millennium, in which we find not only the foundations or canonical bases of the synodality regime, but also some of the “canonical fundamental principles” on the organisation and administration of the Church,<sup>17</sup> such as the territorial principle and the principle of synodality, the latter being stated by our Lord Jesus Christ Himself, and implemented by His Apostles, hence the Church’s obligation to express it and apply it to the “structure of its synodal regime.”<sup>18</sup>

Both “principles” were, in fact, expressly stated in the text of the canonical legislation of the Eastern Church (cf. can. 34 and 37 apost.; 4, 5 Sin. I Ec.; 8 Sin. III Ec.; 17, 19 Sin. IV Ec.; 1, 8 and 38 Sin. VI Ec.; 1, 6 and 7 Sin. VII Ec.; 20 Antioch; 6 Sardica; 40 Laodicea; 73, 76 Carthage etc.).

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*of Rome according to the Canonical Legislation of the Ecumenical Councils of the First Millennium. An Ecclesiological-Canonical Evaluation.* In: *The Petrine Ministry: Catholics and Orthodox in Dialogue: Academic Symposium held at the Pontifical Council for Promoting Christian Unity*, ed. Walter Kasper, New York, Newman Press, 2006, pp. 164—18. On the same subject, also see N. V. DURĂ: *Le „Primat pétrinien”. Le rôle de l’Évêque de Rome selon la législation canonique des conciles oecuméniques du premier millénaire. Une évaluation canonique-eccésiologique.* In: *Il Ministero petrino. Cattolici e ortodossi in dialogo*, ed. Walter Kasper (Città Nuova Editrice), Roma, 2004, pp. 171—201; IDEM: *The Bishop of Rome and his Canonical Status. The Apostolic See of Rome and the Process of Restoring Ecumenical Christian Unity (Episcopul Romei și statutul său canonic. Scaunul apostolic al Romei și procesul de refacere a unității creștine ecumenice).* In: *Ortodoxia românească și rolul ei în Mișcarea ecumenică. De la New Delhi la Porto Alegre 1961—2006*, Ed. Vasiliana ‘98, Iași, 2006, pp. 89—118.

<sup>17</sup> I. IVAN: *The Importance of the Fundamental Canonical Principles of Organization and Administration, for the Unity of the Church (Importanța principiilor fundamentale canonice de organizație și administrație, pentru unitatea Bisericii).* “Mitropolia Moldovei și Sucevei”, 3—4 (1969), pp. 155—165.

<sup>18</sup> N. V. DURĂ: *Le Régime de la synodalité...*, p. 119.

### 3. The synodal work of the Church taking the form of mixed Synods and autocephalous Churches

Theologians of the Orthodox Church also speak of the “theological foundations of the hierarchy and synodality”<sup>19</sup> and even of the “synodality of the hierarchy,” which — according to their statement, “represents the communion of persons endowed with special service within the Church.”<sup>20</sup>

The same theologians speak with justification about “the complementarity of the episcopal synodality [...] with the communion of the faithful people,” stating that the synodality of the hierarchy or “episcopal communion [...] is framed in the wide church communion”<sup>21</sup> area, hence the natural conclusion that “only the close connection between the communion or episcopal synodality and the widespread communion of the Church makes it possible for the Church to be reflected in the Synod, and the communion between the local Churches themselves to be reflected in the communion between the local Synods.”<sup>22</sup>

Certainly, just the lack of this “complementarity of the episcopal synodality,” involving the participation of the other two constituent elements of the Church, namely the laity<sup>23</sup> and the monks,<sup>24</sup> to the synodal work of the Church in the form of mixed Synods<sup>25</sup> (clergymen, laity, and monks) might

<sup>19</sup> D. STĂNILOAE: *Theological Bases of the Hierarchy (Temeiurile teologice ale ierarhiei)*..., p. 165.

<sup>20</sup> Ibidem, p. 167.

<sup>21</sup> Ibidem, p. 171.

<sup>22</sup> Ibidem, p. 172.

<sup>23</sup> Regarding their canonical-legal status, see the voluminous treaty of our sadly departed professor, Ph.D. L. STAN: *Laymen in the Church (Mirenii în Biserică)*, Sibiu, 1939.

<sup>24</sup> See N. V. DURĂ: *The Monks, the third Constituent Element of the Church (Monașii, al treilea element constitutiv al Bisericii)*. “Biserica Ortodoxă Română”, CXXI, 7—12 (2003), pp. 469—483; IDEM: *Christianism in Pontic Dacia. The „Scythian Monks” (Daco-Roman) and their Contribution to the Advance of Ecumenical Unity and the Development of the European Christian Humanist Culture*. “Revue Roumaine d’Histoire”, 1—4 (2003), pp. 5—18; IDEM: *The ‘Scythian Monks’ (Daco-Roman) and their Contribution to the European Christian Humanist Culture*. In: *Dialogue of Civilizations*, ed. D. MUSKHELISHVILI, New York, Nova Science Publishers, 2010, pp. 33—42.

<sup>25</sup> That these mixed Synods were a reality even after the era of the Ecumenical Synods is confirmed by the nomocanonic Byzantine legislation, which was picked up and applied throughout the whole Southeastern European space of the Orthodox Christian world (see N. V. DURĂ: *The Byzantine Nomocanons, Fundamental Sources of the Old Romanian Law*. In: *Exploration, Education and Progress in the Third Millennium*, I, 3 (2011), Galați University Press, Galați, pp. 25—48; C. MITITELU: *The Byzantine Law*

entitle some ecclesialogists to say that in the Orthodox Church we have to deal with “un crise de conciliarité,”<sup>26</sup> that is, ‘a crisis of synodality’.

In some Orthodox ecclesialogists’ opinion, this crisis of synodality is due only to the fact that the ecumenical Patriarchate recognised “two centuries ago” the establishment of “autocephalous Churches and the formation of national Churches.”<sup>27</sup>

Undoubtedly, such statements ignore and hide not only the ecclesiological reality, but also the historical one,<sup>28</sup> as these Churches — established from the beginning in an ethnically<sup>29</sup> and geographically well-defined context (cf. can. 34 apost.; 9 Antioch) — merely reaffirmed their old status of autocephaly, as it was the case of the Church of Cyprus (cf. can. 8 Sin. III Ec.), the Georgian Church, the Tomitan Church, from the Roman province of Scythia Minor<sup>30</sup> (the Romanian Dobrudja of today), the patriarchal Sees of Ohrida and of Tarnovo, etc.

About this reality testify even the Byzantine canonists who asserted that, “if you find other Churches which are autocephalous, as the

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and its Reception in the Romanian Principalities. “Philosophical-Theological Reviewer”, 4 (2014), pp. 33—43).

<sup>26</sup> M. STAVROU: *Linéaments d’une théologie...*, p. 470.

<sup>27</sup> *Ibidem*, p. 471.

<sup>28</sup> See, for example, I. V. DURĂ: *Les „Tomes synodaux” émis par le Patriarcat œcuménique au XIX<sup>e</sup> et au XX<sup>e</sup> siècles pour octroyer l’autonomie ou l’autocéphalie à des Églises orthodoxes*. “Revue des Études Sud-Est Européennes”, XXXII, 1—2 (1994), pp. 63—66.

<sup>29</sup> I. IVAN: *Ethnos — the Nation — Divine Basis and Fundamental Canonical Principle of Church Autocephaly (Etnosul — neamul — temei divin și principiu fundamental canonic al autocefaliei bisericești)*. In: *Autocefalia: libertate și demnitate*, Ed. Basilica, Bucharest, 2010, pp. 26—34.

<sup>30</sup> See N. V. DURĂ: “Scythia Mynor” (*Dobrudja*) („Scythia Mynor” (*Dobrogea*))..., pp. 16—56; 84—98; 122—132. It should also be noted that the hierarchs of this old Romanian, autocephalous Church, also corresponded with some Popes of Rome. Moreover, leading theologians in the area of this Tomitan autocephalous metropolis, such as Saint John Cassian and St. Dionysius Exiguus, were in direct contact with the bishops of Rome, and the latter one, namely “Father of Western Canon Law”, was also a counselor to eight popes. See: I. PULPEA: *Bishop Valentinian of Tomis. His Correspondence with Pope Vigilius on “The Three Chapters” (Episcopul Valentinian de Tomis. Corespondența lui cu papa Vigiliu în chestiunea „Celor Trei Capitole)*. “Biserica Ortodoxă Română”, LXV, 4—6 (1974), pp. 200—212; C. MITITELU: *Saint John Cassian The Founder of Occidental Monasticism*. “Christian Researches”, VI (2011), pp. 32—49; IDEM: *Dacian-Roman Cultural Personalities from Scythia Minor (4th—6th Centuries) and Their Contribution to the Affirmation and Promotion of a Humanistic-Christian Culture at European Level*. In: *New Approaches in Social and Humanistic Sciences*, Iași—London, 2018, ed. V. MANOLACHI, C. RUS, S. RUSNAC, pp. 316—331; N. V. DURĂ: *Denis Exiguus (Le Petit) (465—545). Précisions et correctifs concernant sa vie et son oeuvre*. “Revista Española de Derecho Canonico”, L (1993), pp. 279—290; IDEM: *Dionysius Exiguus and the Popes of Rome (Dionisie Exiguul și Papii Romei)*. “Biserica Ortodoxă Română”, CXXI, 7—12 (2003), pp. 459—468.

Church of Bulgaria, of Cyprus, of Iberia (Georgia, n.n.), you need not be astonished.”<sup>31</sup>

The Fathers of the Second Ecumenical Council (Constantinople, 381/382) had decided that “the Churches of God in heathen nations (ἐν τοῖς Βαρβαρικῆς ἔθνεσσι) must be governed according to the custom which prevailed from the times of the Fathers” (can. 2 Sin II Ec.).<sup>32</sup>

According to a such custom, which prevailed from the pre-Nicene epoch, as the Fathers of the First Ecumenical Council attested (cf. can. 6), it has to be also governed “the Church of Abyssinia,”<sup>33</sup> which remained under the canonical jurisdiction of the Patriarchate of Alexandria until 1959.<sup>34</sup>

All these autocephalous Churches established from the beginning among the “barbarians” or “heathen” nations, have certainly their own national Synod, and, *ipso facto*, their own synodal regime, affirming thus and their autocephalic status according to the ecumenical canonical legislation. In fact, even the local Churches found under the jurisdiction of the first patriarchal See of the former Byzantine Empire, that is, the Constantinople See, continued to reaffirm, whenever the geo-political conditions were in their favour, both their old autocephalous status<sup>35</sup> and their regime of synodality.

The local autocephalous Churches, established in an ethnically and geographically well-defined framework, had a synodical leadership since the Apostolic Age, as confirmed by the Epistles addressed by the Holy Apostles to the Christian communities that they had set up, namely the Romans, Corinthians, Galatians, Ephesians, etc.

As for the “old” autocephaly of the national Churches, constituted in an ethnical and geographical context, and, *ipso facto*, about their synodal

<sup>31</sup> BALSAMON, Commentary of the Canon 2 of the Ecumenical Council of Constantinople (381/382). In: *Athenian Syntagma...*, vol. II, p. 171.

<sup>32</sup> *Athenian Syntagma...*, vol. II, p. 170.

<sup>33</sup> Commentary of the canon 2 of the second Ecumenical Council. In: *Select Library of the Nicene and Post-Nicene Fathers...*, p. 468.

<sup>34</sup> N. V. DURĂ: *The Organization of the Ethiopian Church...*, p. 9 ff.

<sup>35</sup> See, L. STAN: *The Origin of Autocephaly and Autonomy (Obârșia autocefaliei și autonomiei)*. “Mitropolia Olteniei”, XIII, 1—4 (1961), pp. 80—113; I. IVAN: *Relations between the Local Autocephalous Orthodox Churches and with the Ecumenical Patriarchate according to Canons and History (Raporturile Biseriilor ortodoxe autocefale locale între ele și față de Patriarhia ecumenică după canoane și istorie)*. “Mitropolia Moldovei și Sucevei”, XLIX, 7—8 (1973), pp. 465—478; V. MUNTEAN: *Les relations byzantino-roumaines au Moyen Âge. Nouvelles précisions*. “Études byzantines et post-byzantines”, IV (2001), pp. 167—180; M. PĂCURARIU: *Some Considerations on the Age of „Autocephaly” of the Romanian Orthodox Church (Câteva considerații cu privire la vechimea „autocefaliei” Bisericii Ortodoxe Române)*. In: *Autocefalia: libertate și demnitate*, Ed. Basilica, Bucharest, 2010, pp. 101—112.

system, the historical (ecclesiastical and secular) sources of the States, in which they exist to this day, give us conclusive testimonies.<sup>36</sup>

To prove that this was, indeed, the reality during the ecumenical Synods also, it is enough to return *ad fontes*, that is, to the canonical legislation of the Eastern Church of the first millennium (cf. can. 34 apost.; 9 Antioch, 8 Sin. III Ec. etc.), as we did in our article, in order to present just the fact that the synodality regime within the Orthodox Churches of the first millennium was an peremptory evidence, and it has a solid canonical basis.

#### 4. The existence of several types of synods in the Eastern Orthodox Church of the first millennium

The text of the canonical legislation of the Eastern Orthodox Church gives us not only the possibility to underline the fact that its synodal regime has a solid canonical basis, but also to remark the existence of several types or kinds of synods<sup>37</sup> which emerged as a natural consequence of the process of adapting or accommodating the form of administrative-territorial organisation of the Church to that of the Roman state.

The first type of synod — mentioned explicitly in the text of the canonical legislation of the Eastern Church of the first millennium — is the “national Synod,” which gathered the “τούς επισκόπους ἑκάστου ἔθνους” (the bishops of every nation) (can. 34 apost.). However, later on, some canonists of Eastern Orthodox Church replaced the notion of ἔθνος (nation) — stipulated in the text of the apostolic can 34 — with that of χώρα” (territory).<sup>38</sup>

This notion χώρα (‘territory’) was expressly mentioned in the text of the can. 9 of the Council of Antioch (341), in which the Fathers of this Synod underlined the fact that “ἕκαστον ἐπίσκοπον ἐξουσίαν ἔχει τῆς ἑαυτοῦ παροκίας” (any bishop has power over his bishopric), that is, over

<sup>36</sup> See N. V. DURĂ: *Forms and Manifestations of the Autocephaly of the Romanian Orthodox Church. Historical, Ecclesiological and Canonical Testimonies (Forme și stări de manifestare ale autocefaliei Bisericii Ortodoxe Române. Mărturii istorice, ecleziologice și canonice)*. In: *Autocefalia: libertate și demnitate*, Ed. Basilica, Bucharest, 2010, pp. 113—155.

<sup>37</sup> N. V. DURĂ: *Le Régime de la synodalité...*, pp. 411—468; IDEM: *Le Régime de la synodalité dans les huit premières siècles. Les types des synods*. “L’Année Canonique (Hors Série)”, I (1992), pp. 267—283.

<sup>38</sup> For instance, Zonara is one of them (See *Athenian Syntagma...*, vol. III, p. 141).



“πάσης τῆς Χώρας τῆς ὑπὸ τὴν ἑαυτοῦ πόλιν [...]”<sup>39</sup> (the whole territory found under the jurisdiction of his city...) (can. 9 of the Synod of Antioch).

But, the replacement of the word ἔθνος (nation) with the word χώρα (territory) in some Greek canonical collections of our days<sup>40</sup> was not due to an error or to an ignorance, but with a precise goal, that is, to ignore or to hide an ecclesiological-canonical reality, namely, the state of the autocephaly of the ancient local Churches, which were established based on the ethnical or national criterion just from the apostolic epoch (cf. II Cor. 1, 1; Galat. 1, 1; I Tes. 1, 1; can. 34 apost.).

It is, however, gratifying to note that the Latin Canon Code — in force since 1983<sup>41</sup> — expressly refers to both the *coetus episcoporum alicuius nationis* (the assembly of all the bishops of a nation) (can. 447), and the *praesules omnium Ecclesiarum particularium eiusdem nationis* (the primates of all the particular Churches of the same nation) (can. 448 § 1), therefore, in the words written in the text of the apostolic can. 34.

It should be also remarked the fact that the reference to the “Assembly of the bishops of the same nation’s Churches” — of the two canons of “the Canon Code of the Latin Church” (according to can. 1) — is, in fact, a citation “almost verbatim from Christus Dominus 38, 1, ...”<sup>42</sup>

The second type of Synod — stipulated by the canonical legislation of the Eastern Church in the first millennium — is “the Synod of the neighbouring bishops” (cf. can. 4 Sin. I Ec.; 12, 14 Antioch; 3, 4, 5, 6 Sardica).

This type of synod is frequently found mainly in the geographical area of the Churches established among others by the “τὰ ἔθνη βάρβαρα”<sup>43</sup> (barbaric people), where, due to an insufficient number of bishops, the respective Churches continued to be governed “according to the old custom passed on by the Fathers,”<sup>44</sup> who often called for the presence of neighbouring bishops to reach a decision *synodaliter* and *collegialiter*.

The third type of Synod is the “provincial” (eparchial) one, mentioned for the first time in the canons of the first ecumenical Synod (cf. can. 4 and 5).

<sup>39</sup> *Athenian Syntagma...*, vol. III, p. 141.

<sup>40</sup> One of these Collections was published in Thessaloniki, in the end of the last century (See I. V. DURĂ: *Les „Tomes synodaux” émis par le Patriarcat œcuménique...*, pp. 63—66).

<sup>41</sup> N. V. DURĂ: *The New Canon Code of the Catholic Church. Remarks of Catholic Canonists and Ecclesiologists (Noul Cod canonic al Bisericii Catolice. Reflecții ale canoniștilor și ecleziologilor catolici)*. “Ortodoxia”, XXXV, 4 (1983), pp. 621—625.

<sup>42</sup> J. G. JOHNSON: *Commentary on the Canons 447 and 448*. In: *New Commentary on the Code of Canon Law*. Ed. by J. P. BEAL et al. Ed. Paulist Press, New York, 2000, p. 590.

<sup>43</sup> See N. V. DURĂ: *Le Régime de la synodalité...*, p. 419.

<sup>44</sup> *Pidalion (The Rudder)*, ed. Agapie and Nicodim, Athens, 1990, p. 157.

According to the can. 4 of the First Ecumenical Council, the ratification of the election and of the ordination of a bishop — within a diocese (ἐπαρχίας) — belonged to the “τῷ μητροπολίτῃ,”<sup>45</sup> that is, to the metropolitan of the province, who was head of the eparchial (provincial) Synod.

In their comments, the Byzantine canonists of the 12th century (Zonara, Balsamon, and Aristen) attested explicitly that both the election and the ordination of a bishop were ratified by “the metropolitan of province.”<sup>46</sup>

Some western canonists remarked, however, the fact that “the Greek Commentators, Balsamon and others, [...], followed the example of the Seventh and [so-called] Eighth (Ecumenical Councils) in affirming that this fourth canon of Nicaea takes away from the people the right previously possessed of voting in the choice of bishops and makes the election depend entirely on the decision of the bishops of the province [...]; with it also the people have been removed from episcopal elections, but this did not happen till later, about the eleventh century,” when in the Latin Church too, “it was not the people only who were removed, but the bishops of the province as well, and the election was conducted entirely by the clergy of the Cathedral Church.”<sup>47</sup>

We should also notice the fact that, according to the provision of canon 5 of the same Ecumenical Council (Nicaea, 325), the metropolitan Synod has to be meet “twice every year...”<sup>48</sup> This type of synod would, in fact, be confirmed by both canon 2 of the Second Ecumenical Synod, and by canons 9 and 17 of the Fourth Ecumenical Synod.

The fourth type of Synod is the “exarchal Synod,” which — in the East — was confirmed by the legislation of the Second Ecumenical Synod (Constantinople, 381/382) by canons 2 and 6.

In can. 2, the Fathers of this ecumenical Council speak about τοὺς διοικήσιν ἐπισκόπους, that is, about the bishop who had their Sees in the metropole of a territorial unity called διοίκησις (exarchate), and which included more eparchies (provinces), hence the fact that this kind of Synod — established in a geographical space of the Roman administrative-territorial unit led by an *exarchus* — was called μείζον συνέδος τῆς διοικήσεως ἐκείνης ἐπισκόπων (a greater synod of the bishops of that exarchate) (can. 6 Sin. II ec.).

<sup>45</sup> *Athenian Syntagma...*, vol. II, p. 122.

<sup>46</sup> See the Comments made by the Byzantine canonists to can. 4 of the first Ecumenical Council. In: *Athenian Syntagma...*, vol. II, p. 170—172.

<sup>47</sup> Commentary to the Canon 4 of the Council of Nicaea, apud *Select Library of the Nicene and Post-Nicene Fathers...*, p. 75.

<sup>48</sup> *Athenian Syntagma...*, vol. II, pp. 124—125.



As the canonist Van Espen pointed out, “it is evident from the context of this canon that ‘*diocese*’ here does not signify the district or territory assigned to any one bishop, as we today use the word; but for a countryside which not only contained many episcopal districts, as today do ecclesiastical provinces, but which contained also many provinces, and this was the meaning of the word at the time of this Council’s session.”<sup>49</sup>

This is indeed the authentic interpretation of the can. 6 of the Second Ecumenical Council (Constantinople, 381) concerning the type of the exarchal Synod. In fact, in the canons of the Second Ecumenical Synod, the new administrative-territorial unit was explicitly called διοίκησις/εως, a term derived from the verb διοικέω-ᾶ (‘to administer, to govern’), which “within the nomenclature of the state administrative units” had the meaning “of superior political leadership.”<sup>50</sup>

The administrative-territorial unit of the Roman Empire, which contained many provinces (*provinciae*), was called in Greek *exarchate*, led by a ἑξαρχος/ου (‘chief, executive’). The head of the administrative-territorial church unit established in a such geographic area of the state, was also called exarch.

The term *exarchus* (exarch) — which is of “military origin” and originally designated “holding a supreme authority”<sup>51</sup> — was introduced in ecclesiological language with the formal adaptation of the Church to the administrative-territorial organisation of διοίκησις/εως (exarchate) by the Second Ecumenical Synod (Constantinople, 381/382).

This form of administrative-territorial church organisation, of exarchal type, confirmed by the Second Ecumenical Synod (cf. can. 2 and 6) and the Fourth Ecumenical Synod (cf. can. 9, 17, 28), was, however, preceded by a pre-exarchal type of organisation (cf. can. 6 Sardica; 12 Laodicea etc.). In fact, even in the text of can. 2 of the Second Ecumenical Synod, reference was made to the “τοῦς ὑπερ διοίκησιν ἐπισκοποῦς”<sup>52</sup> (the bishops in charge of the dioceses). But, neither the Churches nor the place where these exarchs had their Sees were mentioned, only the five diocesan Sees (exarchal), namely: Alexandria, Antioch, Caesarea of Cappadocia, Pontus and Heraclea, which had already known a pre-exarchal type of organisation even in the epoch of the First Ecumenical Council (Nicaea, 325).

<sup>49</sup> VAN ESPEN: Commentary of the Canon 6 of Nicaea (325). In: *Select Library of the Nicene and Post-Nicene Fathers...*, p. 483.

<sup>50</sup> Commentary on Canon 2 of the Second Ecumenical Synod. In: *The Canons of the Orthodox Church...*, p. 67 n.1.

<sup>51</sup> M. STAVROU: *L'autorité ecclésiastique...*, p. 156.

<sup>52</sup> Canon 2 of the Second Ecumenical Synod. In: *Athenian Syntagma...*, vol. II, p. 169.

In the same can. 2 of the Second Ecumenical Synod, it stipulated “that the issues pertaining to each diocese will be governed by the synod of the respective diocese, according to the judgments of Nicaea,”<sup>53</sup> and the exarchs, that is, τοὺς ὑπὲρ διοικήσιν ἐπισκοπῶν, “are not to cross beyond the boundaries of their Churches (ταῖς ὑπερορίοις ἐκκλησίαις)” (can. 2 Sin. II Ec.).<sup>54</sup>

In other words, the ecclesiastical provinces, that is, the ἐπαρχιαὶς (eparchies), continued to exercise their autonomy through their representative organ, that is, the eparchial Synod, although the “diocesis” (the exarchate) had become — from an institutional and organizational point of view — “the superior church leadership,”<sup>55</sup> and the exarchal Synod had become an appeal body.

The Fathers of the Second Ecumenical Synod,<sup>56</sup> indeed, stipulated that those who intended to pursue any judicial action “against the bishop, [...] shall first present their accusations to all the bishops of the diocese (eparchy) and before them to prove the accusations in those matters. And should the bishops of the eparchy not be able to mend the accusations against the bishop, then they should go to the greater Synod of the bishops of that exarchat [...]” (can. 6 Sin. II Ec.).

Thus, from the Synod of the diocese (eparchy) — which was the first court of the bishops — one could take the matter to the judgment of the Synod of the exarchate, which was perceived and defined — by the Fathers of the Second Ecumenical Synod — as μείζων συνόδος (the greater Synod), consisting of “τῶν τῆς διοικήσεως ἐκείνης ἐπισκόπων”<sup>57</sup> (the bishops of the respective exarchate (diocese)) (can. 6 Sin. II Ec.).

By this appeal to the judgment of the “Greater Synod,” that is, the exarchal one, the local, eparchial Churches — constituted within the administrative-territorial units of the Roman State according to the provision of principle of the Fathers of the First Ecumenical Synod (cf. can. 4, 6, 7) — were losing, however, their old status of autocephaly<sup>58</sup> in favour of

<sup>53</sup> Commentary on Canon 2 of the Second Ecumenical Synod. In: *The Canons of the Orthodox Church...*, p. 66.

<sup>54</sup> Apud *Athenian Syntagma...*, vol. II, p. 169.

<sup>55</sup> Commentary on Canon 2 of the Second Ecumenical Synod. In: *The Canons of the Orthodox Church...*, p. 67 n. 1.

<sup>56</sup> Regarding this Synod and the importance of its canons concerning the administrative-territorial organization of the Church, see N. V. DURĂ: *Canonical Legislation of the II Ecumenical Synod and its Importance for the Organization and Discipline of the Church (Legislația canonică a Sinodului II ecumenic și importanța sa pentru organizarea și disciplina Bisericii)*. “Glasul Bisericii”, XL, 6—8 (1981), pp. 630—671.

<sup>57</sup> *Athenian Syntagma...*, vol. II, p. 181.

<sup>58</sup> Regarding their autocephaly status, see L. STAN: *About Autocephaly (Despre autocefalie)*. “Ortodoxia”, VIII 3 (1956), pp. 369—396; IDEM: *Autocephaly and Autonomy in the*

the new units, that is, the “dioceses” (exarchates), maintaining only their autonomy. Anyhow, the fact that the Churches organised in eparchies had enjoyed their status of autocephaly *ab antiquo* was also confirmed by the Byzantine canonists, who noticed that “in ancient times, all metropolitans of the dioceses were autocephalous (αὐτοκέφαλοι), and they were ordained by their own Synods (ὑπὸ τῶν οἰκείων συνόδων).”<sup>59</sup>

The fifth type of synod is the “Patriarchal Synod,” which appeared at the same time with the dignity of Patriarch, namely at the Fourth Ecumenical Synod. Indeed, the Holy Fathers of the Fourth Ecumenical Synod (Chalcedon, 451) recognised the dignity of Patriarch for the “Old Rome” See<sup>60</sup> (cf. can. 3 Sin. II Ec.; 29 Sin. IV Ec.), and, in the canon 28, “promulgated in the absence of the Roman representatives,” attributed “the privilege of ordaining the metropolitans of three civil ‘dioceses’, namely Thrace, Pontus, and Asia, to the Archbishop of Constantinople.”<sup>61</sup>

As a result of this decision, “the former system of the exarchates was, thus, suppressed,” and “the Patriarchate of Constantinople was endowed — an Orthodox ecclesiologist specified — with a judicial power that stretched over Thrace and the entire Asia Minor”<sup>62</sup>; which led — according to Michel Stavrou — “to the increase of his prestige as an archbishop whose See was in the capital of the ecumenical empire, i.e. (virtual) universal.”<sup>63</sup>

However, it should be remarked that, in the text of the can. 28 of the Fourth Ecumenical Council, the *proedros* of the Constantinopolitan Church is not called “patriarch,” but “archbishop of Constantinople,” whom he in fact until then was.

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*Orthodox Church (Autocefalia și autonomia în Biserica Ortodoxă)*. “Mitropolia Moldovei și Sucevei”, XXXVIII (1962), pp. 567—579.

<sup>59</sup> T. BALSAMON: Commentary on Canon 2 of the Second Ecumenical Synod. In: *Athenian Syntagma...*, vol. II, p. 171.

<sup>60</sup> See N. V. DURĂ: *Le Régime de la synodalité...*, p. 104; IDEM: *Patriarch and Patriarchate. Patriarchate, one of the old European Institutions (Patriarh și Patriarhie. Patriarhia, una din vechile Instituții europene)*. “Biserica Ortodoxă Română”, CIII, 1—3 (2005), pp. 414—432; IDEM: *From the Judicial-Canonical Institution of the Pentarchy to Renouncing the Title of “Patriarch of the West” (De la instituția juridico-canonică a Pentarhiei la renunțarea titlului de „Patriarh al Occidentului”)*. In: *Autocefalia, libertate și demnitate*, Ed. Basilica, Bucharest, 2010, pp. 455—479; IDEM: *The Legal and Canonical Institution of the Patriarchate and its Ecclesiological Implications. From the Diarchic Type of Leadership to the Pentarchic, and then Tetrarchic (Instituția juridico-canonică a Patriarhatului și implicațiile ei ecleziologice. De la sistemul de conducere de tip diarhic la cel pentarhic, și apoi la cel tetrarhic)*. “Revista de Teologie Sfântul Apostol Andrei”, XV, 1 (2011), pp. 21—51.

<sup>61</sup> M. STAVROU: *L’autorité ecclésiale...*, p. 157.

<sup>62</sup> Ibidem

<sup>63</sup> Ibidem, p. 158.

Moreover, it has to be taken also into account the fact that only in 458/459 Archbishop Gennadius of Constantinople (458—471) called himself “the patriarch of Constantinople,”<sup>64</sup> and in the legislation of the Eastern Roman Empire the dignity of Patriarch is mentioned only in the year 565. Indeed, in this year Emperor Justinian promulgated “in the name of Lord Jesus Christ, our God”<sup>65</sup> a “Novella,” that is, a “New Constitution” (imperial), in the text of which there was — among other things — a deliberate mention of “patriarchs,” the only ones entitled to “assemble all the bishops” in the patriarchal Synod, the same way “the bishops appointed by the metropolitan were to meet in the Synod of the eparchy (diocese), which was to meet once a year,”<sup>66</sup> although the canons published until the time of Justinian (cf. can. 37, 5 Sin. I Ec.; 19 Sin. IV Ec.) had stipulated the obligation of the metropolitan Synods to meet “twice a year” (cf. can. 5 Sin. I Ec.; 2, 6 Sin. II Ec.; 11, 13, 19 Sin. IV Ec.).

The provision of the constitutional law of Emperor Justinian on the meeting of eparchial Synods only once a year would be reiterated both by the Sixth Ecumenical Synod (Constantinople, 691/692), in can. 8, and by the Seventh Ecumenical Synod (Nicaea, 787) in can. 6. In fact, the same Basileus, Justinian (527—565) — the last Roman emperor and the first Byzantine Emperor — expressly demanded “the governors of the provinces [...] to convince the metropolitans and the bishops to assemble the mentioned synods [...],”<sup>67</sup> that is, the metropolitan Synods.

Regarding the title of patriarch, we also recall the fact that Emperor Justinian — who proved to be a real *defensor et protector Ecclesiae*<sup>68</sup> — recognised only five “primate” patriarchal Sees, namely, Rome, Constantinople, Alexandria, Antioch, and Jerusalem, a reality that would be legitimated — from a canonical point of view — by the Fourth Ecumenical Synod in can. 36, which consecrated the pentarchic system of leadership in the Ecumenical, Catholic, or Universal Church of the Roman Empire.

Concerning the title of ecumenical patriarch, the patriarch of Constantinople claimed it for him after the age of Emperor Justinian, more precisely in 595. However, it should be noted and remembered that in the canonical legislation of the Eastern Church the dignity and title of “Patri-

<sup>64</sup> *Encyclical Sent to all Metropolitans regarding Simoniacal Ordinations (Enciclică trimisă tuturor mitropoliților referitor la hirotoniile simoniace)*. In: P. G. (MIGNE): LXXXV, 1613—1617.

<sup>65</sup> Novela 137, apud *The Novels of Justinian. A Complete Annotated English Translation*, vol. 2, ed. by D. J. D. MILLER, P. SARRIS, Cambridge University Press, 2018, p. 913.

<sup>66</sup> Novela 137, 4, apud *The Novels...*, p. 918.

<sup>67</sup> Novela 137, 13, 6, apud *The Novels...*, p. 919.

<sup>68</sup> C. MITITELU: *The Christian Emperors of “Old Rome” and “New Rome” — “Defensores et Protectores Ecclesiae” (Defenders and Protectors of the Church)*. “Bulletin of the Georgian National Academy of Sciences”, XII, 4 (2018), pp. 202—211.

arch” only appear mentioned for the first time in canons 7 and 36 of the Sixth Ecumenical Synod, in which it was also provided the hierarchical, enumerative, order of the main patriarchal Sees of the ecumenical Church, that is, Rome, Constantinople, Alexandria, Antioch, and Jerusalem.<sup>69</sup> In all these patriarchal centres, as well as in those outside the boundaries of the Roman Empire, such as the Patriarchate of Georgia,<sup>70</sup> the old regime of synodality continued to function, but this time it was also expressed by Patriarchal Synods.

Nevertheless, one must not ignore or obscure the fact that “the canonical status of the patriarchal Synod was to be for the first time well specified in canon 17 of the Fourth Synod of Constantinople (869—870),”<sup>71</sup> in which an explicit reference was made to the Synod convened by the “patriarch,” that is, the patriarchal Synod, during which “some metropolitans [...] did not obey the summons (to this synod) by the patriarch, proving thus a ‘contempt’ for the *antique consuetude* (old custom) and *canonica traditio* (canonical tradition).”<sup>72</sup>

In the same canon of this Constantinopolitan Synod, assembled in the years 869—870, the canonical status of the patriarchal Synod in relation to the metropolitan one was stated in the following terms: “the Synods assembled by the Patriarchal See have a higher motivation for its existence and utility than those of the metropolitans,” due to the fact that “via a Synod presided over by a metropolitan only a diocese is administered,” while “via a synod presided over by a patriarch an entire *dioecesis* (patriarchat, n.n.) is administered, thus general utility (*communis utilitas*) is realised; that is why — stated the Fathers of this Synod, also attended by representatives of the apostolic See of Rome — it is better to place the particular good after the general when the superiors (*majoribus*) launch a summons to such a Synod,”<sup>73</sup> that is patriarchal.

Such a patriarchal Synod — with the same canonical status stipulated in canon 17 of the Constantinople Synod in the years 869—870<sup>74</sup>

<sup>69</sup> Regarding the old canonical enumerative order of the Patriarchal Sees — established by the Byzantines — see Nil DOXAPATRIU: *The Order of the Patriarchal Sees (Ordinea Scaunelor patriarhale)*, II, translated by C. ERBICEANU. “Biserica Ortodoxă Română”, XXX (1906—1907), pp. 1339—1354.

<sup>70</sup> G. KVESITADZE, N. V. DURĂ: *The Roots of the Georgian and Romanian Science and Culture*, Ed. Academiei Oamenilor de Știință din România, Bucharest, 2017, p. 19 sq.

<sup>71</sup> N. V. DURĂ: *Le Régime de la synodalité...*, p. 463.

<sup>72</sup> *Les conciles œcuméniques. Les décrets de Nicée I à Latran V*. Tome II—1. Texte établi par G. ALBERIGO et al., Ed. Française sous la direction de A. Duval et. al., Ed. Cerf. Paris, 1994, p. 393 (179).

<sup>73</sup> Ibidem.

<sup>74</sup> Initially, this Synod was entitled as “Ecumenical Synod,” and kept this title until the beginning of the second millennium in the East, too.

— still works nowadays within each autocephalous Church organised as a “Patriarchy.” Indeed, each of these local “autocephalous”<sup>75</sup> Churches, “organized as a Patriarchate,”<sup>76</sup> has a “synodal leadership,”<sup>77</sup> chaired by the “Patriarch,” who is the “Primate” among the “hierarchs”<sup>78</sup> of that Church, chosen “by the Holy Synod,”<sup>79</sup> which is its “highest authority.”<sup>80</sup>

## In lieu of conclusions

From the hermeneutical analysis of the text of the canonical legislation of the Eastern Church, the informed reader could first find out that in the *pars Orientis* of the Roman Empire, from *illo tempore*, the synodality regime was an indisputable reality, which functioned in accordance with the provisions of its canonical legislation of the first millennium.

At the same time, one could notice that all types of Synods — stipulated by its canonical legislation — are, in fact, “the expression of the same synodal principle affirmed at different levels of ecclesiastical organization, and, *ipso facto*, that of *koinonia* (ecclesial communion),”<sup>81</sup> and that the various types of synods — provided by this legislation — were primarily due to the accommodation or adaptation of the Eastern Church to the administrative-territorial organisation of the Roman State.

Finally, the reader of our consideration could realise that the regime of synodality — stipulated by the canonical Eastern legislation of the first millennium — was and still is an obvious reality in the life of the local Orthodox Churches, which underlines the fact that the Orthodox Church was organised, functioned and is being led in the spirit of the old canonical custom, of its canonical Tradition and of its canonical ecumenical norms of the first millennium.

In fact, both the historical and the canonical testimonies confirm to us the fact that the Eastern Church “retained its apostolic and traditional

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<sup>75</sup> *Statute for the Organization and Functioning of the Romanian Orthodox Church (Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române)*, Art. 2 par. 2, Ed. IMBOR, Bucharest, 2008, p. 13.

<sup>76</sup> *Ibidem*, Art. 6 par. 1, p. 14.

<sup>77</sup> *Ibidem*, Art. 3 par. 1.

<sup>78</sup> *Ibidem*, Art. 24, p. 26.

<sup>79</sup> *Ibidem*, Art. 126 par. 1, p. 89.

<sup>80</sup> *Ibidem*, Art. 11, p. 19.

<sup>81</sup> N. V. DURĂ: *Le Régime de la synodalité...*, p. 468.



authenticity precisely due to the synodality regime,”<sup>82</sup> which — over time — was actually reaffirmed in the area of all three administrative-territorial church units, that is, eparchies, exarchates, and patriarchates, and from the 6th century on only through the metropolitan Synod and the patriarchal Synod, which is expressly mentioned not only by the canonical legislation, but also by the state (imperial) legislation, as confirmed by the Novels of Justinian Emperor, whose imperial legislation was also received in the Danubian-Pontic-Carpathian area,<sup>83</sup> namely, in Romania’s geographic area of today, which, *in illo tempore*, was partially reintegrated in the space of the Eastern Roman Empire.

<sup>82</sup> E. EID: *La Synodalité dans la Tradition orientale*. “Ephemerides Juris Canonici”, XLVIII, 1—2 (1992), p. 23.

<sup>83</sup> See C. MITITELU: *The Byzantine Law and Its Reception in the Printed Rules in Wallachia of the 17th Century (Dreptul bizantin și receptarea lui în Pravilele tipărite, în Țările Române, din secolul al XVII-lea)*, Ed. Universitară, Bucharest, 2014; IDEM: *The Legislation of Emperor Justinian (527—565) and its Reception in the Carpathian-Danubian-Pontic Space*. “Analecta Cracoviensia”, 48 (2016), pp. 383—397; IDEM: “Corpus Juris Civilis” and “Corpus Juris Canonici”. *Legal and Canonical Considerations*. “Teologia”, XVIII, 4 (61), 2014, pp. 127—137.

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NICOLAE DURĂ

## L'ordre synodal dans l'Église d'Orient du premier millénaire et ses fondements canoniques

### Résumé

La forme synodale de l'organisation qui a été voulue et établie pour son Église par son fondateur, notre Seigneur Jésus-Christ, et qui a été confirmée par ses apôtres — a également été clairement mise en évidence par la législation canonique de l'Église d'Orient du premier millénaire. En adaptant la forme de l'organisation administrative et territoriale de l'Église à l'organisation de l'État romain — établies par les canons des Synodes œcuméniques (cf. can.4, 6 Sin. I Ec; 2, 6 Sin. II Ec; 9, 17, 28 Sin. IV Ec.; 36 Sin. VI Ec.) — plusieurs types de synodes sont apparus dans la vie de l'Église d'Orient, à partir du synode éparchial (métropolitain) de l'Église locale et se terminant par le synode patriarcal. Les deux synodes sont toujours présents dans les Églises orthodoxes autocéphales.

**Mots clés:** synodalité, ordre synodal, fondements canoniques

NICOLAE DURĂ

## L'ordine sinodale nella Chiesa d'Oriente del Primo Millennio e le sue basi canoniche

### Sommario

La forma sinodale dell'organizzazione voluta e istituita per la sua Chiesa dal suo Fondatore, il nostro Signore Gesù Cristo, e confermata dai Suoi Apostoli, fu chiaramente sottolineata anche dalla legislazione canonica della Chiesa d'Oriente del Primo Millennio. Adattando la forma dell'organizzazione amministrativa e territoriale della Chiesa all'organizzazione dello Stato romano — stabilita dai canoni dei Sinodi ecumenici (cfr. can. 4, 6 Sin. I Ec; 2, 6 Sin. II Ec; 9, 17, 28 Sin. IV Ec. ; 36 Sin. VI Ec.) — diversi tipi di sinodi sono apparsi nella vita della Chiesa d'Oriente, che vanno dal sinodo eparchiale (metropolitano) della Chiesa locale e terminano con il sinodo patriarcale. Entrambi i sinodi sono sempre presenti nelle Chiese ortodosse autocefale.

**Parole chiave:** sinodalità, ordine sinodale, fondamenti canonici



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## The Council of Metropolitan See and Its Canonical Basis An Orthodox Approach

**Abstract:** In this canonical study, the reader of the article will have an opportunity to become acquainted with an old European canonical-juridical institution, that is, the synodality, and, *ipso facto*, about its juridical regime. And, naturally, the reader can get acquainted more closely with the provisions of the canonical norms of the Eastern Church regarding the eparchial (metropolitan) synodality institution, and, *ipso facto*, with the issue of the regime of the synodality.

Since the canonical bases of the synodality regime are foreseen in the canonical legislation of the first millennium, we had to make an hermeneutical analysis of its text, which showed us that, by resorting to *ad fontes*, we can also pave the way that would go towards the restoration of the unity of the two Christian worlds, namely, *Pars Orientis* and *Pars Occidentis*.

**Keywords:** canonical legislation, canonical-juridical institutions, the ecumenical councils

### Introduction

Since even in our days there are some theologians, ecclesiologists, church historians and canonists who are speaking about the so-called crisis of synodality, we considered that it is important to deal with this topic, that is, the institution of the synodality, which took a new form of manifestation due to the administrative reform undertaken by Emperor Diocletian (284—305), when the bishoprics of the Roman Empire prov-

inces had to adjust their administrative-territorial organisation in the framework of the Roman provinces. Consequently, the hierarch of the province's capital, the basic unit of the administrative-territorial system of the Roman Empire, would become the leader<sup>1</sup> of the local Churches in that geographical area.

The 'protos' (πρόεδρος) of these Churches, grouped in the area of this administrative-territorial unit of the Roman Empire, that is, the province, continued to bear the title of archbishop, proto-hierarch, or *prima cathedra episcopalis* (bishop of the first See) (can. 58, Sin. Elvira, 306).<sup>2</sup>

Since the present article will make references only to the Council of Metropolitan See — from the Orthodox viewpoint — our main goal is to offer to our lecturer not only a better understanding of its canonical basis, but also to prove that the system of the metropolitan synodality is still functioning in the Eastern Church, as it is in fact proved peremptorily both by the canonical legislation of these Churches, and by their Statutes and their own administrative-territorial organisation.

## 1. About Μητροπολίτης ἐπίσκοπος — *Metropolitanus episcopus*, the bishop of the Roman metropolis of each Roman province, and his canonical prerogatives

The “Metropolitan”, that is, the bishop of the capital of the province,<sup>3</sup> would impose himself on the church lexicon “once with the adoption and implementation of the decision of the first Ecumenical Council (Nicaea, 325),”<sup>4</sup> taken by can. 4. According to it, the bishops of a province of the Roman Empire were grouped in its geographical area, “led by a council consisting of all the bishops of the province under

<sup>1</sup> N. V. DURĂ: *The Primate in the Orthodox Church. Canonic Study (Întâistătorul în Biserica Ortodoxă. Studiu canonic)*. “Studii Teologice”, XL, 1 (1988), pp. 15—50.

<sup>2</sup> The text of the canon 58 of the Synod of Elvira dealt with the “Bishop of the First Church See in Spain”, that is, the Primate of a local Church, constituted within a well-defined ethnic and geographic framework (N. V. DURĂ: *Le Régime de la synodalité selon la législation canonique, conciliaire, oecuménique, du I<sup>er</sup> millénaire*, Ed. Amethyst 92, Bucharest, 1999, pp. 939—940).

<sup>3</sup> See N. V. DURĂ: *Le Régime de la synodalité...*, pp. 415—417; 421—437.

<sup>4</sup> IDEM: “Scythia Mynor” (*Dobrudja*) and her Apostolic Church. *The Archiepiscopal and Metropolitan See of Tomis (4th—14th centuries)* („Scythia Mynor” (*Dobrogea*) și Biserica ei apostolică. Scaunul arhiepiscopal și mitropolitan al Tomisului (sec. IV—XIV)). Ed. Didactică și Pedagogică, Bucharest, 2006, p. 83.

the presidency of the Metropolitan, i.e. the Bishop of the capital of the province.”<sup>5</sup>

As for the “Synod of Bishops” in the Church province, namely, the eparchy (can. 4, 6 Sin. I Ec.), it was initially one of those, (“τοπικαί”) local councils,<sup>6</sup> that is, of a local Church organised within an ethnic and geographical framework from the apostolic age (cf. can. 34 apost.), as was the case with the Churches of the Roman provinces, as, for example, Scythia Minor (today’s Dobruđa), whose Episcopal See was founded by St. Apostle Andrew at the ancient Tomis city (today’s Constanța), which would become the capital of the province that the Romans had conquered in 27 BC.

However, it is noteworthy that since the pre-Nicene era, local Churches had been established outside the boundaries of the Roman Empire. The case of the Churches in Ethiopia,<sup>7</sup> Georgia,<sup>8</sup> Persia, Armenia, etc. remains, surely, conclusive and edifying in this respect. Where the institution of synodality was indeed present in the life of these local Churches, based on the same principle of synodality set forth by our Saviour Jesus Christ and affirmed by His Holy Apostles.

By the Milan<sup>9</sup> edict of 313, the Christian religion became a *Religio licita*, that is, ‘permitted Religion’. And after this Edict most of these

<sup>5</sup> Comment on Canon 4 of the First Ecumenical Synod, in *The Canons of the Orthodox Church. Notes and comments (Canoanele Bisericii Ortodoxe. Note și comentarii)*, ed. I. N. FLOCA, Sibiu, 1991, p. 51, n. 2.

<sup>6</sup> N. V. DURĂ: *Le Régime de la synodalité...*, p. 422.

<sup>7</sup> See N. V. DURĂ: *The Organization of the Ethiopian Church and its Canonical Foundations (Organizarea Bisericii etiopiene și bazele ei canonice)*, Ed. IBMBOR, Bucharest, 1990; IDEM: *The Ethiopian Canonical Collection (Corpus Juris Canonici Aethiopici) (Colecția canonică etiopiană (Corpus Juris Canonici Aethiopici))*. “Studii Teologice”, XXVI, 9—10 (1974), pp. 725—738; IDEM: *The Appropriation of the Canons in the Ethiopian Church (Receptarea canoanelor în Biserica etiopiană)*. “Studii Teologice”, XXVII, 3—4 (1975), pp. 277—289; IDEM: *Didascalia, the Ethiopian Version (Didascalia, versiunea etiopiană)*. “Studii Teologice”, XXVII, 5—6 (1975), pp. 436—451; IDEM: *The Church of Alexandria and the Canonical-Pastoral Activity of its Hierarchs until the Council of Chalcedon (Biserica Alexandriei și activitatea canonic-pastorală a ierarhilor ei până la Sinodul de la Chalcedon) (451)*. “Studii Teologice”, XXXIII, 1—2 (1981), pp. 5—25; IDEM: *The Coptic Church and its Organization in Light of the Testimonies of the Historical-Aghiographic Tradition (Biserica Coptă și organizarea ei în lumina mărturiilor Tradiției istorico-agiografice)*. “Studii Teologice”, XXXIV, 3—4 (1982), pp. 200—219; IDEM: *The Ethiopian Church and its Liturgical Anaphoras (Biserica etiopiană și „Anaforalele” ei liturgice)*. “Revista de Teologie Sfântul Apostol Andrei”, XII, 1 (2008), pp. 9—45.

<sup>8</sup> See G. KVESITADZE, N. V. DURĂ: *The Roots of the Georgian and Romanian Science and Culture*, Ed. Academiei Oamenilor de Știință din România, Bucharest, 2017, pp. 11, 19—61.

<sup>9</sup> See N. V. DURĂ: *The Edict of Milan (313) and its Impact on the Relations between the State and the Church. Some Historical, Legal and Ecclesiological Considerations (Edictul de la Milan (313) și impactul lui asupra relațiilor dintre Stat și Biserică. Câteva considerații*



local Churches — many of apostolic origin — would be part of the Christian area within the Roman Empire, designated by the notion of *oekoumene* (the universe of the Christian world), whose ecumenical unity would be defined by the ecumenical councils.<sup>10</sup>

Enjoying the protection of Christian Emperors,<sup>11</sup> these local Churches had both the possibility to accommodate their form of administrative-territorial organisation to that of the Roman State and to affirm the principle of synodality, as stated by the Founder of the Church and affirmed by His Apostles.

From the First Ecumenical Synod — held with the support of the imperial power, that is, Emperor Constantine the Great — the Synod of these local Churches was led by a Μητροπολίτης ἐπίσκοπος — *metropolitanus provinciae*<sup>12</sup> (can. 4, 6 Sin. I Ec.; 3, 6 Sin. II Ec.; 1 Sin. III Ec.), that is, a Metropolitan bishop, whose See was in the Roman metropolis of each province (eparchy).

From a sacramental perspective, this Metropolitan bishop held nothing more than a ὁ Βαθμὸς τῆς ἐπισκοπῆς — *episcopatus gradu*, that is, ‘a bishop’s rank’.<sup>13</sup> What distinguished the bishop of the province’s metropolis from his peers in the episcopate was merely his status of *primus inter pares*, but he was entitled — according to the can. 4 of the First Ecumenical Council (Nicaea, 325), whereby the system of the ecclesiastical administrative-territorial organisation was adopted — to “strengthen” or to confirm the election and the ordination of bishops of the “eparchy,” committed however “by all the bishops” (can. 4 Sin. I Ec.).

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*istorice, juridice și eclezio-logice*). “Mitropolia Olteniei”, 5—8 (2012), pp. 28—43; N. V. DURĂ, C. MITITELU: *The Freedom of Religion and the Right to Religious Freedom*. In: *SGEM Conference on Political Sciences, Law, Finance, Economics & Tourism*, I (2014), Albena, pp. 831—838.

<sup>10</sup> See N. V. DURĂ: *Christianism in Pontic Dacia. The „Scythian Monks” (Daco-Roman) and their Contribution to the Advance of Ecumenical Unity and the Development of the European Christian Humanist Culture*. “Revue Roumaine d’Histoire”, 1—4 (2003), pp. 5—18; IDEM: *The Churches of Europe and the “European Union”. Ecumenism, Christian Reconciliation and European Unity (Bisericile Europei și „Uniunea Europeană”). Ecumenism, reconciliere creștină și unitate europeană*. In: *Biserica în misiune. Patriarhia română la ceas aniversar*, Ed. IMBOR, Bucharest, 2005, pp. 771—794; C. MITITELU: *Dacian-Roman Cultural Personalities from Scythia Minor (4th—6th Centuries) and their Contribution to the Affirmation and Promotion of a Humanistic-Christian Culture at European Level*. In: *New Approaches in Social and Humanistic Sciences*, 2018, Iasi—London, ed. V. MANOLACHI, C. RUS, S. RUSNAC, pp. 316—331.

<sup>11</sup> See N. V. DURĂ: *The Relationships between the State and the Church and their Legal Regime. Rules of International and National Law*. “Bulletin of the Georgian National Academy of Sciences”, XII, 4 (2018), pp. 192—201.

<sup>12</sup> N. V. DURĂ: *Le Régime de la synodalité...*, pp. 422—423.

<sup>13</sup> *Ibidem*, p. 423.



The “Arabic version” of the canons, “attributed to the Council of Nicaea” (325), acknowledge also the fact that Metropolitan bishop was entitled to confirm both “the election of a bishop” and his “ordination” (can. 5).<sup>14</sup> In other words, not only the confirmation of the newly elected bishop was the right of the Metropolitans of provinces (cf. can. 4 Sin. I. Ec.), but also the confirmation of the ordination of any bishop of his province. Indeed, the *metropolitanus provinciae* had to confirm both the election and the ordination of a bishop, as the Holy Fathers of first Ecumenical Council decided in the canon forth.

In fact, about this reality give us a peremptory testimony not only the Byzantine canonists, but also some western canonists. For example, John Zonara (12th century) precised that “the election has to be ratified by the metropolitan of the province,”<sup>15</sup> and, according C. J. Hefele, in the canon 4 the Fathers of the Council of Nicaea decided that the elected bishop has to be approved by “the metropolitan,” confirming thus “the superior position of the metropolitan,”<sup>16</sup> which was “connected with [...] the provincial synod,” mentioned indeed, expressly, in “the next canon,”<sup>17</sup> that is, the can. 5 of the First Ecumenical Council.

Concerning the ordination of the bishop, this sacramental act was accomplished by the members of the eparchial synod, as even the Metropolitans “were ordained — testimony Balsamon — by their own synods,”<sup>18</sup> which had to be held “twice a year” (can 5 Sin. I. Ec.). In fact, the “Arabic” version of the canons, attributed to the First Ecumenical Council, confirm the fact that the “provincial Councils” “should be held twice a year [...]” (can. 7).<sup>19</sup>

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<sup>14</sup> Apud *Select Library of the Nicene and Post-Nicene Fathers of the Christian Church*, ed. P. SCHAFF and H. WACE, 2nd series, vol. 14, SAGE Software Albany, Oregon, 1996, p. 154 (apud <http://www.agape-biblia.org/orthodoxy/The%20Seven%20Ecumenical%20Councils.pdf>).

<sup>15</sup> *The Syntagma of the Divine and Sacred Canons (Athenian Syntagma)*, ed. G. A. RHALLI, M. POTLI, vol. II, Atena, 1852, pp. 122—123.

<sup>16</sup> *Select Library of the Nicene and Post-Nicene Fathers...*, p. 74.

<sup>17</sup> *Ibidem*, p. 75.

<sup>18</sup> *Ibidem*, p. 467.

<sup>19</sup> *Ibidem*, p. 154.

## 2. The Synod of the bishops of each diocese (bishopric) and its canonical basis

From the text of the canonical legislation of the Eastern Church, one can learn that there were two types of synods that characterised the first millennium, that is, the “metropolitan synod and the patriarchal synod. But, by far, the favourite was the metropolitan Synod,” due to the fact that both the Ecumenical Synods and the local ones provided precise norms and regulations not only concerning the convening and composition of this type of synod, but also the “nature of its synodal debates etc.”<sup>20</sup>

A first testimony regarding the (metropolitan) eparchial Synod is given to us by the apostolic can. 37, although it did not yet bear the name of Metropolitan Synod, that is, of the Church province, but of a local Church constituted within a well-defined ethnic framework. Indeed, in the text of this apostolic canon — enacted probably by a Synod of the Antiochian Church at the end of the 3rd century — reference is made only to a “ὁ συνοδος τῶν ἐπισκόπων”<sup>21</sup> (synod of bishops) of a local Church which, following the administrative-territorial reform of the Roman Empire, initiated by Emperor Diocletian in 284—285, circumscribed not only by an ethnically well-defined area (cf. can. 34 apost.), but also by a geographical one.

Such a synod of the bishops would “twice a year (δεύτερον τοῦ ἔτους) examine at the same time (ἀλλήλως) the dogmas of the right faith (τά δόγματα τῆς εὐσεβείας) and solve possible Church controversies (τάς ἐκκλησιαστικάς ἀντιλογίας) which may have occurred; [...]” (can. 37 apost.).<sup>22</sup>

In their comment on the apostolic can. 37, the Byzantine canonists, too, confirmed that the text of this apostolic canon was about the “τοὺς ἐπαρχίας” (bishops of each diocese),<sup>23</sup> that is, of every bishopric Church of the province (eparchy).

This canon attributed to the Holy Apostles remains — above all — an obvious testimony to the affirmation of the principle of synodality “as a basic principle of Church organisation and leadership,” which was stated ever since the “Apostolic Age.”<sup>24</sup> As a matter of fact, the provision of principle of the apostolic can. 37 “has constantly been applied”

<sup>20</sup> N. V. DURĂ: *Le Régime de la synodalité...*, p. 421.

<sup>21</sup> *Apud Athenian Syntagma*, vol. II..., p. 50.

<sup>22</sup> *Ibidem*.

<sup>23</sup> *Ibidem*, pp. 50, 52.

<sup>24</sup> *The Canons of the Orthodox Church (Canoanele Bisericii Ortodoxe)...*, 1991, p. 27.

not only to the (eparchial) provincial, metropolitan type of synods, but “also to the synods of autocephalous or autonomous Churches, organised on larger territories than a single province. Thus — as concluded by an Orthodox canonist — it still applies today.”<sup>25</sup>

### 3. The territorial principle, one of the main canonical principles of the administrative-territorial organisation

By adapting the form of ecclesiastical, administrative-territorial organisation to the one of the Roman State, the Church actually voiced and stated in the text of its legislation (cf. can. 4, 6 Sin. I Ec.) the territorial principle,<sup>26</sup> that is, one of its fundamental canonical principles, which was then reaffirmed by can. 17 of the Fourth Ecumenical Synod and canon 38 of the Sixth Ecumenical Synod (Trullan).

According to the can. 17 of the Fourth Ecumenical Synod, the “political (τοις πολιτικοίς) and public (δημοσίας) administrative-territorial units must be followed by the organisation of church units,” or in the terms used by the Byzantine commentators of this canon, the “political” (πολιτικοί) and “public” (δημοσίαι) units of the State should be followed by “ἡ τῶν ἐκκλησιαστικῶν παροικίων τάξις”<sup>27</sup> (the order of the ecclesiastical bishoprics).

This canonical provision stated by the Fathers of the Fourth Ecumenical Synod — which gives an evident testimony regarding the continuation of the process of adapting the forms of the administrative-territorial organisation of the Church to that of the State — would be reiterated and confirmed by the Fathers of the Sixth Ecumenical Synod, which decided that “the order of the ecclesiastical things follow the civil and public models” (can. 38).

Thus, it was reaffirmed and renewed the “old principle,” that is, the territorial principle, according to which “church organisation must also

<sup>25</sup> Ibidem, p. 28.

<sup>26</sup> See details in N. V. DURĂ: *The Canonical, Fundamental, Organizing and Functioning Principles of the Orthodox Church and their Reflection in the Legislation of the Romanian Orthodox Church (Principiile canonice, fundamentale, de organizare și funcționare a Bisericii Ortodoxe și reflectarea lor în legislația Bisericii Ortodoxe Române)*. “Revista de Teologie Sfântul Apostol Andrei”, V, 9 (2001), pp. 129—140.

<sup>27</sup> I. ZONARA: Comment on canon 38 of the Trullan Synod. In: *Athenian Syntagma...*, vol. III, Atena, 1853, p. 262.

take into account state organisation, i.e. to adapt to it, so that within the administrative-territorial units of the state those of the Church would also organise.”<sup>28</sup>

By realising the process of adapting the organisation of the church administrative-territorial units to those of the (Roman) State, not only the canonical foundations of the organisation of the local Churches in the geographical area of the Roman provinces were laid, but also those of the canonical status of the bishop of the metropolis, that is, of the metropolitan, whose exponential role remained that of being the president of the supreme collegial-synodal governing body of the diocese, that is, the Metropolitan Synod, to which any bishop could appeal, since according to canon 17 of Council of Chalcedon (451), “it is lawful for those who hold themselves aggrieved to bring their cause before the synod of the province.”<sup>29</sup>

Anyhow, it must be emphasised and borne in mind that a metropolitan type of organisation, with its synodal form, did not disappear even after the Church adopted a new form of administrative-territorial organisation, namely the “τὸ δίοίκησιν” (diocese) in 381, that is, by the decision taken by the Fathers of the Second Ecumenical Synod (cf. can. 3 and 6).

Indeed, the Fathers of this Synod clearly ordered “that the issues concerning every diocese (τά καθ’ ἐκάστων ἐπαρχίαν),” that is, every eparchy, “shall be governed by the synod of the diocese (διοικήσοι τῆς ἐπαρχίας σῶνοδος), according to the issues ordained (ὠρισμένα) in Nicaea,”<sup>30</sup> that is, the First Ecumenical Synod, assembled in Nicaea in 325, by canons 4, 5, 6, and 7.

#### 4. The frequency of the eparchial (metropolitan) Synod and its canonical basis

The Fathers of the First Ecumenical Synod (Nicaea) were indeed those who also stipulated the obligation of the eparchial (metropolitan) Synod to meet “twice a year, in order that [...] all the bishops of the province, [...] assembled together,” to examine if a person has been “excommunicated through captiousness, or contentiousness, or any such like ungracious disposition of the bishop” (can. 5).<sup>31</sup>

<sup>28</sup> The comment of can. 38 of the Sixth Ecumenical Synod (Trullan, 691/692). In: *The Canons of the Orthodox Church (Canoanele Bisericii Ortodoxe)...*, 1992, p. 127.

<sup>29</sup> *Select Library of the Nicene and Post-Nicene Fathers...*, p. 689.

<sup>30</sup> *Athenian Syntagma...*, vol. II, p. 70.

<sup>31</sup> *Select Library of the Nicene and Post-Nicene Fathers...*, p. 77.

This provision of principle, that is, that in every province (eparchy) the provincial synods shall be held twice a year, it was reiterated and renewed by the Fathers of the Fourth Ecumenical Synod (Chalcedon, 451) in the can. 19, who claimed that “according to the canons of the Holy Fathers, [...], the [...] Synods of Bishops, [...], shall twice in the year assemble together where the bishop of the Metropolis shall approve, and shall then settle whatever matters may have arisen” (can. 19).<sup>32</sup>

In ancient Epitome of this can. 19 of the Fourth Ecumenical Council (Chalcedon, 451), it was written that “twice each year the Synod shall be held where ever the bishop of the Metropolis shall designate, and all matters of pressing interest shall be determined.”<sup>33</sup> But, in another ancient Epitome of can. 5 of the First Ecumenical Council, it was already underlined the fact that “there has always been found the greatest difficulty in securing the regular meetings of provincial and diocesan synods, [...], despite the very explicit canonical legislation upon the subject [...]”.<sup>34</sup>

Indeed, due to the ‘invasions of barbarians’ (τὰ τῶν βαρβάρων ἐπιδρομᾶς), and of “other causes” (ἑτέρας αἰτίας), objective ones, it was no longer “possible for the Primates of the Churches (οἱ τῶν ἐκκλησιῶν Πρόεδροι) to meet in Synods twice a year.” Therefore, the Fathers of the Sixth Ecumenical Synod (Constantinople, 691/692) provided for the obligation of the metropolitan Synod to meet, “in every eparchy,” at least “once a year,” in order to examine and solve “church affairs...” (can. 8).<sup>35</sup>

With the can. 6, the Fathers of the Seventh Ecumenical Synod (Nicaea, 787) “renewed” the decision made by the Fathers of the Sixth Ecumenical Synod (Trullan),<sup>36</sup> which required the metropolitan synod to meet at least once a year due to same objective causes invoked by them.

From the text of the same canon of the Seventh Ecumenical Synod, we can also mention the fact that the metropolitan Synod met “for canonical and evangelical affairs (περὶ κανονικῶν καὶ εὐαγγελικῶν πραγμάτων) [...]” (can. 6 Sin. VII Ec.).<sup>37</sup> Moreover, from the text of the same canon of the last Ecumenical Synod (Nicaea, 787) we can notice that — at that time — some metropolitans behaved despotically at times, hence the disposition of the Fathers of this ecumenical Synod that “the metropolitan

<sup>32</sup> Ibidem, p. 693.

<sup>33</sup> Ibidem.

<sup>34</sup> Ibidem, p. 77.

<sup>35</sup> *Athenian Syntagma...*, vol. II, pp. 324—325; *The Canons of the Orthodox Church (Canoanele Bisericii Ortodoxe)...*, 1992, pp. 108—109.

<sup>36</sup> *About the Ecumenicity of this Synod*, see N. V. DURĂ: *The Ecumenicity of the Council in Trullo: Witnesses of the Canonical Tradition in the East and the West*. In: *The Council in Trullo Revisited*, coord. G. NEDUNGATT, M. FEATHERSTONE, Roma, 1995, pp. 229—262.

<sup>37</sup> *Apud Athenian Syntagma...*, vol. II, p. 577.

should not be allowed to ask the bishop for what he brings with him, be it animal or something similar. If it should be proven to be doing this, he should return it fourfold (τετραπλάσιον)<sup>38</sup> (can. 6 Sin. VII Ec.).

As the Byzantine canonists (Zonara, Balsamon, and Aristen) remarked in their comment on this canon, the metropolitan is not “canonically justified” to do “such things,” and if he does such things, he is to “pay fourfold.”<sup>39</sup>

## 5. The metropolitan Synod, a peremptory reality in the life of the Eastern Orthodox Church of our days

That the metropolitan Synod was a peremptory reality in the life of the Eastern Orthodox Church, of *illo tempore*, it attested just by can. 6 of the same ecumenical Synod (Nicaea, 787), from which we find out “that during the Seventh Ecumenical Synod, the metropolitan territory unit was also called diocese,”<sup>40</sup> that is eparchy. In fact, the ecclesiastical territorial-organisation system, of metropolitan type, has never disappeared from the life of the Orthodox Church, being indeed a reality in all local Orthodox Churches until our days.

On this regard, the Statute for the Organisation and Functioning of the Romanian Orthodox Church<sup>41</sup> remains an evident example. According to this Statute, the Romanian Orthodox Church is “autocephalous and unitary in its organisation” (art. 2), and “it has a hierarchical synodal leadership” (art. 3, par. 1). “The Romanian Patriarchate comprises the bishoprics (archbishops and bishops) grouped together in Eparchies, [...]” (art. 6, par. 2) and “in canonical and administrative terms, dioceses and archdioceses are grouped into eparchies [...] led by a metropolitan” (art. 110, par. 1 and 2), who is the “canonical protos of a Metropolitanate, and who exercises the rights and performs the duties laid down by the Holy Canons, the Church Tradition and the present Statute” (art. 114, par. 1).

Regarding the metropolitan Synod, the same Statute of the Romanian Orthodox Church stipulates that it “coordinates the joint activities

<sup>38</sup> Ibidem, p. 578.

<sup>39</sup> Ibidem, pp. 578, 579, 580.

<sup>40</sup> *The Canons of the Orthodox Church (Canoanele Bisericii Ortodoxe)*..., 1992, p. 167.

<sup>41</sup> *Romanian Patriarchate. Statute for the Organization and Functioning of the Romanian Orthodox Churches (Patriarhia Română. Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române)*. Ed. IBMBOR, Bucharest, 2008.

of the dioceses in the Metropolitanate, within the boundaries set by the Holy canons, as well as by the statutory and regulatory norms in force” (art. 111 par. 2), and that it “is chaired by the metropolitan, who summons it whenever necessary” (art. 112, par. 1), but “the Metropolitan Synod,” made up of “archbishops, bishops, bishops vicars and hierarch vicars of the eparchy” (art. 111 par. 1), is the one which “takes decisions by a half plus one of the votes of the number of members present” (art. 112, par. 2).<sup>42</sup>

Therefore, the Metropolitan Synod is indeed a peremptory reality in the life of the Romanian Orthodox Church, as it is in fact in the life of each Orthodox Church of our days.

## 6. The ancientness of the ordination as a bishop, the only criterion for the “precedence in honour” of a “primate”

In *Africa Proconsularis*, the privilege of “the precedence in honour” (cf. can. 7 Sin. I Ec.) was recognised for the African bishops not due to the fact that they had their Sees in the metropolis of the provinces, but only due to their “ancientness” of the Episcopal ordination. In fact, this “Church rule was observed — attested the Fathers of the African Church — always” (can. 86 Carthage).<sup>43</sup>

Therefore, in the Church of North Africa, this “ancientness” did not regard neither the “old age of the bishop” (can. 86 Carthage), nor the political importance of the cities of their Sees, but only the seniority of the ordination as a bishop.

By observance of this canonical principle of the ancientness of the Episcopal ordination, in the Church of *Africa Proconsularis* “the affirmation of the principle of the adoption and adaptation of the Church to the administrative-political system of the Roman Empire, [...], did not replace and distort the old apostolic principle according to which the importance and the primacy of the episcopal Sees were due only to the date of their establishment.” This would also explain the fact that, “according to the old local, canonical custom” (African one), “the bishops’ Synods were not presided — as mentioned by Nicolae V. Dură — by the metropolitan of the diocese (province), but by the elder bishop.”<sup>44</sup>

<sup>42</sup> Ibidem, p. 73.

<sup>43</sup> *Athenian Syntagma...*, vol. III, pp. 514—515.

<sup>44</sup> N. V. DURĂ: *Le Régime de la synodalité...*, p. 423.



This ecclesiological reality is encountered not only in the case of the general Synod, chaired by the bishop of Carthage, who had its episcopal See in the *Africa Proconsularis*' capital, but also in the local Synods from the other provincial capitals of *Africa Proconsularis*. Indeed, in this African geographical area, the Churches of Numidia, Mauritania, Byzacena, Tripolitania, Arzuitania, Centuria, etc. had their "own primate" (*primus*) (cf. can. 17 Carthage),<sup>45</sup> and their own Synod, and their primates had to participate — by virtue of the "old custom" of the place — to the "General Synod," that is, of the entire Africa.

The fact that the Primate of the *Africa Proconsularis* Church did not have a metropolitan at its head, "only the bishop of the First See" (can. 39 Carthage),<sup>46</sup> that is, of the See of *Africa Proconsularis*, did not exempt it from the institution of synodality, on the contrary, in the text of the *Codex Canonum Ecclesiae Africanae* — which Romanian ancestor Dionysius Exiguus,<sup>47</sup> who was counselor to eight Pontiffs of Rome,<sup>48</sup> inserted into his canonical Collection — numerous references are made to both the "Great Synod" of the African Church, and to the Synods of each local Church, from its various provinces, with the exclusive duty of "the head of that diocese, together with the determined number of bishops, to decide what to do" (can. 26 Carthage).<sup>49</sup> If necessary the Primate of that Church could "call as witnesses at least the neighbours" (can. 26 Carthage),<sup>50</sup> that is, the bishops of the neighbouring local Churches.

At the suggestion of some Primates of local Churches to which the Primate of the African Church (*Proconsularis*) consented, in the person of the Primate of Carthage, Bishop Aurelius — who presided over the Synod *totius Ecclesiae Africae* — the Fathers of such a Synod ordered those who "although they were summoned to come to the Synod several times, they

<sup>45</sup> *The Canons of the Orthodox Church (Canoanele Bisericii Ortodoxe)*..., 1991, p. 234.

<sup>46</sup> *Ibidem*, p. 242.

<sup>47</sup> See N. V. DURĂ: *Romanian Ancestor Dionysius Exiguus and his Canonical Work. A Canonical Evaluation of his Contribution to the Development of Church Law (Străromânul Dionisie Exiguul și opera sa canonică. O evaluare canonică a contribuției sale la dezvoltarea Dreptului bisericesc)*. "Ortodoxia", XLI, 4 (1989), pp. 37—61; IDEM: *Denis Exiguus (Le Petit) (465—545). Précisions et correctifs concernant sa vie et son oeuvre*. "Revista Española de Derecho Canonico", L (1993), pp. 279—290; N. V. DURĂ, C. MITITELU: *L'École roumaine du Droit canonique et sa contribution au développement du Droit canonique de l'Eglise Orthodoxe (Ecuménique)*. In: *Tradiție și continuitate în teologia tomitană. Două decenii de învățământ teologic universitar la Constanța (1992—2012)*. Ed. Arhiepiscopiei Tomisului, Constanța, 2012, pp. 37—60.

<sup>48</sup> N. V. DURĂ: *Dionysius Exiguus and the Popes of Rome (Dionisie Exiguul și Papii Romei)*. "Biserica Ortodoxă Română", CXXI, 7—12 (2003), pp. 459—468.

<sup>49</sup> *The Canons of the Orthodox Church (Canoanele Bisericii Ortodoxe)*..., 1991, p. 237.

<sup>50</sup> *Ibidem*.



refused, relying on *their own people* [...]” (cf. can. 53 Carthage)<sup>51</sup> and on the connivance with the governors of the state power they established “new dioceses [...] not to keep their See,” and “to lose those lands [...], in the same way as some who are rebellious” (can. 53 Carthage).

In one of the Synods of the African Church, it was in fact ordered that any clergyman who was “condemned by the bishops,” that is, the Synod, could neither “be absolved by the Church whose servant he was, nor by any kind of man,” including the “emperor” (can. 62 Carthage).<sup>52</sup>

The same Synod stipulated expressly that the Bishops obey the “judgment of the Synod” (can. 87),<sup>53</sup> but not only of the General Synod, that is, “of the entire Africa,” but also of the “Synods of their own dioceses” (can. 95 Carthage),<sup>54</sup> that is, the “Synods of Africa” (can. 125 Carthage),<sup>55</sup> as a bishop cannot judge his own cause, cannot “pass sentence on his own court issues” (can. 107 Carthage).<sup>56</sup>

Similar situations are found in other local Churches, even within the geographical area of the Roman Empire, and even much later, as for example in the Church of the Iberian Peninsula, where “the Acts of the Synods have always been signed, first of all, by the elder bishop and not by the metropolitan.”<sup>57</sup>

Actually, the fact that the eparchial, metropolitan type of organisation, was not adopted in the entire Roman empire area, is, thus, emphasised in a peremptory way, not only by the reality of the Church of *Africa Proconsularis*, which maintained its form of initial organisation since the time of St. Cyprian of Carthage († 257), that is, the establishment of local Churches that respected both the ethnic and the geographic criteria, but also by other national Churches in western Europe, such as the Iberian Peninsula.

<sup>51</sup> Ibidem, pp. 248—249.

<sup>52</sup> Ibidem, p. 253.

<sup>53</sup> Ibidem, pp. 262—263.

<sup>54</sup> Ibidem, pp. 266—267.

<sup>55</sup> Ibidem, p. 277.

<sup>56</sup> Ibidem, pp. 270—271.

<sup>57</sup> N. V. DURÁ: *Le Régime de la synodalité...*, p. 423.

## 7. The eparchial (metropolitan) Synod, in its two aspects of manifestation: as a “complete synode” and as a “restricted synode”

From the canonical legislation of the Eastern Church in the first millennium, however, it can be noted that the eparchial (metropolitan) Synod was a “complete Synod,” that is, of the entire diocese, made up of all the bishops of that Church province (cf. can. 37 apost.; 4 Sin. I Ec.).

The same canonical legislation also makes a reference to a limited “metropolitan Synod.” In regard to this reality, the first testimony dates back to about 15—16 years after the First Ecumenical Synod, namely from the Synod assembled in Antioch (340/341), which distinguishes between the “Complete Synod” and the “Restricted Synod.”

Indeed, the Fathers of this local Synod (Antioch, 340/341) used “for the first time” both the syntagma “Complete Synod” and “Restricted Synod.” And, according to the testimony which they gave to us, “ἡ τελεία σύνοδος τῶν κατὰ τὴν ἐπαρχίαν ἐπισκόπων” (the complete synod of the province’s bishops) had — among other things — as its main competences “the excommunication” (cf. can. 17) and the judgment of a bishop for grave causes (cf. can. 18 Antioch),<sup>58</sup> etc.

In Latin, such a “synod,” that is, a “Complete Synod,” was expressed using the syntagm *concilium perfectum*,<sup>59</sup> and in one of the old canonical Collections of the Church of Rome,<sup>60</sup> namely in “Prisca,” the word μητροπολίτης (metropolitan) was translated as “metropolitanus civitates,”<sup>61</sup> which prove the fact that, in the western Church, of that time, the metropolitan system lived together with the ethnical (national) one, as it is attested both in the *De modo celebrandi concilium* treaty, drawn up by the Fourth Synod of Toledo (Spain) in 633, and “in its subsequent versions,” in which we find expressly reference to “the assembly of an eparchial or national synod” under the presidency of a *metropolitanus episcopus*,<sup>62</sup> that is, a metropolitan.

In the *Africa Proconsularis* Church, the Synod, which had as a specific task the judgment of the clergymen of the church institution (bishop,

<sup>58</sup> Ibidem, p. 424.

<sup>59</sup> Ibidem.

<sup>60</sup> See N. V. DURĂ: *Canonic, Western Collections of the First Millennium (Colecții canonice, apusene, din primul mileniu)*. “Analele Universității Ovidius. Seria: Drept și Științe Administrative”, 1 (2003), pp.19—33.

<sup>61</sup> IDEM: *Le Régime de la synodalité...*, p. 434.

<sup>62</sup> Ibidem, p. 435.

priest, and deacon), was perceived and defined as a “Restricted Synod” (cf. can. 5, 12 Carthage), which it was chaired by the Principle of the local Church, while the “Complete Synod” was chaired by the Bishop of Carthage (can. 14), which was indeed *primas Sedis totius Ecclesiae Africae* (the first See of the entire African Church).

## 8. Is there so-called crisis of synodality in our Churches?

That in our Churches there is no “crisis of synodality” whatsoever is proved not only by the peremptory reality of their regime of the synodality, by also by their canonical legislation, both from the *Syntagma Canonum* of the Eastern Orthodox Church, and by the Code of Canon Law of the Roman-Catholic Church.

Indeed, even in the Code of Canon Law — promulgated in 1983 — it is expressly mentioned that *provincia ecclesiastica ipso iure personalitate iuridica gaudet* (an ecclesiastical province possesses juridic personality by the law itself) (can. 432 § 2), and that “the provincial council (*concilium provinciale*) and the metropolitan (*Metropolita*) possess authority (*auctoritate*) in an ecclesiastical province (*in provincial ecclesiastica*) according to the norm of law” (can. 432 § 1).

Moreover, the canons of this Code, which “regard only the Latin Church” (can. 1), that is of “the Roman Catholic Church,” consisting “of twenty two autonomous (*sui iuris*) Churches, [...], united under the leadership of the bishop of Rome, the pope,”<sup>63</sup> prove *à l'évidence* that the provincial Council it is “l'unique institution synodale qui soit restée substantiellement identique à elle-même au profil original de presque deux millénaires,” despite of the fact that both in the Western Church, and in the Eastern Church, we could still find a “différence entre la norme canonique concernent la fréquence des Conciles provinciaux et la pratique instaurée dans chacune de leur époques [...]”<sup>64</sup>

Although through the eparchial (metropolitan) Synod, stipulated by the Fathers of the First Ecumenical Synod (cf. can. 4, 6, 7), it was in fact affirmed the whole synodal system, however, some ecclesiologists of the Eastern Church alleged that, in its area, we are basically dealing with

<sup>63</sup> J. M. HUELS, O. S. M.: Introductory Canons (cc. 1—6). In: *New Commentary on the Code of Canon Law*, ed. by J. P. BEAL et al., Ed. Paulist Press, New York, 2000, p. 49.

<sup>64</sup> *Vescovi e Conferenze episcopali*. “Ephemerides Juris Canonici”, 1—2 (1991), p. 140, apud N. V. DURÁ: *Le Régime de la synodalité...*, p. 436.

“a crisis of synodality and at the level of dioceses,”<sup>65</sup> which would have its basis in the ecclesiological and canonical reality of this Church.

That there is not a so-called crisis of eparchial synodality is confirmed by the very fact that the institution of synodality, of metropolitan type, is still present in all Orthodox Churches of today,<sup>66</sup> being regulated by the same canonical bases established in the first millennium (from the 4th to 9th centuries) (cf. can. 37 and 74 apost.; 4, 5, 6 Sin. I Ec.; 2, 6 Sin. II Ec.; 8 Sin. III Ec.; 1, 9, 19 Sin. IV Ec.; 17 Sin. VI Ec.; 1, 8 Sin. VI Ec.; 1, 6 Sin. VII Ec.; 14, 15, 17 Antioch; 40 Laodicea; 6 Sardica; 73 and 76 Carthage; 1 Constantinople (394) etc.).

It is true, however, that during the centuries (cf. can. 9, 17, 28 Sin. IV Ec.), such an eparchial, metropolitan, “crisis of synodality” was manifested — even if only ephemerally — sometimes caused by the non-observance of the canonical rules regarding the procedures of assembling and conducting the works of the eparchial Synod in a *collegialiter* and *synodaliter* way, and, *ipso facto*, due to the assertion of some hegemonic claims by the presiding persons themselves, that is, by some metropolitan, exarchs or patriarchs.

The documentary testimonies — historical and canonical — emphasise the fact that such claims were also made by some “*προεδροί* — antistes” (primates)<sup>67</sup> of some local, autocephalous Churches, organised as Exarchates or Patriarchates.

It should also be recalled that during the (Eastern and Western) Roman Empire period, some of these *antistes* claimed their *protia* (primacy) not because of the apostolicity of their See, but because of the political importance of the citadel where they had their See, etc. This would also explain the fact that, even from the time of the First Ecumenical Synod (Nicaea, 325), the “metropolitan,” that is, the bishop of the province’s metropolis, claimed their “right of veto over all synodal decisions”, an ecclesiological reality confirmed, in fact, “by canon 6 of the first ecumenical synod (Nicaea, 325).”<sup>68</sup>

<sup>65</sup> M. STAVROU: *Linéaments d’une Théologie orthodoxe de la conciliarité*. “Irenikon”, 4 (2003), p. 471.

<sup>66</sup> For instance, see *The Statute for the Organization and Functioning of the Romanian Orthodox Church (Statutul pentru organizarea și funcționarea Bisericii Ortodoxe Române)*..., art. 111—114..., pp. 72—75.

<sup>67</sup> See N. V. DURĂ: *The Protos in the Romanian Orthodox Church according to its Modern Legislation*. “Kanon”, IX (1989), pp. 139—161; IDEM: *Political-Juridical and Religious Status of the Romanian Countries and the Balkan People during the 14th—19th Centuries*. “Revue des Études Sud-Est Européennes”, XXVII, 1—2 (1989), pp. 159—170.

<sup>68</sup> M. STAVROU: *L’autorité ecclésiastique dans le monde byzantine*. “Contacts”, 202 (2003), p. 155.

## 9. The metropolitan rights according to the canons of the Council of Sardica (343)

According to the “metropolitan’s primary right” — stipulated by the First Ecumenical Synod — no one could “become a bishop without the metropolitan’s consent” (can. 6 Sin. I Ec.).<sup>69</sup> However, until the epoch of the First Ecumenical Council (Nicaea, 325), the bishop’s primacy right in the respective province — in which the Church constituted in an ethnic setting usually existed (cf. can. 34 apost.) — was not one of a jurisdictional nature, but only honorary one.

The Fathers of the Synod of Sardica (343) decided that, “in the event of a conflict between a bishop and his metropolitan,” the possibility of an appeal to the bishop of Rome would be established (cf. can. 5), but — according to the opinion of an Orthodox ecclesiologist — “[...] the powers of Rome were limited to holding a re-examination of the case, with the participation of bishops from the neighboring provinces [...]”<sup>70</sup>

Concretely, here is what the Fathers of the Council of Sardica decided in their canon: “[...] if any bishop is accused, and the bishops of the same region (οἱ ἐπισκοποὶ τῆς ἐνορίας τῆς αὐτῆς) assemble and depose him from his office, and he appealing, so to speak, takes refuge with the most blessed bishop of the Roman church (ἐπὶ τὸν μακαριώτατον τῆς Ῥωμαίων ἐκκλησίας), and he be willing to give him a hearing, and think it right to renew the examination of his case, let him be pleased to write to those fellow-bishops who are nearest the province (τῇ ἐπαρχίᾳ) that they may examine the particulars with care and accuracy and give their votes on the matter in accordance with the word of truth. And if any one require that his case be heard yet again, and at his request it seem good to move the bishop of Rome (τὸν Ῥωμαίων ἐπισκοπὸν) to send presbyters a latere, let it be in the power of that bishop, according as he judges it to be good and decides it to be right — that some be sent to be judges with the bishops and invested with his authority by whom they were sent. And be this also ordained. But if he think that the bishops are sufficient for the examination and decision of the matter let him do what shall seem good in his most prudent judgment” (can. 5 Sardica).<sup>71</sup>

<sup>69</sup> Canon 6 of the First Ecumenical Synod (Nicaea, 325). In: *Athenian Syntagma...*, vol. II, p. 128.

<sup>70</sup> M. STAVROU: *L'autorité ecclésiastique dans le monde byzantin...*, pp. 155—156.

<sup>71</sup> *Select Library of the Nicene and Post-Nicene Fathers...*, p. 1010; *Athenian Syntagma...*, vol. II, pp. 239—240.

According to the opinion of the Byzantine canonists of the 12th century (Zonara, Balsamon, and Aristen), in the text of the can. 5 of the Council of Sardica it was in fact invoked as a panel the “Synod of neighbouring bishops,” and the appeal to the bishop of Rome was limited to “renewing judgment” through this Synod.<sup>72</sup>

Some of the western canonists remarked however the fact that, in this canon (the Fifth Council of Sardica), “there is properly speaking no provision for “appeal,” which entirely suspends [i.e. by the canon law] the execution and effect of the first sentence; but rather for a revision of judgment [...]; those who were sent by the Roman bishop from his side (*a latere*) or the bishops wire were appointed, ought, together with the bishops of the province who had given the former sentence, to give a fresh judgment and declare their sentence.”<sup>73</sup>

Therefore, “in honour of the memory of St. Peter Apostle” (can. 5 Sardica) — the Protos of the Apostles — the synodal Parents decided that if a bishop considered his metropolitan to have been proven biased, and that he was unjustly condemned, then he should be entitled to appeal to the court of appeal, that is, to the Tribunal of the bishop of Rome, who decided the rejudgment of the case in the presence of bishops from the neighboring local Churches.

In can. 6, the Fathers of the Synod of Sardica stipulated also — among other things — “the way in which an appeal is tried, that is, the parties are required to agree that, within the patriarchate of Rome, the pope of Rome be empowered in a solemn manner as an appeal institution, entitled to reject or admit the claims of those who considered themselves wronged. Thus, should the application be rejected, the given sentence would remain valid, and in case of an exception of the request, send a request to re-try the case in a court composed of neighboring bishops, other than those who tried the case in the first instance, but certainly belonging to the same Metropolitanate.”<sup>74</sup>

That such unrighteous judgments were frequent in the church world at that time is confirmed by the Fathers of the First Ecumenical Synod (Nicaea, 325), who, in the can. 5, referred expressly to the “μικροψυχία” (smallness of the soul) and to the “φιλοκεινία” (hatred) that the Metropolitan himself was capable of even within the metropolitan Synod, who also judged various discipline-related cases of the clergymen in his diocese (cf. can. 37 apost.).

<sup>72</sup> See Zonara, Balsamon and Aristen’s Comments on can. 3 of the Synod of Sardica. In: *Athenian Syntagma...*, vol. III, pp. 234—238.

<sup>73</sup> *Select Library of the Nicene and Post-Nicene Fathers...*, p. 1011.

<sup>74</sup> Comments on Canon 3 of the Synod of Sardica. In: *The Canons of the Orthodox Church (Canoanele Bisericii Ortodoxe)...*, 1992, p. 233.

## In lieu of conclusions

From the careful examination of the text of the canonical legislation of the Eastern Church, it was obvious that the first form of synodality, as a canon-legal institution, manifested itself through the “eparchial (metropolitan) synod,” whose canonical foundations were established by the Fathers of the First Ecumenical Synod (cf. can. 4, 6).

Moreover, it was noted and revealed the fact that in accordance with the canonical norms of the Eastern Church of the first millennium, the “primacy” or “primate” of the metropolitan was framed in the space of the synodality regime, despite of the fact that some metropolitans, who summoned and chaired the provincial synods, proved to have sometimes biased attitude in their judgments, hence the correctives taken — over the centuries — by the Fathers of the Holy Synods for their wrong behaviour (cf. can. 5 Sin. I Ec.; 5 Sardica etc.).

It can be also retained the fact that, according to the provisions of the canonical legislation of the Eastern Church, to this type of synod “belonged both to *jus ordinandi* and to *jus judicandi*, i.e. to the right to ordain and judge the clergymen of that province.”<sup>75</sup>

Therefore, we can conclude that the metropolitan had not only the right to confirm the election and the ordination of the bishops in his diocese (cf. can. 4 Sin. I Ec.), but also the canonical duty of being “an executant of the synodal decisions.”<sup>76</sup>

This reality will become especially evident at the end of the 4th century, that is, after the entrance of the ecclesiastical provinces into the jurisdictional-canonical area of the superior administrative-territorial unit, that is, the “Exarchate” (cf. can. 2, 3, 6 Sin. II Ec.), and — after its disappearance in the 6th century — by the transfer of the Metropolitanates under the direct jurisdiction of a superior administrative-territorial church unit, known as the “Patriarchate.”<sup>77</sup>

<sup>75</sup> N. V. DURĂ: *Le Régime de la synodalité...*, p. 437.

<sup>76</sup> D. SALACHAS: *Le “status” ecclésiologique et canonique des Eglises Catholiques Orientales “sui iuris” et des Eglises Orthodoxes autocéphales*. “L’Année canonique”, 33 (1990), p. 39, apud N. V. DURĂ: *Le Régime de la synodalité...*, p. 437.

<sup>77</sup> See N. V. DURĂ, C. MITITELU: *Canonical Legislation and European Legal-Canonical Institutions in the First Millennium (Legislația canonică și instituțiile juridico-canoniche europene, din primul mileniu)*. Ed. Universitară, Bucharest, 2014; IDEM: *The State and the Church in IV—VI Centuries. The Roman Emperor and the Christian Religion*. In: *SGEM Conference on Political Sciences, Law, Finance, Economics & Tourism*, I (2014), Albena, pp. 923—930; N. V. DURĂ: *Patriarch and the Patriarchate. The Patriarchate, one of the Ancient European Institutions (Patriarh și Patriarhie. Patriarhia, una din vechile Instituții europene)*. “Biserica Ortodoxă Română”, CIII, 1—3 (2005), pp. 414—432; IDEM: *The Cen-*



And, even in our days, both in the Eastern Orthodox Church and in the Old Oriental Churches (Non-Chalcedonies),<sup>78</sup> the Synod is “the highest authority” (Article 11 of *The Statute of the Romanian Orthodox Church*) in any Church “organised as Patriarchate” (Article 6, par. 1, of *The Statute of the Romanian Orthodox Church*), and its “central deliberative body” (Article 9 of *The Statute of the Romanian Orthodox Church*).

Naturally, all these ecclesiological and canonical testimonies abundantly confirm that, in the Eastern Orthodox Church, both the Synod of the metropolitan See — whose bases or canonical foundations claim their origin in the decisions made by the Holy Fathers of the First Ecumenical Synod (cf. can. 4, 5, 6, 7) — and the national Synod of an autocephalic Church, were and are a peremptory reality.

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*tral and Local Executive Bodies of the Romanian Orthodox Church and their Managerial Activity (Organismele executive centrale și locale ale Bisericii Ortodoxe Române și activitatea lor managerială)*. In: *Contribuții la conturarea unui model românesc de management*, coord. I. PETRESCU, Ed. Expert, Bucharest, 2014, vol. II, pp. 413—447.

<sup>78</sup> For instance, in the Old Eastern or Neochalcedonian Churches. See N. V. DURĂ: *The Synod of Chalcedon in the Dogmatic Tradition of the Ethiopian Church (Sinodul de la Calcedon în Tradiția dogmatică a Bisericii etiopiene)*. “Ortodoxia”, XXVII, 3 (1975), pp. 459—464; IDEM: *The Anaphoras (liturgical canons) of the Ethiopian Church. The Process of their Emergence and Development (Anaforalele (canoane liturgice) Bisericii etiopiene. Procesul apariției și dezvoltării lor)*. “Studii Teologice”, XXIX, 7—10 (1977), pp. 589—599; IDEM: *The Evangelization of Ethiopia (Evangelizarea Etiopiei)*. “Studii Teologice”, XXX, 1—2 (1978), pp. 81—91; IDEM: *The Theological Dialogue between the Orthodox Church and the Old Eastern Churches. Results and Perspectives (Dialogul teologic între Biserica Ortodoxă și Bisericile Vechi Orientale. Rezultate și Perspective)*. In: *Autocefalie și comuniune. Biserica Ortodoxă Română în dialog și cooperare externă (1885—2010)*, Ed. Basilica, București, 2010, pp. 272—297.

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CĂTĂLINA MITITELU

## Synode métropolitain et ses fondements canoniques Perspective orthodoxe

### Résumé

Le lecteur de cette étude aura l'occasion de se familiariser avec l'ancienne institution canonique et juridique européenne, c'est-à-dire la synodalité, notamment avec les dispositions des normes canoniques de l'Église d'Orient concernant l'institution éparchiale (métropolitaine) de la synodalité et, *ipso facto*, avec la question du système synodal. Comme les fondements canoniques du système synodal sont inclus dans la législation canonique du premier millénaire, nous avons dû faire une analyse herméneutique de son texte, ce qui nous a montré qu'en nous référant à *ad fontes*, nous pouvons aussi ouvrir une voie qui conduira à la restauration de l'unité des deux mondes chrétiens, c'est-à-dire de *Pars Orientis* et *Pars Occidentis*.

**Mots clés :** législation canonique, institutions de droit canoniques, synodes œcuméniques

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## Sinodo metropolitano e le sue basi canoniche Prospettiva ortodossa

### Sommario

Il lettore di questo studio avrà l'opportunità di conoscere l'antica istituzione canonica e giuridica europea, cioè la sinodalità, e particolarmente le disposizioni delle norme canoniche della Chiesa d'Oriente relative all'istituzione eparchiale (metropolitana) della sinodalità e, *ipso facto*, la questione del sistema sinodale. Poiché le basi canoniche del sistema sinodale sono incluse nella legislazione canonica del primo millennio, abbiamo dovuto fare un'analisi ermeneutica del suo testo, il che ci ha mostrato che, facendo riferimento ad *ad fontes*, possiamo anche aprire una strada conducente al ripristino dell'unità dei due mondi cristiani, e cioè *Pars Orientis* e *Pars Occidentis*.

**Parole chiave:** legislazione canonica, istituzioni canoniche, sinodi ecumenici



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## Synod as the Embodiment of the Church — the Evolution of Lutheran Understanding of Synodality

**Abstract:** The concept of the synod plays a special role in the Evangelical ecclesiology. In the 20th century, the synod was radically defined as “the personification of the Church.” In the Evangelical tradition, however, there are equal Church management systems: episcopal, synodal-consistory, presbyterian (mainly in the Evangelical-Reformed denomination), and to a lesser extent congregational (especially observed in the so-called free Churches). Reformation theology understands the Church as a community of all saints, where the Gospel is preached purely and the sacraments are properly administered (*Augsburg Confession* — CA VII). The system of the Church does not belong to the so-called *notae ecclesiae*. An important theological doctrine of the Reformation is the teaching about the universal priesthood of all believers, which is the theological foundation of the idea of the synodal responsibility of the Church. In the 19th century synods concerned mainly clergy. In the 20th century, in the course of democratisation processes, most Evangelical Churches raised the importance of the synod in the overall management of the Church, and the Polish Lutheran Church introduced a provision into her law which stipulates that the synod is “the embodiment of the Church” and its supreme authority.

**Keywords:** Protestantism, synod, Luther, ecclesiology, Church Law

### Introductory remarks

In the Protestant tradition, the idea of synodality plays a special role in the ecclesiology, however, it must be stated that this was not always the case. It should be also noted at the outset that the synod’s empowerment

as the highest authority in the Lutheran and Reformed Churches was a long process. The synodal system is not the only form of regulating the order of the Church's management, but the formula that Synod as a congregation of clergy and laypeople is the highest authority in the Church is *differentia specifica* of the Protestant tradition.

To begin with, we have to clarify that according to the English-language tradition, the notion of Protestantism describes not only Lutherans and Presbyterians (Reformed Protestants), but also a huge number of Christian denominations that appeared after the 16th century Reformation and it is one of three major forces in the entire Christianity.<sup>1</sup> Protestantism spread in the 19th century throughout the world, while till the 18th century it was more a European than a global movement. The synodal form of the Church structure is not the only one in the Protestant World. During the first stage of the development of the German Reformation, the dukes and councils of the cities played a patron's role in the structure of the Church.<sup>2</sup> In this article, I will use the term Evangelical as a description of Lutheran and Reformed tradition among other Protestant denominations. In the German context, this term described by a sequence: *Reformation — evangelisch — Protestantismus*.<sup>3</sup>

Furthermore, we have to underline that the synodal understanding of the Institution of the Church is not a direct heritage of 16th century Reformation. Although, the hierarchy of power is unknown to the Evangelical tradition, instead only the *hierodiaconia*, or service — *ministerium* exercised in various departments and degrees. For the Reformation tradition, however, it was not the structure but a spiritual dimension of the Church that was of paramount importance. For the Reformer, Doctor Martin Luther (1483—1546), the Church was primarily a tool of God in the process of giving grace to humankind. The church is a community of believers in Christ, a community constituted and guided by the Holy Spirit.<sup>4</sup>

For Luther, the distinction between the visible and invisible Church was fundamental. All of the confessional books of the Lutheran denominations published in 1580 as *Liber Concordia (Book of Concord)* clearly followed this concept. One of the most important records in the confes-

<sup>1</sup> *Encyclopedia Britannica*, <https://www.britannica.com/topic/Protestantism> (accessed 29.11.2018).

<sup>2</sup> H.-J. ABROMEIT: "The Luther Effect: What was the aim of the Reformer and what was the result?" *Gdański Rocznik Ewangelicki* 9 (2017), p. 111.

<sup>3</sup> U.H.J. KÖRTNER: *Ökumenische Kirchenkunde*. Lehrwerk Evangelische Theologie (LETh), Band 9. Leipzig 2018, p. 155.

<sup>4</sup> R. LEONHARDT: *Grundinformation Dogmatik: Ein Lehr- und Arbeitsbuch für das Studium der Theologie*. Stuttgart 2009, p. 365.



sional books of Lutheranism that describes this meaning can be found in the 1530 *Confessio Augustana* (*Augsburg Confession*, hereafter: CA). It is the fourth document included in the *Book of Concord*, written by Philip Melancthon (1497—1560). Article 7 thereof defines the Church and teaches that there is one holy Christian Church, and it is found wherever the Gospel is preached in its truth and purity and the sacraments are administered according to the Gospel. It means that CA VII describes only 2 possible *notae ecclesiae*. In the second part of the Article of Faith, we read: “Nor is it necessary that human traditions, that is, rites or ceremonies, instituted by men, should be everywhere alike. As Paul says: One faith, one Baptism, one God and Father of all, etc. (Eph. 4:5—6).”<sup>5</sup>

In the text of *Apologia Confessionis Augustanae* — in English: *The Defense of the Augsburg Confession* (hereafter: ACA), which expands upon the text of CA and refutes the Roman Catholic text *Confutatio* (originally titled *Responsio Confessionis Augustanae*), written by the theological commission headed by Johann Eck (1486—1543) we may find a deeper theological arguments on ecclesiology. ACA VII—VIII clarifies the difference of forms in the Church of Christ:

But just as the dissimilar length of day and night does not injure the unity of the Church, so we believe that the true unity of the Church is not injured by dissimilar rites instituted by men; although it is pleasing to us that, for the sake of tranquility [unity and good order], universal rites be observed, just as also in the churches we willingly observe the order of the Mass, the Lord’s Day, and other more eminent festival days. And with a very grateful mind, we embrace the profitable and ancient ordinances, especially since they contain a discipline by which it is profitable to educate and train the people and those who are ignorant.<sup>6</sup>

Thus, denominational books of Lutheranism do not directly specify the organisation of the Church, that is, the Body of Christ.

Lutheranism in the times of Reformation did not introduce directly a new order or one model of the structure of the Church. Even Protestant theologians have a lot of difficulties while deciding on how to account for the political consequences of the teaching about Christian freedom.<sup>7</sup> The synodal idea is a long-term ramification of the evolution of the Protestant ecclesiology.

<sup>5</sup> *The Augsburg Confession* — CA, Article VII, <http://bookofconcord.org/augsburg-confession.php> (accessed 20.03.2019).

<sup>6</sup> ACA VII—VIII, 33.

<sup>7</sup> H. ASSEL: “Evangelische Freiheit als Erbe — heute” *Gdański Rocznik Ewangelicki* 6 (2012), p. 151.

## 1. Definition of synod

The word synod comes from Greek *synodos* and means ‘a meeting’ as well as ‘the conjunction of heavenly bodies’; in the Christian context, it acquired the meaning of a church congregation. From the middle of the 4th century AD, the term was used to describe the gathering of representatives of clergy and laity from a given diocese (this is a diocesan synod), metropolis (referred to as a provincial synod) or a country, that is, a plenary synod. In the Orthodox tradition, it is a permanent council of bishops acting as a superior body under the leadership of the head of a given Church bearing the dignity of a metropolitan or patriarch. In Protestant churches, the process of theological reflection on the role of the synod was a multi-stage one.

Today’s definition says that the synod is a congress of representatives of the clergy and laity under the leadership of a superintendent or bishop, being the supreme authority of the Church in a given country or region.<sup>8</sup> That is what the encyclopedic, general definition included in the multi-volume Polish encyclopedia *Religia. PWN Encyclopedia* from 2003 says.

When applied to the Evangelical Churches, this definition is largely untrue, because in most of the Churches currently active, the position of the president of the synod is separated from the position of the bishop, which is an expression of the acceptance of the structures of the division of power. The bishop, being the president of the Consistory, represents the executive and judiciary body, while the synod is a mixed structure, a legislative power of a democratic nature.

In Luther’s teaching about the Church, the theological basis for the common responsibility of the Church by clergy and laity is well-founded in the idea of the universal priesthood, known better as priesthood of all believers. The notion “priesthood of all believers” is not directly present in Luther’s programme script from 1520 *To the Christian Nobility of the German nation about the improvement of the Christian state*. We will find therein a teaching in which he claims that all baptised Christians are priests and are spiritual in the eyes of God:

That the pope or bishop anoints, makes tonsures, ordains, consecrates, or dresses differently from the laity, may make a hypocrite or an idolatrous oil-painted icon, but it in no way makes a Christian or spiritual human being. In fact, we are all consecrated priests through Baptism, as St. Peter in 1 Peter 2:9 says, “You are a royal priesthood and a

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<sup>8</sup> Entry: “Religia.” In *Encyklopedia PWN*, Vol. 9, Warszawa 2003.

priestly kingdom,” and Revelation 5:10, “Through your blood you have made us into priests and kings.”<sup>9</sup>

In another of the three programme scripts from 1520, that is, *On the Babylonian Captivity of the Church*, Luther clarifies this understanding of the Church ministry:

How then if they are forced to admit that we are all equally priests, as many of us are baptised, and thereby we truly are; why is the Ministry (*ministerium*) entrusted only to them and we consent to it (*nostro consensu*)? If they recognise this they would know that they have no right to exercise power over us (*ius imperii*, in what has not been entrusted to them) except insofar as we may have granted it to them, for thus it says in 1 Peter 2, “You are a chosen race, a royal priesthood, a priestly kingdom.” In this way, we are all priests, as many of us are Christians. There are indeed priests whom we call ministers. They are chosen from among us, and who do everything in our name. That is a priesthood which is nothing else than the Ministry.<sup>10</sup>

These two very famous quotations and many other passages from *Weimarana* were for the generations of Lutherans that followed a source of the theological basis for the responsibility of the Church. In the Protestant understanding, the idea of Synod is found also in the Bible in the description of Act 15 — it is a unity of all Christians in the Body of Christ.<sup>11</sup> The synodal thinking includes also the readiness to provide brotherly help as a sign of equality and brotherhood.

## 2. Lutheran and Reformed understanding of the Church and her authority

The restoration of the Western Church started by Martin Luther was originally intended to be a correction of the spiritual, moral, and organisational status of the ecclesial structure functioning in Western Europe at

<sup>9</sup> M. LUTHER: *An den christlichen Adel deutscher Nation von des christlichen Standes Besserung* [To the Christian nobility of the German nation about the improvement of the Christian state] (1520). WA 6, 407, 19—25.

<sup>10</sup> M. LUTHER: *De captivitate Babylonica ecclesiae praeludium* (1520), WA 6, 564, 6—11.

<sup>11</sup> R. BÄUMLIN: “Synode.” In: *Religion in Geschichte und Gegenwart*. Tübingen 1962, Bd. 6, p. 569.

the beginning of the 16th century. The implementation of the project far exceeded the imagination of its creator. As noted by the Polish researcher of Luther, Manfred Uglorz, it is highly doubtful that Luther considered himself a man called to reform the Christian Church prior to the year 1517.<sup>12</sup> Only external circumstances, that is, rejection of the postulates of reform by the Church's supreme authorities, the support of the university and brothers from the Augustinian order, the protectorate of the prince of Saxony and later the support of the city — all of this created an external framework for Luther, real opportunities for wider influence, which as a result of the interaction of several factors led to the creation of the third greatest confessional family within Christianity, Protestantism, over the course of about next fifty years.

During the Reformation, the idea of the Synod was introduced gradually. Reformers, originally assigned a leading role to the idea of the universal council, which was to lead to the reform of the entire Western Church. These ideas are expressed in the already mentioned Luther's programme text from 1520 *To the Christian Nobility of the German nation about the improvement of the Christian state*,<sup>13</sup> which is an appeal to the emperor to convene a universal council and to present the idea of the universal priesthood of all the faithful (baptised), which underlies the synodal paradigm, as well as parish assemblies of local pastors. As a result of the parish visits carried out by Luther in 1528, the Reformation faction was in favour of subordinating the clergy to secular sovereignty (the so-called *Landesherrliche Kirchenregiment*).

Because of the impossibility of calling a general council, the Reformation faction set its own criteria for a future real council,<sup>14</sup> which then forms the basis of later synodal ideas of Lutheranism. One of the basic criteria is the *sola scriptura* principle, requiring the synod to act in accordance with the provisions of the Holy Scriptures and prohibiting the formulation of new faith principles by the synod. Synods and councils are required to respect the provisions of secular authority and act within the existing law. Synods and councils of ancient Christianity should be a model for Evangelical synods.

In *Confessio Augustana* can we find not only definitions, but also a deeper description of the Church structure. This most important identity book for the Lutherans further ponders the organisational matters:

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<sup>12</sup> M. UGLORZ: *Marcin Luter. Ojciec Reformacji*. Bielsko-Biała 2006, p. 44.

<sup>13</sup> M. LUTHER: *To the Christian Nobility of the German nation about the improvement of the Christian state*, WA 6, pp. 404—469.

<sup>14</sup> IDEM: *Von Konziliis und Kirchen* (1539), WA 50, pp. 509—653.

Of Usages in the Church they teach that those ought to be observed which may be observed without sin, and which are profitable unto tranquility and good order in the Church, as particular holy days, festivals, and the like. Nevertheless, concerning such things men are admonished that consciences are not to be burdened, as though such observance was necessary to salvation. They are admonished also that human traditions instituted to propitiate God, to merit grace, and to make satisfaction for sins, are opposed to the Gospel and the doctrine of faith. Wherefore vows and traditions concerning meats and days, etc., instituted to merit grace and to make satisfaction for sins, are useless and contrary to the Gospel.<sup>15</sup>

CA XXVIII does not directly mention the only form of the Church's system and organisation, instead, it touches upon the scope of episcopal ministry:

There has been great controversy concerning the Power of Bishops, in which some have awkwardly confounded the power of the Church and the power of the sword. And from this confusion very great wars and tumults have resulted, while the Pontiffs, emboldened by the power of the Keys, not only have instituted new services and burdened *consciences* with reservation of cases and ruthless excommunications but have also undertaken to transfer the kingdoms of this world.<sup>16</sup>

It should also be emphasised that in CA there is almost nothing about synods, the word occurs once, in CA XIII, where the issue of the abolition of celibacy is discussed. The authors quote the decisions: "And so harsh was the dealing in the matter that not only were marriages forbidden for the future, but also existing marriages were torn asunder, contrary to all laws, divine and human, contrary even to the Canons themselves, made not only by the Popes but by most celebrated Synods." The synod is a representation of the Church community, not an extension of the apostolic college. These ideas emphasise the theological egalitarianism of Protestantism based on the idea of universal priesthood of all believers.

For the Swiss Reformers, Huldrych Zwingli (1484—1531) and John Calvin (1509—1564), in harmony with the teaching of the ancient Church, the synod has authority as far as their actions prove to confess the decision of the present Holy Spirit (Acts 15,28).<sup>17</sup> Thus, it means that in the Evangelical-Reformed tradition, the idea of synodic church management was formulated in official form earlier than by Lutherans.

<sup>15</sup> CA XV *Of Ecclesiastical Usages*.

<sup>16</sup> CA XXVIII *Of Ecclesiastical Power*.

<sup>17</sup> R. BÄUMLIN: "Synode"..., p. 670.

During the First Zurich Dispute in 1523, Zwingli proposed the order of synodality for Church in Zurich in reference to the ancient concept of the provincial council which was adopted for the local Church. The developed form of church management in the Calvinist tradition was formulated by John Calvin in the 1561 *Church Order of Geneva*, under which four church offices were introduced in Geneva and then in the Evangelical-Reformed Churches: pastor, doctor, the elder (priest), and deacon. Together, they form a presbytery, or congregation (parish) council, which elects its representatives to the synod, understood not as the authority or assembly of the entire church people, but as a representative congress of all offices operating in the Church.

The Paris Synod of 1559, which implemented Calvin's theological and legal ideas, also had a great impact on the development of the reformed ecclesiology. French *Confessio Gallicana* and the so-called Huguenot Church Order (*Discipline ecclesiastique*) introduced a three-stage system of synods: regional, provincial, and general.<sup>18</sup> This system was gradually adopted by other European Churches of the Reformed tradition (the Netherlands: 1566 *Confessio Belgica*; Scotland: 1560 *Confessio Scotica*, which had a powerful impact on the formation of the synodal-presbyterial system of most Reformed Churches in North America). The Reformed tradition strongly emphasises the independence of the Church and spiritual authority from the secular. The Synod in Dordrecht (1618—1619), which strengthened Calvinist science of predestination against the Armenians, was particularly important in the development of the Reformed doctrine.

In the Polish context, the first synodal structure was introduced by Protestant under the danger of the Counter-Reformation. The first form was provincial synod and later so-called General Synod of three Protestant Churches in Poland: Lutherans, Reformed, and Czech Brethren.<sup>19</sup> The latest General Synod took part in Toruń in 1595, which passed the law called *Conclusiones Synodi Generalis Toruniensis*.<sup>20</sup>

The period of the 17th and the 18th centuries in the Lutheran theology generally did not bring any new ideas or movements into the understanding of Church—Law relation as well into the organisation of the Church structure.<sup>21</sup>

<sup>18</sup> E. E. CARNIS: *Christianity through the Centuries. A history of the Christian Church*. Grand Rapid, Mich. 1981, p. 329.

<sup>19</sup> M. HINTZ, M. HUCAŁ: *Wielowymiarowość ewangelickiego prawa kościelnego. Analiza porównawcza i teologiczno-prawna*. Warszawa 2018, p. 50.

<sup>20</sup> Ibidem, p. 52.

<sup>21</sup> M. HUCAŁ: "Idea państwa świeckiego w protestantyzmie od połowy XVII do XX wieku." *Studia z Prawa Wyznaniowego* 19 (2016), p. 176.

The creation of the Evangelical-Union Church, a forced union of Lutherans and Calvinists in the Prussian state in the year 1817, whose church order introduced under the influence of Friedrich D.E. Schleiermacher's (1768—1834) idea contained “democratic tendencies” in the management of the Church, including presbytery-synod Church structure.<sup>22</sup> Schleiermacher became the first President of the *Prussian General Synod*, who did not hold any leadership role in the Church. This change faced strong resistance from the local secular rulers, which led to the postponement of the introduction of the idea of synodality until the end of the 19th century.

In the 20th century, in most Evangelical Churches, a synod is understood as the supreme legislative authority of the Church that chooses its spiritual superiors. In the Lutheran Churches established already in the 18th century in the United States, the idea of “ethnic synods” appeared, and individual local communities joined together in the so-called synods or state Churches. The process of merging individual “synods” into one American Lutheran Church concluded in 1988 with the creation of the Evangelical Lutheran Church in America (ELCA). The conservative Lutheran community in Missouri created its Church called the Lutheran Church Missouri Synod (LCMS).

### 3. The Church structure — towards the empowerment of the Evangelical synod

The management structure of a local Evangelical Church can, therefore, take the following forms: episcopalism, presbyterianism, and synodism.<sup>23</sup> Under no circumstances can papalism or caesaropapism be a form in the Evangelical ecclesiology, although mutations of the latter form have occurred in the history of the Evangelical Church. Congregationalism is characteristic ecclesial form of free Evangelical Churches, which is essentially formed as federation of independent base Churches. However, the Polish Pentecostal Church has a bishop's office.

The episcopal form of church organisation is characteristic of the Lutheran Nordic Churches, which emphasise the possession of personal apostolic succession. This is also a reference point for building an eccle-

<sup>22</sup> J. WALLMANN: *Kirchengeschichte Deutschlands seit der Reformation*. Tübingen 2012, pp. 199—202.

<sup>23</sup> H. G. PÖHLMANN: *Abriß der Dogmatik*. Gütersloh 1990, p. 323.



sial community with the Anglican Church, that is, the Episcopal Church. In 1992, the Porvoo Community was established, that is, the union of thirteen European Churches of the Anglican and Lutheran traditions.<sup>24</sup> The community's theological basis is *Porvoo Common Statement*, signed in Finland in 1992. A first Eucharistic service was celebrated in Porvoo, hence the name that became the name of this inter-Church organisation. The episcopal system, which emphasises the special role of the episcopal ministry, does not diminish the role of the synod in church management. Nowadays, the Poorvo Communion includes 15 member Churches.

The presbyterian system is essentially characteristic of the Evangelical-Reformed tradition. The reformer of Geneva, John Calvin, as it has been already mentioned, separated four church offices, entrusting elders, that is, priests, with the management of the Church and supervision of church discipline.

In modern Lutheranism, the synodic system or synodic-consistory system of the Church is of particular importance, as is the case in the Polish Lutheran Church.

#### 4. Synod as the highest authority in the Legal Provisions of Polish Evangelical Lutheran Church

The synodal system of church power, also called synodic-consistory system, along with episcopatism, is today the most well-known form of managing the Evangelical Lutheran Church. It is a sequence of the complicated long-drawn processes of democratisation of Protestant Churches in changeable political contexts.<sup>25</sup> To further complicate the said system, it should be noted that many Lutheran Churches, apart from the following two authorities: the Consistory and the Synod, also have their own bishops' conferences, which usually oversee the purity of doctrine. As mentioned above, the Scandinavian or Nordic Protestant Churches, which emphasise the possession of personal apostolic succession, for understandable reasons position the episcopal office differently than the Churches of German provenance, where for many years the role of episcopal service was marginalised. This is clearly changing now, also as a result of theological reflection in the spirit of ecumenism.

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<sup>24</sup> *Porvoo Statement*, [http://porvoocommunion.org/porvoo\\_communion/statement/the-statement-in-english](http://porvoocommunion.org/porvoo_communion/statement/the-statement-in-english) (accessed 12.11.2018).

<sup>25</sup> G. PÖHLMANN: *Abriß der Dogmatik*. Gütersloh 1990, p. 324.

In their activity, Evangelical Churches are guided primarily by the injunctions of the Holy Scriptures, and secondarily, by denominational Confessional Books, as well as other binding legal regulations and church documents. This paradigm is expressed in the reformative formula *sola scriptura*, which indicates the highest authority of the Scriptures in resolving all theological and ecclesial disputes. Depending on the confessional tradition, the role of symbolic books is greater, as in Lutheranism, or smaller, as is the case with the Reformed tradition.

The Polish Lutheran or Lutheran Church has a synodic-consistory system, the Evangelical-Reformed Church in the Republic of Poland defines its system as synodal-presbyterian. Polish Methodists belonging to the Evangelical-Methodist Church in fact belong to the world-wide structure which is the United Methodist Church (UMC), whose highest synodal body is the General Conference that meets every four years in the United States. The head of the Polish Methodists is the bishop based in Switzerland. Therefore, they accept as their own good the UMC's official moral principles and have the right, through their own synodal structure, which is the annual conference, to create their own statements following the spirit of the *Social Creed* of Methodism.

In the following analyses, I will refer primarily to the mainstream Polish Protestantism, which has been Lutheranism since the 18th century. As a matter of fact, it is the only Polish Evangelical Church with a broader social impact, although it composes a considerable percentage of the population in only two Silesian counties: Bielsko-Biała and Cieszyn.

The Polish Lutheran Church in the 16th and 17th centuries did not codify her church law, regional and provincial synods were convened locally. Polish Calvinists adopted a synodic system similar to Swiss legal solutions. In the 19th century, the Tsarist authorities imposed a consistory system on the Evangelical Churches that had developed, which gradually evolved in Polish Lutheranism towards the concept of consistory and synodality, and in Polish Calvinism towards synodic-presbytery. In the Polish legal reality, the synod in the 19th and at the beginning of the 20th century functioned as a congress of pastors with a more or less formal course, the real authority in the Church belonged to consistory.<sup>26</sup>

Special role of the Synod in church regulations is enshrined only in the act of state law which was the Decree of the President of the Republic Poland of November 25, 1936 on the State's stance towards the Evangeli-

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<sup>26</sup> J. KŁACZKOW: *Kościół Ewangelicko-Augsburski w Polsce w latach 1918—1939*. Toruń 2017, p. 16.

cal Church of the Augsburg Confession in the Republic of Poland.<sup>27</sup> Article 1(3) stated that:

The Basic Internal Law of the Evangelical Church of the Augsburg Confession in the Republic of Poland, together with the decree, creates the legal basis for the organisation of this Church.

While Article 17(1) thereof stated:

The Bishop of the Evangelical Church of the Augsburg Confession in the Republic of Poland exercises the spiritual direction of that Church. He represents the Evangelical Church of the Augsburg Confession in the Republic of Poland before the state authorities and towards other denominations and is elected for life. The Bishop is also the President of the Synod and the President of the Consistory for life.

The regulations of the Synod of the Evangelical Church of the Augsburg Confession in the Republic of Poland of December 16, 1937 supplement the quoted regulations.<sup>28</sup> This Act in Article 18 (1) defined the function of the Synod:

The synod of the Evangelical Church of the Augsburg Confession in the Republic of Poland is the supreme authority appointed to enact internal church laws as well as to decide on general matters of the Church. The synod is also the highest appellate body in church matters in cases provided for by the Basic Internal Law. The composition and competence of the Synod are also determined by the Basic Internal Law of the Augsburg Evangelical Church.

In practice, the scope of this power was limited by its work cycle, at least once every three years, but did not limit the authority of bishop.

After the Second World War, for decades of “real socialism,” the Synod of the Church could not many prerogatives. The Law of the Church was changed in 1951 and 1964 saw major changes. The collection? of the

<sup>27</sup> PREZYDENT RZECZYPOSPOLITEJ POLSKIEJ: *Dekret z dnia 25 listopada 1936 r. o stosunku Państwa do Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej*. Dz.U. z 1936 r. Nr 88, poz. 613. In: *Ewangelickie Prawo Kościelne 1918—2018. Zbiór tekstów prawnych kościołów ewangelickich w Polsce*. Eds. M. HINTZ, M. HUCAŁ. Warszawa 2018, pp. 360—362.

<sup>28</sup> *Regulamin obrad Synodu Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej z dnia 16 grudnia 1937 r.* Dz. Urz. KEA z 1938 r. Nr 1 poz. 2, 370ff. In: *Ewangelickie Prawo Kościelne 1918—2018...*

main Church Law, orders and regulations were printed first in 1972.<sup>29</sup> In the 1964 edition of *Internal Church Law*, for the first time in history, we could find the formula: “[...] the Synod is the embodiment of the Church and an exponent of all rights of this Church.”<sup>30</sup> In fact, this record had a formal significance, because to make any decisions, the Church authorities needed the approval decision of the communist state administration. The political breakthrough of 1989 also led to major changes in the internal law of the Protestant Churches in Poland.

The reform of the internal law of the Evangelical Church of the Augsburg Confession in the Republic of Poland in 1991 also resulted in deepening the ecclesiological reflection. Ecclesiology has been reformulated to emphasise the role of the diocesan superior, who in the current Protestant nomenclature used the title of senior. The 1991 Internal Church Law introduced the office of the diocesan bishop and established diocesan synods in place of previous diocesan assemblies.

The position of the synod within the Church was redefined, giving the Synod new prerogative, precisely describing it as “the personification (embodiment) of the entire Church.”<sup>31</sup>

Therein, in paragraph 55 we may find the overall description of the Synod:

1. The Synod of the Church is the supreme authority of the Church. It is the personification of the Church and the exponent of all the rights of the Church.
2. The Synod of the Church is called to enact all church laws, as well as to decide in all general matters of the Church, under this law, excluding matters of norms of faith.<sup>32</sup>

We can see that the first part of point 1 of paragraph 55 is added to the notation from 1964.

An important provision is found in paragraph 60:

- The President of the Synod of the Church, who is also the chairman of the Synod Council, elects the Synod from among clergy and lay members. The president of the Synod of the Church cannot be the bishop of the church.
3. The Synod Council during the Synod session

<sup>29</sup> *Zbiór przepisów prawnych Kościoła Ewangelicko-Augsburskiego w PRL*. Warszawa 1972.

<sup>30</sup> *Zasadnicze Prawo Wewnętrzne Kościoła Ewangelicko-Augsburskiego w PRL z dnia 26 kwietnia 1964 r.*, § 52. In: *Ewangelickie Prawo Kościelne 1918—2018...*, p. 486.

<sup>31</sup> *Zasadnicze Prawo Wewnętrzne Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej z dnia 31 maja 1991 r.* In: *Ewangelickie Prawo Kościelne 1918—2018...*, pp. 552 ff.

<sup>32</sup> *Ibidem*, p. 560.

constitutes the presidium of the Synod, and between the sessions represents the Synod and performs the tasks specified in this law and commissioned to it by the Synod of the Church.

It is a major change compared to the Church Law form 1936.

According to the current internal law adopted in 1996, with further minor changes, the Synod of the Church is the body competent to make decisions about formulating a document or position on a specific matter. The *Initial Declaration* of this Regulation underlines that the sources of faith and signs are above the synod. The internal law currently in force defines the role of the Synod in § 58:

1. The synod of the Church is the supreme authority of the Church. It is the personification of the Church and the exponent of all the rights of the Church.
2. The synod of the Church is called to enact all church laws, as well as to settle all general matters of the Church, under this Law.
3. The right included in point 2 does not apply to changes in the norms set out in the *Initial Declaration*.<sup>33</sup>

The synod, therefore, decides on all matters of the Church, except for the fundamental and doctrinal ones. The function of the synod is also to elect the leading bishop of the Church for the period of 10 years.

At this point, we have to underline that the local Lutheran Churches belong to the world community. In the case of the Lutheran and Reformed Churches, the national Church is autonomous and independent of any non-national spiritual and secular authority.<sup>34</sup> We can indicate here a certain parallelism to the Orthodox term autocephaly. Despite their autonomy, the Lutheran churches feel a strong internal bond, they are associated on a global scale in the Lutheran World Federation, which formally has been existing only since 1947, although before the Second World War there was already a global organisation of Lutheran Churches bringing together churches from Europe and Northern America. The resolutions of the LWF are not normative for the life of the Lutheran Church in Poland or in any other country, to an extent comparable with its own documents. However, disobeying truths of faith in line with the Lutheran

<sup>33</sup> *Zasadnicze Prawo Wewnętrzne Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej z dnia 26 października 1996 r. z późn. zm.* In: *Ewangelickie Prawo Kościelne 1918—2018...*, pp. 40—42.

<sup>34</sup> *Ustawa z dnia 13 maja 1994 r. o stosunku Państwa do Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej*, Dz.U. 1994, Nr 73, poz. 323. The same regulation is present in the Regulation between the Polish State and the Evangelical-Reformed Church in Republic Poland. In: *Ewangelickie Prawo Kościelne 1918—2018...*, p. 18.

tradition, and inappropriate social attitudes can result in the exclusion of the local Church from the LWF community. For the last time, such a burning issue within the global Lutheran community was the issue of racism, condoned by some Churches of southern Africa, which resulted in their removal from the LWF. Reaching consensus on a forum of a very pluralistic organisation, which is a global Federation, is a very difficult task. In recent years, however, the sense of belonging to the world community, that is, the global ecclesial structure, has increased in the member churches. It should be emphasised here that the ecumenical *Joint Declaration on the Doctrine of Justification* between the Roman Catholic Church and the Lutheran World Federation of 1999 is of great merit.

So we can say at this point that by proceeding during the Synod, and also by creating synod documents that have the rank of official statements of the Church, their creators face a very difficult task: compliance with the *sola scriptura* principle, reference to world discussion taking place on the LWF forum and attitude to legal, ethical, social, or simply political debate taking place in a given country. The synod is aware that it represents the whole Church and represents its personification and embodiment.

## Conclusions

Our analysis shows the transformation of the understanding of the synod in the history of Protestantism and its theology. The special role of the synod in modern Lutheranism was pointed out. The synod understands itself as the supreme organ of the Church's legislative power, representing the entire *communio sanctorum* in the local dimension, and finally as the embodiment of the local Church, which is part of the universal Church of Christ, whose head and pastor is Jesus Christ himself.

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*Zasadnicze Prawo Wewnętrzne Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej z dnia 31 maja 1991 r.*

*Zasadnicze Prawo Wewnętrzne Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej z dnia 26 października 1996 r. z późn. zm.*

MARCIN HINTZ

## Le Synode comme incarnation de l'Église — l'évolution de la compréhension luthérienne de la synodalité

### Résumé

Le concept de synode joue un rôle particulier dans l'ecclésiologie évangélique. Au XX<sup>ème</sup> siècle, le synode a été défini de manière radicale comme « incarnation de l'Église ». Dans la tradition évangélique, cependant, il existe des systèmes égaux de gestion de l'Église : épiscopal, synodal-consistoire, presbytérienne (principalement dans l'Église évangélique réformée) et dans une moindre mesure congrégationaliste (surtout pratiqué dans les structures de l'Église libre). La théologie de la Réforme comprend l'Église comme une communauté de saints, où l'Évangile est clairement prêché et les sacrements sont correctement administrés (la *Confession d'Augsbourg* — CA VII). Le système de l'Église n'appartient pas aux *notae ecclesiae*. Une doctrine théologique importante de la Réforme est celle du sacerdoce universel de tous les croyants, qui est le fondement théologique de l'idée de responsabilité synodale pour l'Église. Au XIX<sup>ème</sup> siècle, les synodes concernaient principalement le clergé. Au cours des processus démocratiques du XX<sup>ème</sup> siècle, la plupart des Églises évangéliques ont souligné l'importance du synode dans la gestion globale de l'Église, et l'Église luthérienne polonaise a introduit une disposition dans sa loi, selon laquelle le synode est l'incarnation de l'Église et son autorité suprême.

**Mots clés :** protestantisme, synode, Luther, ecclésiologie, droit de l'Église

MARCIN HINTZ

## SSinodo in quanto incarnazione della Chiesa — l'evoluzione dell'accezione luterana della sinodalità

### Sommario

Il concetto di sinodo svolge un ruolo speciale nell'ecclésiologia evangelica. Nel XX secolo, il sinodo è stato definito in modo radicale come "personificazione della Chiesa". Nella tradizione evangelica, tuttavia, ci sono sistemi equiparati di gestione della Chiesa: episcopale, sinodale-concistoro, presbiteriano (principalmente nella Chiesa evangelica riformata) e, in misura minore, congregazionalista (praticato soprattutto nelle strutture della chiesa libera). La teologia della Riforma intende la Chiesa come una comunità di santi in cui il Vangelo è chiaramente predicato e i sacramenti sono amministrati correttamente (*Confessione di Augsburgo* — CA VII). Il sistema della Chiesa non appar-

tiene alle cosiddette *notae ecclesiae*. Un'importante dottrina teologica della Riforma è la dottrina del sacerdozio universale di tutti i credenti, che è il fondamento teologico dell'idea di responsabilità sinodale per la Chiesa. Nel XIX secolo, i sinodi riguardavano principalmente il clero. Nel corso dei processi democratici nel XX secolo, la maggior parte delle chiese evangeliche ha sollevato l'importanza del sinodo nella gestione generale della Chiesa, e la Chiesa luterana polacca ha introdotto una disposizione nella sua legge secondo cui il sinodo è l'incarnazione della Chiesa e la sua autorità suprema.

**Parole chiave:** protestantesimo, sinodo, Lutero, ecclesiologia, diritto della Chiesa



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## Synodality — Participation — Co-Responsibility Remarks on the Determinants of the *Aggiornamento* of Church Law

**Abstract:** In the *communio Ecclesiae* reality, of a unitarian, charismatic, and institutional structure, the crucial concepts of participation and co-responsibility are firmly anchored in the juridical and canonical discourse. This is the way in which the horizon of the subject matter reveals itself, the study of which — from the point of view of the title triad: synodality — participation — co-responsibility — will never lose its relevance. What is, at the same time, important is the idea of “synodality,” which is adequately recognized as the *sacra potestas* of a sacramental origin (ontological aspect), which gains the dynamism of *libertas sacra* (existential and dynamic aspect) through the charisms of the Holy Spirit, thus leading to the inseparability of its personal and synodal aspects.

Therefore, in the attempt to illuminate the determinant of the *aggiornamento* of the Church law in this study, it was appropriate, on the one hand, to consistently refer to the essence of the idea of the *communio hierarchica*, according to which Christ makes selected servants participate in his authority by means of an office, the exercise of which always remains a *diaconia* in the community of faith. On the other hand, in reference to the contemporary understanding of *communio fidelium*, the axis of scientific reflection was to be the communion-creative phenomenon of charisms — gifts of the Holy Spirit that awaken in the People of God synodal co-responsibility for the good of the entire Church community. In both cases — without losing sight of the obvious truth that, in the sacramental structure of the Church (*communio*), both hierarchical and charismatic gifts converge in the service of the bishop, who updates — according to the logic of the Vaticanum II *aggiornamento* and the ecclesiological principles of the Council: collegiality, the title synodality and subsidiarity — the fullness of Christ’s service: as Prophet, Priest, and King.

**Keywords:** ecclesiology, *communio* principle, synodality, participation, co-responsibility, *aggiornamento* of Church law

## 1. The context of the *communio* principle

“The ecclesiology of the community (*communio*) is the central and fundamental idea of the documents of the Council”<sup>1</sup> — this is the well-known stance that was formulated in 1985 at the Extraordinary Assembly of the Synod of Bishops, which “programmatically” summarised the twenty-year period after the Second Vatican Council. It is not difficult to guess that such a categorically formulated synodal message reverberated in the circles of theologians and canonists at the time. The representative voice of the former should be associated with the opinion that was issued by the Prefect of the Congregation for the Doctrine of the Faith, Cardinal Joseph Ratzinger, who did not fail to emphasise his contribution to the promotion of this idea: a drive prevails — the future pope would claim — “to sum up conciliar ecclesiology in a basic concept: the ecclesiology of *communio*. I received this new focus of ecclesiology with joy and did my best to prepare it. [...] The word *communio* does not have a central position in the Council. But if it is properly understood it can serve as a synthesis for the essential elements of conciliar ecclesiology.”<sup>2</sup>

No less fertile ground did the Roman declaration find in the canonists’ circles, especially in the circle of Klaus Mörsdorf’s<sup>3</sup> students. One of the contemporary continuators of the thoughts of the founder of the Munich school, the former rector of Gregorian University, Gianfranco Ghirland, considers the stance of the Synod Fathers to be consistent with the teachings of Pope Paul VI, who has always seen *ius communionis*<sup>4</sup> in the Church law. According to the Italian canonist, the fact that the ecclesiology of community constitutes the basis of the order in the Church is best evidenced by the fact that Church law, in its positive and human dimension, has a redemptive value. Indeed, it can easily be defined as *ius sacrum* — the expression and instrument of implementing God’s law (revealed and natural) with all of its immanent “dynamics” of creating the development of the Church community *hic et nunc*.<sup>5</sup> How, in practice, can the potential

<sup>1</sup> SYNOD OF BISHOPS: *Second Extraordinary General Assembly: Ecclesia sub Verbo mysteria Christi celebrans pro salute mundi. Relatio finalis* [7.12.1985], II, C, 1. Enchiridion Vaticanum, 9/1800.

<sup>2</sup> J. RATZINGER: *The Ecclesiology of the Constitution of the Church, Vatican II, Lumen Gentium* [27.02.2000]. Available online at: <http://www.ewtn.com/library/curia/cdfeccl.htm> (accessed 15.12.2018).

<sup>3</sup> See e.g. O. SAIER: „*Communio*” in *der Lehre des Zweiten Vatikanischen Konzils. Eine rechtsbegriffliche Untersuchung*. München 1973.

<sup>4</sup> G. GHIRLANDA: *Introduzione al diritto ecclesiale. Lineamenti per una teologia del diritto nella Chiesa*. Roma 2013<sup>2</sup>, p. 147.

<sup>5</sup> *Ibidem*, p. 40.

of the *Ecclesia iuris*<sup>6</sup> defined in such a way be identified? Professor Ghirland's answer to this question is already signalled by the very title of the fifth and final chapter *La "communio" regola dell'organizzazione del popolo di Dio* of the well-known book *Introduzione al diritto ecclesiale...* (1993).<sup>7</sup> After the introductory section 5.1: *La comunione, un principio non espresso*, very meaningful section titles start to appear: 5.2. *Comunione dei fedeli — comunione tra le chiese*, 5.3. *Comunione ecclesiastica — comunione cattolica*, 5.4. *Comunione gerarchica*, 5.5. *Carità e comunione ecclesiale*, 5.6. *Comunione — corresponsabilità — partecipazione*. As we can see, in the *communio Ecclesiae* reality, which structure is both unitarian<sup>8</sup> and charismatic-institutional, the crucial concepts of participation and co-responsibility are firmly anchored in the juridical-canonical discourse.

It is worth risking a statement that this is the way in which the horizon of the subject matter reveals itself, the study of which — from the point of view of the title triad: synodality — participation — co-responsibility — will never lose its relevance. What is, at the same time, important is the idea of "synodality," which is adequately recognised as the *sacra potestas* of a sacramental origin (ontological aspect),<sup>9</sup> which gains the dynamism of *libertas sacra* (existential-dynamic aspect<sup>10</sup>) through the charisms of the Holy Spirit, thus leading to the inseparability of its personal and synodal aspects.<sup>11</sup> Therefore, in the attempt to illuminate the determinant of the

<sup>6</sup> Cf. A. PASTWA: "Libertas religiosa w kościelnym porządku prawnym." In: "Reddite ergo, quae sunt Caesaris, Caesari et, quae sunt Dei Deo". *Księga jubileuszowa dedykowana Księdzu Profesorowi Józefowi Krukowskiemu z okazji 50-lecia pracy naukowej*. Eds. M. SITARZ, P. STANISZ, H. STAWNIAK. Lublin 2014, pp. 180—189.

<sup>7</sup> G. GHIRLANDA: *Introduzione al diritto ecclesiale...*, pp. 147—198.

<sup>8</sup> See W. AYMANS: "Die *communio Ecclesiarum* als Gestaltgesetz der einen Kirche." *Archiv für Katholisches Kirchenrecht* 139 (1970), pp. 69—90; see also U. NAVARRETE: "Unità della 'potestas sacra' e molteplicità dei 'munera'." In: *Der Staat der Vatikanstadt, der Heilige Stuhl und die Römische Kurie*. Ed. W. SCHULZ. Frankfurt am Main 1999, pp. 361—389.

<sup>9</sup> Cf. P. KRÄMER: "Su cosa si fonda la 'potestas sacra'?" In: *Antropologia, fede e diritto ecclesiale. Atti del Simposio Internazionale sugli studi canonistici di Eugenio Corecco (Lugano, 12 novembre 1994)*. Ed. L. GEROSA. Milano 1995, pp. 45—56; see more P. KRÄMER: *Dienst und Vollmacht in der Kirche. Eine rechtstheologische Untersuchung zur Sacra Potestas-Lehre des II. Vatikanischen Konzils* [Trierer Theologisches Studien, vol. 28]. Trier 1973.

<sup>10</sup> Cf. W. AYMANS: "Kirchliche Grundrechte und Menschenrechte." *Archiv für katholisches Kirchenrecht* 149 (1980), p. 405.

<sup>11</sup> See E. CORECCO: "Sinodalità e partecipazione nell'esercizio della 'potestas sacra'." In: *Esercizio del potere e prassi della consultazione. Atti dell'VIII Colloquio internazionale romanistico-canonistico (10—12 maggio 1990)*. Eds. A. CIANI, G. DIURNI. Città del Vaticano 1991, pp. 69—89; L. GEROSA: "Vollmacht und Gemeinschaft in der Kirche." In: *Krönung oder Entwertung des Konzils? Das Verfassungsrecht der katholischen Kirche im Spiegel der Ekklesiologie des Zweiten Vatikanischen Konzils*. Eds. S. DEMEL, L. MÜLLER.

*aggiornamento* of the Church law that is undertaken here, it is appropriate, on the one hand, to consistently refer to the essence of the idea of the *communio hierarchica*, according to which Christ makes selected servants of His (especially clergyman, but not exclusively) participate in His authority by means of an office, the exercise of which always remains a *diaconia* in the community of faith. On the other hand, in reference to the contemporary understanding of *communio fidelium*, the axis of scientific reflection should be the communion-creative phenomenon of charisms — gifts of the Holy Spirit that awaken in the People of God synodal co-responsibility for the good of the entire Church community. In both cases — without losing sight of the obvious truth that in the sacramental structure of the Church (*communio*), both hierarchical and charismatic gifts converge in the service of the bishop,<sup>12</sup> who updates — according to the logic of the Vaticanum II *aggiornamento* and the ecclesiological principles of the Council: collegiality,<sup>13</sup> the title synodality and subsidiarity<sup>14</sup> — the fullness of Christ's service: as Prophet, Priest, and King (*trio munera Christi*).

## 2. *Aggiornamento* — the Christological dimension of the Church community's mission

Twenty years have passed since the publication of the famous text "The unchangeability and historicity of the law in the Church: God's law and human law,"<sup>15</sup> in which Professor Remigiusz Sobański inscribed himself intentionally<sup>16</sup> into the then open discussion of the theologians and theoreticians of the Church law. The outstanding Polish scholar joined an excellent circle of canonists who, in their scientific reflection, addressed one of the most important topics of the study of canon law in the second

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Trier 2007, pp. 39—55; L. GEROSA: "Rechtstheologische Grundlagen der Synodalität in der Kirche. Einleitende Erwägungen." In: *Iuri Canonici Promovendo. Festschrift für Heribert Schmitz*. Eds. W. AYMANS, K.-TH. GERINGER. Regensburg 1994, pp. 35—55.

<sup>12</sup> Cf. A. PASTWA: "*Sensus fidei fidelium*. Legal and Ecumenical Reflection." *Ecumeny and Law* 6 (2018), pp. 229—230.

<sup>13</sup> See G. MAZZONI: *La collegialità tra teologia e diritto canonico*. Bologna 1986.

<sup>14</sup> See P.-S. FREILING: *Das Subsidiaritätsprinzip im kirchlichen Recht* [Beihefte zum Münsterischen Kommentar, vol. 13]. Essen 1995.

<sup>15</sup> R. SOBAŃSKI: "Niezmiennosc i historycznosc prawa w Kościele: prawo Boze i prawo ludzkie." *Prawo Kanoniczne* 40 (1997) 1—2, pp. 23—44.

<sup>16</sup> *Ibidem*, p. 24.

half of the 20th century.<sup>17</sup> It is not difficult to notice that the ideological keystone of the author's reflections, which are included in the said text that shed light on the central "problem of 'God's law'"<sup>18</sup> is a still timely requirement for the renewal of Church law. What is connected with this requirement is the consistent attempt "today and tomorrow" to face the challenge of having a dynamic/concrete reception of Revelation<sup>19</sup> (in the form of data content and *hic et nunc* messages that are to be transmitted as judicial or at least as juridical<sup>20</sup>). This is all to make sure that "the new canonical legislation will prove to be an efficacious means"<sup>21</sup> of the People of God's mission, which is active undertaking of responsibility for the evangelical testimony of delivering the revealed truth. It is about a challenge — we should add — the addressee of which is the entire<sup>22</sup> Church community.

As Remigiusz Sobański accurately states, the question of understanding the legal character of God's law, namely, the creative presence of God's law in Church law, turns out to be pivotal in updating such a legal-pastoral vision of the understanding of Revelation. Apart from the affirmation of the elementary truth that this latter law — perceived according to the blueprint of the "renewal in continuity" hermeneutics — consists of changeable and unchangeable, divine and human elements,<sup>23</sup> we should also draw conclusions from the seemingly obvious and, it would seem, not really meaningful fact that the *ius divinum* carries with it an element

<sup>17</sup> See S. BERLINGÒ: "Diritto divino e diritto umano nella Chiesa." In: *Diritto "per valori" e ordinamento costituzionale della Chiesa. Giornate canonistiche di studio — Venezia, 6—7 VII 1994*. Eds. R. BERTOLINO, S. GHERRO, G. LO CASTRO. Torino 1996, pp. 87—116 (the same — in: "Il diritto ecclesiastico" 106 /1995/ I, pp. 35—65); H. PREE: "Zur Wandelbarkeit und Unwandelbarkeit des Ius Divinum." In: *Theologia et ius canonicum. Festgabe für Heribert Heinemann zur Vollendung seines 70. Lebensjahres*. Ed. H.J.F. REINHARDT. Essen 1995, pp. 111—135; I. RIEDEL-SPANGENBERGER: "Gottesrecht und Menschenrecht. Zur Legitimation, Limitation und Normierung positiven kirchlichen Rechts." In: *Theologia et ius canonicum...*, pp. 99—109.

<sup>18</sup> R. SOBAŃSKI: "Niezmiennosc i historycznosc prawa..." pp. 25—32.

<sup>19</sup> Cf. H. PREE: "Zur Wandelbarkeit und Unwandelbarkeit des Ius Divinum..." p. 123.

<sup>20</sup> R. SOBAŃSKI: "Niezmiennosc i historycznosc prawa..." p. 25.

<sup>21</sup> JOHN PAUL II: Apostolic Constitution *Sacrae disciplinae leges* [25.01.1983]. [http://w2.vatican.va/content/john-paul-ii/en/apost\\_constitutions/documents/hf\\_jp-ii\\_apc\\_25011983\\_sacrae-disciplinae-leges.html](http://w2.vatican.va/content/john-paul-ii/en/apost_constitutions/documents/hf_jp-ii_apc_25011983_sacrae-disciplinae-leges.html) (accessed 15.12.2018).

<sup>22</sup> Indeed, it is, first and foremost, the task of a pope and bishop, who through Christ's will serve as legislators, however, forgetting about the part that is played by all of the faithful would be an evident shortening of the theological and legal perspective. This will be the topic of further remarks.

<sup>23</sup> As Remigiusz Sobański notes, the problem God's law — people's law is invariably present in the history of law. The author explains: "among the idea determinants of this problem, the very understanding of law is of a paramount importance." R. SOBAŃSKI: "Niezmiennosc i historycznosc prawa..." p. 26.



of mystery.<sup>24</sup> This is an “obvious” fact only until we realise that this element of mystery, which is “anchored” in the *Trinitatis mysterium* (and consequently, in the *mysterium Ecclesiae*), determines that the *quid ius proprie divinum* problem as well as the *quid ius proprie humanum* cannot be solved universally, “once and for all.” Therefore, instead of taking the view (still representative in the 1960s<sup>25</sup>) that the reservoir of faith contains legal norms that simply need to be read, understood, defined, and communicated without reflection, it is appropriate, when reflecting upon the phenomenon of Church law (and God’s law that is contained in it), to consider at least three premises in the name of conciliar fidelity to the Council’s *aggiornamento*: (1) the ecclesiological premise: in the Church-mystery, the visible element, together with the law of which it is composed, is an operative sign and expression of grace (“social incorporation of grace”<sup>26</sup>); (2) the Christological premise: in every attempt to illuminate the process of transforming the revealed truth into law, only faith offers protection against its static, positivist understanding; faith which in Jesus Christ sees the Giver of *ius divinum*,<sup>27</sup> and (3) the anthropological (personalistic) premise: since Christ’s revelation of the truth about the human person is the main reference point of what the Church perceives to be God’s law,<sup>28</sup> the affirmation of the *salus animarum*, the systemic principle of all legislation, means that the finalism of *ius Ecclesiae*, which is defined in this way, is the fundamental vector for any identification of the *hic et nunc* content: both subjective rights and the welfare of individuals as well as the welfare of society as a whole.<sup>29</sup>

It is safe to argue that in the face of the fundamental question of *quid ius*,<sup>30</sup> all three premises — including the fundamental principle of the Church juridical order *salus animarum* — refer us to the common good as understood personalistically.<sup>31</sup> Its reading, if we are to use the highly

<sup>24</sup> R. BERTOLINO: *Il nuovo diritto ecclesiale tra coscienza dell'uomo e istituzione. Saggi di diritto costituzionale canonico*. Torino 1989, p. 14.

<sup>25</sup> See e.g. G. MAY: “Die Kontinuität im kanonischen Recht.” *Archiv für katholisches Kirchenrecht* 135 (1966), pp. 52—92.

<sup>26</sup> R. SOBAŃSKI: “Niezmiennosc i historycznosc prawa...,” p. 42.

<sup>27</sup> Cf. *ibidem*, p. 43.

<sup>28</sup> Cf. *ibidem*, p. 28.

<sup>29</sup> Cf. Z. GROCHOLEWSKI: “Specyfika prawa Kościoła katolickiego. Referat wygłoszony z okazji otrzymania tytułu doktora honoris causa Uniwersytetu im. Adama Mickiewicza w Poznaniu, dnia 7 maja 2004.” *Poznańskie Studia Teologiczne* 17 (2004), p. 26. “The objective of canon law is [...] to create special conditions and to guarantee the necessary help to make sure man can achieve his goal in the eternal perspective.” *Ibidem*.

<sup>30</sup> See T. GAŁKOWSKI: *Il “quid ius” nella realtà umana e nella Chiesa*. Roma 1996.

<sup>31</sup> We do not really need to prove that while redemption is a transcendent goal, the earthly goal, which is defined by the *salus animarum* principle, is to build a divine-

instructive teachings of the popes, the theologian of law Paul VI<sup>32</sup> and the philosopher of law John Paul II,<sup>33</sup> determines two complementary perspectives. The first one, which responds to the contemporary understanding of law as an order of freedom<sup>34</sup> and an instrument for the promotion of human rights, places the original legal system based on a new (renewed by Christ) justice<sup>35</sup> as the centre of attention — with a clear message, addressed primarily to shepherds, united in *communio hierarchica*: building within the framework of pastoral care (*cura pastoralis*)<sup>36</sup> the bonds of solidarity and community.<sup>37</sup>

The second perspective, on the other hand, tells us to take the paradigm of the Church as our starting point — the sacramental-charismatic *communio fidelium*, the common good of which is the law, which is perceived as the order of sanctification, coupled with the mission (*missio*)<sup>38</sup>

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human *communio*. Hence, the common good occupies a primary place in the juridical thought of the Church

<sup>32</sup> Cf. M. GRAULICH: *Unterwegs zu einer Theologie des Kirchenrechts: die Grundlegung des Rechts bei Gottlieb Söhngen (1892—1971) und die Konzepte der neueren Kirchenrechtswissenschaft*. Paderborn—München—Wien—Zürich 2006, pp. 196—209; see also R. MARANGONI: *La Chiesa, mistero di comunione. Il contributo di Paolo VI nell'elaborazione dell'ecclesiologia di comunione (1963—1978)*. Roma 2001.

<sup>33</sup> See Z. GROCHOLEWSKI: *La filosofia del diritto di Giovanni Paolo II*. Roma 2002.

<sup>34</sup> Cf. A. PASTWA: “The Law of the Church — the Law of Freedom.” *Ecumeny and Law* 4 (2016), pp. 105—125.

<sup>35</sup> Cf. A. PASTWA: „Przymierze miłości małżeńskiej”. *Jana Pawła II idea małżeństwa kanonicznego*. Katowice 2009, pp. 205—208.

<sup>36</sup> “Beim II. Vatikanischen Konzil greift man auf die genuin theologische und pastorale Bedeutung der Diözese zurück und bestimmt diese als eine Gemeinde von Gläubigen, zu der ein bestimmter Kreis des Gottesvolkes gehört, dessen Bestimmung (determinatio) davon abhängt, dass die höchste kirchliche Autorität der *cura pastoralis* eines Bischofs einen Kreis von Gläubigen zuweist, d. h. anvertraut. Diese Gläubigen sind auf einen Diözesanbischof hingeeordnet, dem unmittelbar in der Nachfolge der Sendung und Vollmacht des Zwölferkreises der Apostel die Gläubigen zum persönlichen und primär pastoralen Dienst (*munus pastorale*) mit der dazu notwendigen geistlichen Vollmacht (*sacra potestas*) zur Hirtensorge (*cura pastoralis*) anvertraut sind. Die spezifische Bestimmung und Aufgabe der Diözesanbischöfe ist es, für die ihm anvertrauten Gläubigen, durch Verkündigung (*munus docendi*), Heiligung (*munus sanctificandi*) und Leitung (*munus regendi*), d. h. für alle diese drei Bereiche (*tria munera*) zusammen, das umfassende “*munus pastorale*“ (= *cura pastoralis* bzw. *plena cura animarum*) auszuüben.” I. RIEDEL-SPANGENBERGER: “Ortskirche oder Teilkirche? Das vom Bischof geleitete Volk Gottes der Diözese.” In: *Rechtskultur in der Diözese. Grundlagen und Perspektiven*. Ed. EADEM. Freiburg im Breisgau 2006, pp. 17—18.

<sup>37</sup> JOHN PAUL II: *Allocutio ad Rotae Romanae Praelatos, auditores, officiales et advocatos anno iudiciali ineunte* [18.01.1990]. AAS 82 (1990), p. 874, n. 4.

<sup>38</sup> “Die Sendung Jesu Christi (*missio divina*), die er den Aposteln anvertraut hat (*missio apostolica*) lebt in der Kirche fort und stellt die Grundlage dafür dar, dass die Kirche ‘Zeichen und Werkzeug für die innigste Vereinigung mit Gott wie für die Einheit der

that was entrusted to the Church. Inspired by the Holy Spirit, the whole priestly People of God and their individual members are called, in accordance with the principles of co-responsibility and co-participation, to build the Body of Christ through the living testimony of faith and active participation in the expansion and strengthening of the grace of redemption.

We are permitted to ask what the potential of the *aggiornamento* is — the renewal of the Church law — in the context of the much-desired dynamics of the realisation of the personal common good *in communionem*, in which the aforementioned optics of the perception of the *ius Ecclesiae* are hidden.

The first perspective is defined by the pastoral service of the Church legislator (*munus legislatoris*) for the People of God that is carried out in a hierarchical community.<sup>39</sup> The will of the Highest Legislator is the catalyst for renewal: “bringing into reality the order of intra-ecclesial justice willed by Christ himself.”<sup>40</sup> The “revitalised” (optimally: with the implementation of the instruments of synodal participation) segments of the original juridical system in the legislative service of shepherd will always refer to the *novum* of a redemptive perspective, which is about the higher justice that is embedded in the Triune God and as such has been revealed by Christ, with Christ and in Christ and which goes far beyond the concept of “purely human” justice — the work of the genius of humanistic thought that is present in Greek philosophy and Roman law with the fundamental principle: *suum cuique tribuere*.<sup>41</sup> What is worth emphasising is that evangelical justice demands more than mere respect for the law in intersubjective relationships.

Since we must remember, as Paul VI explained in his famous speech at the Second International Congress of Canon Law in Rome in 1973,<sup>42</sup> that the rights and obligations of the followers have their supernatural source in the relationship of God (the Trinity of the Divine Persons) to man (the person endowed with the dignity and freedom of the child of

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ganzen Menschheit’ sein kann. Jeder Gläubige ist auf Grund von Taufe und Firmung entsprechend seinem Stand dazu berufen, an der Erfüllung dieser Sendung mitzuarbeiten.” M. GRAULICH: “Hirtensorge in umfassender Verantwortung. Dienst des Diözesanbischofs in Verkündigung, Heiligung und Leitung.” In: *Rechtskultur in der Diözese...*, p. 163.

<sup>39</sup> Cf. VATICAN COUNCIL II: Dogmatic Constitution on the Church *Lumen gentium* [21.11.1964], n. 21.

<sup>40</sup> JOHN PAUL II: *Allocutio ad Rotae Romanae Praelatos, auditores, officiales et advocatos anno iudiciali ineunte* [18.01.1990], p. 874, n. 4.

<sup>41</sup> Ulpian defines justice in the following way: *Iustitia est constans et perpetua voluntas ius suum cuique tribuens*. D,1,1,10.

<sup>42</sup> PAUL VI: *Allocutio. Iis qui interfuerunt II Congressui Associationis Internationalis Canonistarum Mediolani habito* [17.09.1973]. *Communicationes* 5 (1973), pp. 125—130.

God) and in such a constitutionalised order of the structures of justice,<sup>43</sup> they remain in the service of redemption, in the service of the common good and in the service of the *salus animarum*.<sup>44</sup> In the Church's legal system, there is, therefore, no place for a utilitarian (individualistic rather than truly personalistic<sup>45</sup>) exercise of rights and freedoms, the defence of particular interests and the ignorance of the rights/good of others.<sup>46</sup> The essence of the realisation of the *christianae iustitiae* is to build a community of believers in which everyone recognises themselves as brothers and sisters, children of one God.<sup>47</sup>

Evangelical righteousness, which is the revelation of the redemptive righteousness-love of God, leads the members of the Mystical Body of Christ to unity. The dynamics of this process — the justification and gift *per Christum et cum Christo et in Christo* — is governed by the rules of communion and solidarity.

This *ius Ecclesiae* vision is complemented by John Paul II, who was the author of valuable depictions of the *Veritatis splendor* encyclical to show the applications of the Christological paradigm.<sup>48</sup> In his 1994 Address to the Roman Rota, the Pope, when referring to the teaching of this longest-prepared, and perhaps, most important document of his pontificate, emphasises the close relationship between *splendor veritatis* and *splendor iustitiae*, and what is also important, refers this regularity to the entire

<sup>43</sup> Ibidem, p. 124, n. 1.

<sup>44</sup> “I diritti e i doveri nella Chiesa hanno un'indole soprannaturale: se la Chiesa è un disegno divino — Ecclesia de Trinitate — le sue istituzioni, pur perfettibili, devono essere stabilite al fine di comunicare la grazia divina e favorire, secondo i doni e la missione di ciascuno, il bene dei fedeli, scopo essenziale della Chiesa. Tale scopo sociale, la salvezza delle anime, la ‘salus animarum’, resta lo scopo supremo delle istituzioni, del diritto, delle leggi. Il bene comune della Chiesa raggiunge perciò un mistero divino, quello della vita della grazia, che tutti i cristiani, chiamati ad essere figli di Dio, vivono nella partecipazione alla vita trinitaria: Ecclesia in Trinitate. In questo senso il Concilio Vaticano II ha parlato della Chiesa anche come ‘comunione’ (Cfr. *Lumen Gentium*, 4, 9, 13, etc.), ponendo così in luce il fondamento spirituale del Diritto nella Chiesa e la sua ordinazione alla salvezza dell'uomo: sicché il Diritto diventa Diritto di carità in questa struttura di comunione e di grazia per tutto intero il Corpo ecclesiale.” Ibidem, pp. 126—127, n. 2.

<sup>45</sup> JOHN PAUL II: *Letter to Families “Gratissimam Sane”* [2.02.1994], n. 14.

<sup>46</sup> CIC 1983, can. 223: “In exercising their rights, Christ's faithful, both individually and in associations, must take account of the common good of the Church, as well as the rights of others and their own duties to others (§ 1). Ecclesiastical authority is entitled to regulate, in view of the common good, the exercise of rights which are proper to Christ's faithful (§ 2).”

<sup>47</sup> See PAUL VI: *Allocutio ad Tribunalis Sacrae Romanae Rotae Decanum, Praelatos Auditores, Officiales et Advocatos, novo Litibus Iudicandis ineunte anno, de protectione iustitiae perfectiore reddenda* [4.02.1977]. AAS 69 (1977), pp. 147—153.

<sup>48</sup> JOHN PAUL II: *Encyclical letter “Veritatis splendor”* [6.08.1993].

Church legal order.<sup>49</sup> What, in fact, is this original appendix to the theology of ecclesiastical law by the great teacher of personalism?<sup>50</sup> Based on the synthesis of the said magisterial presentation, in the *Catechism of the Catholic Church*, on the virtue of justice — as one which “disposes one to respect the rights of each and to establish in human relationships the harmony that promotes equity with regard to persons and [realisation of — A.P.] the common good”<sup>51</sup> — then in this very context the *in caritate*<sup>52</sup> rule of the continuous updating of truth reveals its legal profile to the fullest. This *ius Ecclesiae* axiom, which is immanent in the system, constitutes invariably — yesterday and today — the only durable foundation on which personal, family, and social life is based.”<sup>53</sup>

This is how the previously mentioned thesis of Remigiusz Sobański is verified. The repeatedly undertaken reflection of the Shepherds of the Church on the “shape” of the *ius divinum ius ecclesiasticum* relationship in connection with the realisation of the *munus legislatoris*: in the service of the people of God who are under their pastoral care (*cura pastoralis in caritatis*),<sup>54</sup> should mean a constant confrontation with the question: How the truth that Church law in communication with different (synchronically and diachronically) juridical cultures should never lose its own *proprium*, but should faithfully expose it is to be understood?<sup>55</sup> The hint from the eminent canonist is thought-provoking: “Between Passover and *parousia*, in other words, in the time during which Jesus Christ is the centre, fullness and ordering principle, this fidelity is the *aggiornamento*, that is, making the Church ‘contemporary’ as the leavening of this world. This renewal is a continuous task and the Church community is committed to a lasting renewal of fidelity to its origins and mission, taking into account the changing social and cultural circumstances in which the Church has to act.”<sup>56</sup>

<sup>49</sup> JOHN PAUL II: *Allocutio Summi Pontificis ad Iudices, Administros Advocatosque Rotae Romanae coram admissos* [28.01.1994]. AAS 86 (1994), p. 948, n. 2.

<sup>50</sup> Cf. A. PASTWA: „Przymierze miłości małżeńskiej”..., pp. 21—110.

<sup>51</sup> *Catechism of the Catholic Church* [11.10.1992], n. 1807. Available online at: [http://www.vatican.va/archive/ENG0015/\\_INDEX.HTM](http://www.vatican.va/archive/ENG0015/_INDEX.HTM) (accessed 15.12.2018).

<sup>52</sup> JOHN PAUL II: *Allocutio Summi Pontificis ad Iudices, Administros Advocatosque Rotae Romanae coram admissos* [28.01.1994], pp. 948—949, n. 2—3; see G. GHIRLANDA: “La carità come principio giuridico fondamentale costitutivo del diritto Ecclesiale.” *La Civiltà Cattolica* 128 (1977), II, pp. 454—471.

<sup>53</sup> JOHN PAUL II: *Allocutio ad Rotae Romanae Praelatos, auditores, officiales et advocatos anno iudiciali ineunte* [18.01.1990], p. 875, n. 5.

<sup>54</sup> M. WIJLENS: “Gesetzgebung für das Volk Gottes. Vollmacht und Auftrag des Diözesanbischofs.” In: *Rechtskultur in der Diözese...*, pp. 258—268.

<sup>55</sup> R. SOBAŃSKI: “Niezmiennosc i historycznosc prawa...,” p. 42.

<sup>56</sup> *Ibidem*, p. 44.

### 3. *Aggiornamento* — the pneumatological dimension of the Church community's mission

Is canon law synodal law? — this rhetorical question, which Professor Libero Gerosa<sup>57</sup> introduced to the canonist debate in 1994, can be treated as a kind of scholarly manifesto — an appeal to promote the idea of *ius communionis* in the entire Church. It was then — just like today — about making sure that the shape of the law-making processes in the Church is determined by the specificity (*proprium*) of Church law — with the immanently inscribed renewal potential in it, thereby making the Church “contemporary,” according to the principle of the *Sacrae disciplinae leges* Constitution: “fidelity in newness and of newness in fidelity.”<sup>58</sup> This was the vision of *ius Ecclesiae* that John XXIII observed when he announced the convening of the Roman Synod and the Second Vatican Council in 1959, when, as is written in the *Praefatio* to the Code of Canon Law (1983), the Pope “declared that these events would inevitably be preparation for the renewal of [the said collection — A.P.]”<sup>59</sup> This view of the *Canones* is represented by the final fragment of the *Praefatio*, which is worth quoting *in extenso*: “If, however, because of the too rapid changes in contemporary human society, certain things have already become less perfect at the time of the law making and will consequently require a new revision, the Church is equipped with such a strength that, as in the past centuries, it will be able to find a way to renew the law of its own life.”<sup>60</sup> It is worth emphasising, once again, that the aim here is the task of the whole Church community “here and now”: faithfulness to God’s law in the face of the changing signs of the time<sup>61</sup>; faithfulness that is based, above all, on the sense of faith (*sensus fidei*), which is awakened and sustained by the Holy Spirit, faithfulness without which the Church would lose its identity.<sup>62</sup> Already at this point, we can see the important role that the integral reception of the Council’s ecclesiology has to play in understanding the meaning of the systematic revision/revitalisation of the norms of the *ius communionis* in the name of a more complete updating of the person-centric common good (*salus animarum*).

<sup>57</sup> L. GEROSA: “Rechtstheologische Grundlagen Synodalität...,” p. 202.

<sup>58</sup> JOHN PAUL II: *Apostolic Constitution “Sacrae disciplinae leges”* [25.01.1983].

<sup>59</sup> JOHN PAUL II: *Codex Iuris Canonici. Praefatio*. AAS 75 (1983) II, p. XIX.

<sup>60</sup> *Ibidem*, p. XXX.

<sup>61</sup> Cf. INTERNATIONAL THEOLOGICAL COMMISSION: *Theology today: perspectives, principles and criteria* (2011), nn. 51—58 — [http://www.vatican.va/roman\\_curia/congregations/cfaith/cti\\_documents/rc\\_cti\\_doc\\_20111129\\_teologia-oggi\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_cti_doc_20111129_teologia-oggi_en.html) [accessed: 15.12.2018].

<sup>62</sup> R. SOBAŃSKI: “Niezmiennosc i historycznosc prawa...,” p. 44.



If today, half a century after Vaticanum II, the statement that this “renewed” reflection on the current canonical regulations — whether in terms of their praxeological compatibility and functional interrelationships or in the no less important sphere of the subjective reception of law — should not be separated from the ecclesiological foundation, seems to be a truism, then a reminder in the context of the title *aggiornamento* that this foundation consists of — equally relevant (!) — Christological and pneumatological elements, turns out to be a perception of a special significance.

This issue has been categorically worded by Sabine Demel in the famous *memento*<sup>63</sup> about “new accents”<sup>64</sup> of the Council’s magisterium on the common priesthood and the *sensus fidei fidelium*, still underestimated and awaiting proper resonance in the Church’s *praxis*. The German canonist is right when she combines this ecclesiological paradigm — rightly associated with the emphasis on the pneumatological aspects of the Church as well as the Christological aspects in the most important document of the Council, the dogmatic constitution *Lumen gentium* — with the leading conciliar idea of a common priesthood of all the faithful. This is due, on the one hand, to the presentation of the role of the Holy Spirit that gives extraordinary and ordinary charismatic gifts (alongside hierarchical gifts), and, on the other hand, to the presentation of the dynamics of the testimony of the faith of the people of God, who are permanently “open” to the influence of the Spirit and the “signs of the time.” Indeed, it is only the reference to the model of the Church of the “People of God,”<sup>65</sup> strongly emphasised in *Lumen gentium*, and the related idea of the *sensus fidei fidelium* and of the equality of all of the faithful, that provides an opportunity for the proper inter-

<sup>63</sup> Such is the character of the text included in *Herder Korrespondenz* — S. DEMEL: “Rechtstheologische Grundlagen Dringender Handlungsbedarf.” *Der Glaubenssinn des Gottesvolkes und seine rechtliche Umsetzung. Herder Korrespondenz* 58 (2004), pp. 618—623.

<sup>64</sup> S. DEMEL: *Mitmachen — Mitreden — Mitbestimmen. Grundlagen, Möglichkeiten und Grenzen in der katholischen Kirche*. Regensburg 2001, pp. 19—28.

<sup>65</sup> See J. RATZINGER: *The Ecclesiology of the Constitution of the Church...* Indeed, the statement which suggests that under the name “People of God” the leading model of the Church is hidden is just. That is how the second chapter of the mentioned *Dogmatic Constitution on the Church* is entitled (nn. 9—17). Following the Constitution, the same title was given to the II book of the Code of Canon Law. We need to bear in mind that if the conciliar models of Church-mystery serve partial (from some point of view) understanding of her nature, then when taken into consideration together they help to bring the mystery nearer. Therefore, what is necessary in a theological and legal-canonical considerations is the juxtaposition of three models: “People of God,” “Mystical Body of Christ,” and “Fundamental Sacrament” with the *communion* principle. Cf. Z. GROCHOLEWSKI: *Specyfika prawa Kościoła katolickiego...*, p. 29.



pretation of the sense of synodality. For the sake of clarity, it is about the synodal exercise of the *potestas sacra* within *tria munera Christi*, which is no different than with the implementation of a renewed ecclesiological thought. In the light of the latter, the common priesthood of all of the faithful is ontically and functionally superior to the ministerial priesthood of the ordained.<sup>66</sup>

The logic of the adopted assumptions — which is important to mention — suggests a way to relieve the tension in the Church and in its law between the “sphere” of community (here: protection of the community of faith, especially the authenticity of the means of redemption: word and sacrament) and the “sphere” of the individual (here: protection of the implementation of subjective laws)<sup>67</sup> — by adding value to the synodal dimension of the Church: the pneumatological-charismatic dimension, which is on par with the Christological-hierarchical dimension that still dominates the ontical-structural depictions of *Ecclesiae et ius Ecclesiae*. The two equally fundamental and ecclesiological inseparable dimensions require equal theological-pastoral and juridical-pastoral applications.<sup>68</sup>

The suggested comments open a wider horizon for the practice of law, that is, they display the basis for its creation, interpretation, application, and observance. Indeed, the rule that at none of the mentioned stages of the legal practice of the Church can the *modus iuridicus* break away from its theological base is fully valid. Consequently, if in the Church-mystery the norms of law are to motivate the ecclesiological recognised goal of building a community that is a sign and realisation of redemption, then the previously indicated correctness acquires a crucial meaning. The point is that *ius divinum* should really shape, in the spirit of the *aggiornamento*, the juridical system of a given community, namely, that the particular pro-

<sup>66</sup> Cf. E. CORECCO: “Sinodalità e partecipazione...,” p. 85. “Die Frage, die gestellt werden muss, lautet: [...] Ist die Hierarchie Grundlage der Gemeinschaft, so dass Gemeinschaft aus der Verbundenheit mit der Hierarchie und damit aus einem Rechtsverhältnis besteht? Oder ist die Gemeinschaft Grundlage der Hierarchie, so dass Hierarchie in der der Gemeinschaft eine Funktion erfüllt: sie steht in ihrem Dienst. Diese Alternative ist kein akademisches Problem. Im einen Fall steht die Hierarchie über allem, im anderen bildet sie einen Teil des Ganzen. *Lumen gentium* ist in Aufbau und Aussage eindeutig. Die Hierarchie ist Teil des Volkes Gottes und leistet in ihm ihren Dienst.” E. KLINGER: “Die dogmatische Konstitution über die Kirche *Lumen gentium*.” In: *Vierzig Jahre II. Vatikanum. Zur Wirkungsgeschichte der Konzilstexte*. Eds. F.X. BISCHOF, S. LEIMGRUBER. Würzburg 2004, p. 89.

<sup>67</sup> Cf. R. SOBAŃSKI: “Omnis institutio ecclesiasticarum legum ad salutem referenda sit animarum. Uwagi o zbawieniu dusz jako celu prawa kościelnego.” *Ateneum Kapłańskie* 134 (2000), pp. 212—213.

<sup>68</sup> S. DEMEL: “Dringender Handlungsbedarf...,” p. 619.

visions of this system should grow out of faith, serve the practice of faith, and as such, always express the rule of life of the Church community. Only faithfulness to such theological-legal assumptions on the part of a shepherd-legislator, and more broadly, of all of the members of the *communio fidelium* (e.g. the diocese), guarantees the protection of the law of the community against the danger of unconscious inertia or even deliberate omissions/deficiencies in the fulfillment of the title duty — the acceptance of the static shape of the legislation (as the “custodian” of fossilised structures) and/or its positivist deformation.

At this point, we can already ask about the personal source of the renewal of this law, which brings the richness of the original *proprium* into the universe legal culture, the law, the essence of which is the law of God. It is not difficult to guess that the dynamic assistance of the Holy Spirit constantly inspires priestly people to ensure that, owing to the sense of the faith of the whole people of God (*sensus fidei fidelium*),<sup>69</sup> not only the Shepherds of the Church, but also all of the faithful express common concern and feel co-responsible for the shape of the *ius communionis*. Saint Thomas Aquinas called the law of the New Covenant the gift of the grace of the Holy Spirit to the faithful.<sup>70</sup> That is why Rinaldo Bertolino<sup>71</sup> and Remigiusz Sobański<sup>72</sup> are right when they connect the renewal of the law of the community, which is manifested in the full systemic interiorisation of the three greatest gifts-charisms: faith, hope, and love, with the Third Divine Person.

As the latter canonist rightly notes, if we assume the continuity of the *aggiornamento* processes that are inspired by the Holy Spirit: transformative and concretising, then in such an approach, and consistently: the (re)formation of the Church’s legislation, the canon code and its equivalents in the particular law will manifest themselves not only as *ordinatio fidei* and *ordinatio caritatis*, but also as *ordinatio spei*, on the condition, however, that all of the people of the God remain faithful to the already revealed and continuously revealed will of the Saviour, who live in the hope that they will actively observe God’s law and its absolute continuity throughout the history.<sup>73</sup>

<sup>69</sup> Cf. A. PASTWA: “*Sensus fidei fidelium...*,” pp. 235—236.

<sup>70</sup> Cf. STh I—II, q. 106, a. 1.

<sup>71</sup> R. BERTOLINO: “*Sensus fidei*, Charismen und Recht im Volk Gottes.” *Archiv für katholisches Kirchenrecht* 163 (1994), pp. 28—72.

<sup>72</sup> R. SOBAŃSKI: “Charisma et norma canonica.” In: *Ius in vita et in missione Ecclesiae. Acta symposii internationalis Iuris Canonici occurrente X anniversario promulgationis Codicis Iuris Canonici diebus 19—24 aprilis 1993 in Civitate Vaticana celebrati*. Città del Vaticano 1994, 75—90.

<sup>73</sup> R. SOBAŃSKI: “Niezmiennność i historyczność prawa...,” p. 43; cf. R. BERTOLINO: “*Sensus fidei*, Charismen und Recht ...,” p. 43.

## Final remarks

“Led by the Holy Spirit, Mother Church unceasingly exhorts her sons to purify and renew themselves so that the sign of Christ can shine more brightly on the face of the Church”<sup>74</sup> — in such a way, in a graceful synthesis, the Council Fathers “define” the process of the *aggiornamento* of the Church community (*communio*) and its law (*ius communionis*), which continuously takes place in the Holy Spirit; a process, the dynamics and profile of which — synodal participation and co-responsibility — are determined by the dynamism of evangelisation. The fact that this is a universal mission (*ad extra*) is already testimony to the “renewing” way of the Church’s presence in the world, including the dynamic shape of its legal culture (among others, under the influence of other juridical cultures). The commentary contained in the *Gaudium et spes* Constitution leaves no room for doubt: “For, from the beginning of her history [the Church — A.P.] has learned to express the message of Christ with the help of the ideas and terminology of various philosophers, and has tried to clarify it with their wisdom, too. Her purpose has been to adapt the Gospel to the grasp of all as well as to the needs of the learned, insofar as such was appropriate.”<sup>75</sup>

In such a mission of the entire Church and the task of a specific Church community to give *hic et nunc* testimony about “the power and truth of the Christian message,”<sup>76</sup> the determinant of adequate contemporary ecclesiology, the principle of “the salvation of souls the supreme law,” plays a role that cannot be overestimated. It determines the *telos* of all of the contemporary activity of the Church, including the practice of law, from its enactment and interpretation to its observance and application. The meaning of the renewal of the Church norms (and institutions) is based on promoting the idea of human dignity, its vocation and eternal destiny, adapted to the environment, or on the creation of conditions for the authentic, synodal realisation of the common good — in a word, this implies the basic principle of the Church law *salus animarum* (systemic quintessence of *ius divinum*). In fact, as the first of the ten principles of the renewal of the Code of Canon Law, which was adopted at the Synod of Bishops in 1967, states, it is important “that [all — A.P.] faithful in

<sup>74</sup> VATICAN COUNCIL II: Pastoral Constitution on the Church *Gaudium et spes* [7.12.1965] [further: GS], n. 43.

<sup>75</sup> GS, n. 44.

<sup>76</sup> GS, n. 43.

the Christian life should become partakers of the goods offered by the Church, which lead them to eternal redemption.”<sup>77</sup>

<sup>77</sup> PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNOSCENDO: “Principia quae Codicis Iuris Canonici recognitionem dirigant.” *Communicationes* 2 (1969), p. 77.

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ANDRZEJ PASTWA

## Synodalité — participation — responsabilité partagée Observations sur les déterminants de l’aggiornamento du droit ecclésiastique

### Résumé

Dans la réalité de la *communio Ecclesiae*, qui se caractérise par une structure charismatique et institutionnelle unitaire, les concepts de participation et de responsabilité partagée — essentiels dans le discours juridique et canonique — sont fortement ancrés. C’est ainsi que se dévoile l’horizon de la problématique, dont l’étude — en termes de triade parue dans l’intitulé: synodalité — participation — responsabilité partagée — ne perdra jamais de sa pertinence. Surtout, l’idée de «synodalité» — convenablement reconnue comme *sacra potestas* d’origine sacramentelle (aspect ontologique), gagnant le dynamisme de *libertas sacra* grâce aux charismes du Saint-Esprit (aspect existentiel-dynamique) — conduit à l’inséparabilité de ses aspects: personnel et synodal.

Ainsi, dans la tentative d’éclairer le déterminant de l’«aggiornamento» de la loi ecclésiastique, il était convenable, d’une part, de se référer systématiquement à l’essence de l’idée de *communio hierarchica*, selon laquelle le Christ fait des serviteurs choisis participants à son pouvoir par une fonction dont l’exécution reste toujours une *diaconie* dans la communauté de foi; d’autre part, en référence à la compréhension contemporaine de



*communio fidelium* — l'axe de la réflexion scientifique devrait être le phénomène des charismes lié à la communion et à la création — ces dons de l'Esprit Saint, suscitant chez les prêtres la responsabilité partagée et synodale pour le bien de toute la communauté ecclésiale. Dans les deux cas — sans perdre de vue la vérité évidente que dans la structure sacramentelle de l'Église (*communio*) les dons hiérarchiques et charismatiques coïncident dans le ministère de l'évêque qui actualise — conformément à la logique de l'*aggiornamento* de Vatican II et aux principes ecclésiologiques: la collégialité, la synodalité et la subsidiarité — la plénitude du ministère du Christ: Prophète, Prêtre et Roi.

**Mots clés:** ecclésiologie, principe de *communio*, synodalité, participation, responsabilité partagée, *aggiornamento* du droit ecclésiastique

ANDRZEJ PASTWA

## Sinodalità – partecipazione – responsabilità condivisa Osservazioni sulle determinanti dell'aggiornamento del diritto ecclesiastico

### Sommario

Nella realtà della *communio Ecclesiae*, che si caratterizza per una struttura carismatica e istituzionale unitaria, i concetti di partecipazione e di responsabilità condivisa — essenziali nel discorso giuridico e canonico, sono fortemente ancorati. Si svela così l'orizzonte della questione, il cui studio — nei termini della triade apparsa nel titolo: sinodalità — partecipazione — responsabilità condivisa — non perderà mai la sua rilevanza. È importante sottolineare che l'idea di "sinodalità" — adeguatamente riconosciuta come *sacra potestas* di origine sacramentale (aspetto ontologico), guadagnando il dinamismo di *libertas sacra* grazie ai carismi dello Spirito Santo (aspetto esistenziale e dinamico) — conduce all'inseparabilità dei suoi aspetti: personale e sinodale.

Pertanto, nel tentativo compiuto in questo studio di illuminare le determinanti dell' "aggiornamento" del diritto ecclesiastico, è stato opportuno, da un lato, riferirsi sistematicamente all'essenza dell'idea di *communio hierarchica*, secondo la quale Cristo rende i servi eletti partecipi del suo potere mediante un ufficio il cui adempimento resta sempre una *diaconia* nella comunità di fede; d'altra parte, in riferimento alla concezione contemporanea di *communio fidelium* — asse della riflessione scientifica dovrebbe essere il fenomeno dei carismi collegato con la comunione e la creazione — questi doni dello Spirito Santo, suscitando la responsabilità condivisa e sinodale per il bene dell'intera comunità ecclesiale nel popolo sacerdotale. In entrambi i casi — senza perdere di vista l'ovvia verità che nella struttura sacramentale della Chiesa (*communio*) sia i doni gerarchici che quelli carismatici coincidono nel ministero del vescovo che attua — secondo la logica dell'*aggiornamento* esposta dal Vaticano II e dei principi ecclésiologici conciliari: la collégialità, la sinodalità e la sussidiarietà — la pienezza del ministero di Cristo: Profeta, Sacerdote e Re.

**Parole chiave:** ecclésiologia, principio di *communio*, sinodalità, partecipazione, responsabilità condivisa, *aggiornamento* del diritto ecclesiastico



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## Synodality, Discernment, Catholic Movements

**Abstract:** One of the basic categories used to describe the nature of the Church is communion with its spiritual, structural, and legal dimensions. On the basis of their baptism, all the faithful should undertake common responsibility and real care for the life and particular areas of the Church. This also includes discernment within the Church. Synods and synodality are a special case which expresses the communal character of the Church.

However, synodality and communal discernment cannot be understood similarly to a parliament where the majority decides. It is about recognising contemporary needs and searching for the place of the Church in the world while preserving the Revelation.

In recognising the ways for the Church, her movements are important as they form Catholics who increasingly identify with the mission of the baptised. Deepening their meaning and determining the degree of their influence on discernment in the Church, both universal and local, remains a challenge.

**Keywords:** synodality, discernment, lay involvement, church structure, church movements and communities

The modern Church is increasingly open to more lay participation in its life and mission. However, it would be wrong to see this movement merely as a result of people's expectations and global trends leading to broader democratisation or to emphasising of one's own autonomy. For the Church, these processes find their source in the Gospel and Jesus' idea of the community of the baptised. Therefore, it is natural for her to seek solutions more adequate to God's plan. This is especially true of the common responsibility of the baptised. Therefore, no wonder there are questions about limits to this participation, opportunities to interact with the clergy and to participate in the exploration and management of the Church. For it is impossible to limit the commitment of believers only to

active participation in the liturgical life and organisation of various activities. The participation of the lay in the life of the Church means that they are an integral part of the Body of Christ, with a multidimensional shared responsibility.

Considering the reality of the Church and answering the questions, it is necessary to present various types of church movements, communities, and associations of believers, which have become an integral part of her, at different levels of ecclesiastical life: general, diocesan, or parish. And although the tasks of evangelisation and formation are undeniable, it is still necessary to theologially and pastorally deepen the understanding of the movements' place in the Church, especially in the broad understanding of the real common responsibility for specific areas of life of the community of the baptised. Structurally, this comes true in the synodal reality and other forms of discernment in communities.

To solve this problem, it is necessary to first define the concepts, to determine the theological and canonical possibilities of participation of the lay in the Church, and then to indicate the significance of church movements in discerning and deciding. Taking this into account, it is possible to define the challenges for the Church and to see the prospects for further research.

## 1. Synodality and discernment in the Church

Discernment is the work of the entire Church. Only in this way it is possible to fulfill Christ's mission by the clergy and the lay in unity.<sup>1</sup> Since all of those baptised in the power of Holy Baptism are members of the community, they accept joint responsibility, with the observance of separation of their competences. However, it is not about some parliamentary model, but listening to the Holy Spirit and being able to recognise the true needs of believers. In this process, it is necessary to respect the hierarchical (apostolic) structure, which means that the decision needs to be made by pastors (bishops within the diocese and parish priests in the parish).

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<sup>1</sup> At the beginning of 69th Synod of Bishops of Poznań Archbishop Stanisław Gądecki drew attention to the fact that "...the entire Church is obliged at all times to seek ways and means to answer to Christ with the faith which the Apostle has shown [...]. If the Synod is to bear the expected fruits [...], then the commitment and prayer of all believers is required...". *Synod Archidiecezji Poznańskiej 2004—2008. Tom I. Dokumenty*. Eds. Z. FORTUNIAK et al. Poznań 2008, p. 531. Translation mine — P.S.

## 1.1. Synodality as the way of the Church

Synodality is an integral constitutional element of the Church and an expression of its communal nature. Pope Francis drew attention to this, saying that “the world [...] demands that the Church strengthen cooperation in all areas of her mission. It is precisely this path of *synodality* which God expects of the Church of the third millennium”<sup>2</sup> to realise the model of the Church as the home and the school of communion.<sup>3</sup> So, modernity demands answers to all the new questions and circumstances in which the Church must find herself to be authentic and worthy to fulfill her mission. This is possible only through having a broad view and not being limited only to one solution to a problem. Therefore, as Francis notes, “*synodality*, as a constitutive element of the Church, offers us the most appropriate interpretive framework for understanding the hierarchical ministry itself. [...] *Church and Synod are synonymous* in as much as the Church is nothing other than the *journeying together* of God’s flock along the paths of history towards the encounter with Christ the Lord...”<sup>4</sup>

Synodality is primarily realised by the institution of the Synod of Bishops which was established as “a permanent Council of bishops for the universal Church.”<sup>5</sup> In this way, bishops take responsibility for the universal Church, helping the Pope to discern the matters of Church’s life and mission.<sup>6</sup> Lay participation, however, is limited to the functions of observers or sometimes auditors. However, even then the presence of lay people is important in the search for solutions. For we must remember that the Synod is not only a meeting of its members, but also a time of prayer, conversation, and consultations. Here the role of the lay is irreplaceable. It was voiced during synods dedicated to the New Evangelisa-

<sup>2</sup> FRANCIS: Address of His Holiness Pope Francis [17.10.2015]. [http://w2.vatican.va/content/francesco/en/speeches/2015/october/documents/papa-francesco\\_20151017\\_50-anniversario-sinodo.html](http://w2.vatican.va/content/francesco/en/speeches/2015/october/documents/papa-francesco_20151017_50-anniversario-sinodo.html) (accessed: 10.12.2019).

<sup>3</sup> JOHN PAUL II: Apostolic Letter *Novo millennio ineunte* [6.01.2001], n. 43.

<sup>4</sup> *Ibidem*.

<sup>5</sup> PAUL VI: Apostolic Letter *Apostolica Sollicitudo*. *Acta Apostolicae Sedis* [hereafter: AAS] 57 (1965), p. 776; VATICAN COUNCIL II: *Decree on the mission activity of the Church “Ad gentes”* [18.11.1965], n. 28.

<sup>6</sup> Cf. VATICAN COUNCIL II: Decree concerning the Pastoral Office of Bishops in the Church *Christus Dominus* [28.10.1965] [hereafter: CD], n. 5. “As legitimate successors of the Apostles and members of the episcopal college, bishops should realize that they are bound together and should manifest a concern for all the churches. For by divine institution and the rule of the apostolic office each one together with all the other bishops is responsible for the Church.” *Ibidem*, n. 6, p. 3.

tion, the family or the young. Therefore, in view of greater lay participation, it is encouraging that the form of the Synod of Bishops is not ultimately defined. This was confirmed by John Paul II who said that this can be made even better and thus collegial pastoral responsibility could be expressed even more fully.<sup>7</sup>

On the other hand, diocesan or provincial synods occupy an important place at the local level,<sup>8</sup> attended by both priests and laity. The importance of this congregation should be recognised in the light of Second Vatican Council's teachings. It described bishops' office as service dependent on proper discernment possible only through the knowledge of God's People — "In exercising their office of father and pastor, bishops should stand in the midst of their people as those who serve. Let them be good shepherds who know their sheep and whose sheep know them,"<sup>9</sup> and for the proper care of believers they "should strive to become duly acquainted with their needs in the social circumstances in which they live."<sup>10</sup> At the same time, they must ensure that believers participate in the affairs of the Church.<sup>11</sup> During synods, apart from the plenary session and individual commissions, the work of parish and community groups established in accordance with the decision of the diocesan Bishop is also very important.

Archbishop Leonardo Sandri also noted that a synod, "allows to take stock of the work of the Church, to evaluate pastoral ministry, to review the pastoral means of influence and their effectiveness. It is also used to develop and implement new methods of evangelical ministry..."<sup>12</sup> This is a form of realisation by the Bishop of his own diocesan function thanks to the support of synod members exchanging views. Although their statements are advisory in nature, they serve to build the unity of the Church as a synod becomes a space for the dialogue of the clergy with the lay.<sup>13</sup> On the other hand, according to John Paul II, during a synod there is an intertwining of traditions and modernity, which makes it possible to

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<sup>7</sup> GIOVANNI PAOLO II: *Discorso di Giovanni Paolo II a conclusione della VI Assemblea Generale del Sinodo dei Vescovi*. See: [http://www.vatican.va/content/john-paul-ii/it/speeches/1983/october/documents/hf\\_jp-ii\\_spe\\_19831029\\_sinodo-vescovi.html](http://www.vatican.va/content/john-paul-ii/it/speeches/1983/october/documents/hf_jp-ii_spe_19831029_sinodo-vescovi.html) (accessed: 16.09.2019).

<sup>8</sup> Code of Canon Law [15.01.1983] [hereafter: CIC] can. 443 §4; 463 §1. Cf. S. TYMOŚZ: *Recepcja nauczania Jana Pawła II w uchwałach Drugiego Polskiego Synodu Plenarnego*. Lublin 2010, pp. 25—31.

<sup>9</sup> CD, n. 16.

<sup>10</sup> Ibidem.

<sup>11</sup> Cf. ibidem.

<sup>12</sup> *Synod Archidiecezji Poznańskiej...*, p. 534.

<sup>13</sup> Cf. ibidem, pp. 604—605.

recognise the correct answers to the needs of believers and to make the ministry of the Church more and more efficient.<sup>14</sup>

## 1.2. Other forms of joint responsibility of clergy and laity

However, discernment is not limited to synods, but should be a permanent form of responsibility where clergy and laity fulfill their calling to build the Church. In the universal Church this can happen through the hearing of individual lay in various central forums such as at the Synod of Bishops, conferences organised by Vatican dicasteries and through the participation of the lay faithful in the realisation of specific tasks. At the national or regional level, “the insights of prudence and experience have been shared and views exchanged”<sup>15</sup> at Episcopal Conferences which occupy a special place in the discernment process. This task is supported by committee advisers, such as presbyters, deacons, the religious, or laity, depending on their backgrounds and on what is needed at the moment. The diocesan level, in turn, includes an advisory council, a priests’ council, and a diocesan curia. These bodies support the bishop of the diocese in carrying out his pastoral mission in the local Church. Simultaneously, the correct process of recognising the needs and best plans for dioceses cannot take place without the participation of the laity. Without their voice, it is difficult to make a correct assessment of various areas of Church’s life. This discerning together is carried out through the cooperation of clergy and laity, various diocesan groups, formal or less organised, such as meetings of Church movements’ leaders or participation of laity in various councils. Therefore, it is not surprising that the Charter of the Pastoral Council of the Diocese of Kalisz includes the following phrase: “[...] the Council performs its tasks by discerning the state of religious and moral life of the faithful in the Diocese; introducing the Bishop into the pastoral needs of believers [...]”<sup>16</sup> Therefore, believers should inform the bishop of their views and proposals, and the bishop should listen carefully to the lay voice. That way, the ministry of the bishop along with the real shared responsibility of the faithful is preserved.

<sup>14</sup> Cf. W. ZIEMBA: “Homilia na otwarcie I Synodu Archidiecezji Warmińskiej.” In: *I (XIV) Synod Archidiecezji Warmińskiej (2006—2012)*. Eds. W. NOWAK et al. Olsztyn 2012 [hereafter: Warmia], p. 156.

<sup>15</sup> CD, n. 37.

<sup>16</sup> *Pierwszy Synod Diecezji Kaliskiej (2007—2009). Prawo diecezjalne Kościoła Kaliskiego*. Eds. J. BĄK, N. BUERGER. Kalisz 2009, p. 196. Translation mine.

Speaking of discernment, it is also worth paying attention to prophetic charisma, manifested not only in charismatic communities, but also generally in the listening of the faithful to inspirations which requires proper theological and pastoral evaluation. The biblical testimony is the missionary service of St. Paul and his companions through the Holy Spirit. The experience of the first Christians is still a challenge for the modern Church where the office of a prophet can no longer be found. Prophecies themselves began to be limited to the preaching of the correct doctrine of faith. Still, this gift of God with all its variants should be properly explored. This is because prophesying is connected with Holy Spirit's charisms and hierarchical service. Thus, through prophecy, the Church can foresee future events but, above all, accept the updates of God's message. It is necessary, however, to stay in line with the ministry of bishops whose authority is also charismatic. Clergy, however, must obey the Holy Spirit which also means listening to the voice of God's people.

### 1.3. Basics of synodality and community discernment

Synodality and community discernment are within the nature of the Church as a community — a synod means “journeying together — laity, pastors, the Bishop of Rome — is an easy concept to put into words, but not so easy to put into practice.”<sup>17</sup> Still, this is a way to preserve the biblical vision of the Church. Therefore, it is now good to highlight the theological foundations of the widely understood synodality.

First, the participation and shared responsibility of the laity stems from their baptism and incorporation into the Church<sup>18</sup> and from their charismatic gifts.<sup>19</sup> Therefore, it must be remembered that “Every authen-

<sup>17</sup> FRANCIS: *Address of His Holiness Pope Francis* [17.10.2015]. [http://w2.vatican.va/content/francesco/en/speeches/2015/october/documents/papa-francesco\\_20151017\\_50-anniversario-sinodo.html](http://w2.vatican.va/content/francesco/en/speeches/2015/october/documents/papa-francesco_20151017_50-anniversario-sinodo.html) (accessed: 10.12.2019).

<sup>18</sup> “L’ecclesiologia del Popolo di Dio sottolinea infatti la comune dignità e missione di tutti i Battezzati, nell’esercizio della multiforme e ordinata ricchezza dei loro carismi, delle loro vocazioni, dei loro ministeri. Il concetto di comunione esprime in questo contesto la sostanza profonda del mistero e della missione della Chiesa, che ha nella sinassi eucaristica la sua fonte e il suo culmine.” INTERNATIONAL THEOLOGICAL COMMISSION, *La sinodalità nella vita e nella missione della Chiesa*. [http://www.vatican.va/roman\\_curia/congregations/cfaith/cti\\_documents/rc\\_cti\\_20180302\\_sinodalita\\_it.html](http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_cti_20180302_sinodalita_it.html) (accessed: 21.09.2019).

<sup>19</sup> The faithful have the right and obligation to make use of charisms. VATICAN COUNCIL II: Decree on the Apostolate of the Laity *Apostolicam actuositatem* [hereafter: AA], n. 3. Holy Spirit “calls the faithful to various offices and states for the greater good



tic charism implies a certain element of genuine originality and of special initiative for the spiritual life of the Church.”<sup>20</sup> Still, the Eucharist with its vertical and horizontal aspects is the centre of this communion.<sup>21</sup>

Next, the Church as a whole also enjoys the privilege of infallibility. The faithful in unity with bishops and the Pope participate in the discernment of truth thanks to the Holy Spirit. This has been highlighted by the Second Vatican Council in its teachings about the supernatural sense of faith: “[...] the entire body of the faithful, anointed as they are by the Holy One, cannot err in matters of belief. They manifest this special property by means of the whole peoples’ supernatural discernment in matters of faith when from the Bishops down to the last of the lay faithful they show universal agreement in matters of faith and morals.”<sup>22</sup>

Then, diocesan synods prove that Church in its nature is a communion and is a “renewal of the charism of being called.”<sup>23</sup> Thus, clearly it has a spiritual character, aimed at growing in the love of God. So, it cannot be seen as anything close to a parliament in the Church. It needs to be accepted in accordance with the Acts of the Apostles — as a meeting of brothers in faith. Thus, the prayer aspect is the most important.<sup>24</sup>

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of the Church. It is evident that no obstacles should be placed in the way of such divine action; on the contrary, each one should be enabled to respond to his calling with the greatest freedom [...].” SACRED CONGREGATION FOR RELIGIOUS AND FOR SECULAR INSTITUTES, SACRED CONGREGATION FOR BISHOPS: *Mutuae relationes*. Directives for the mutual relations between bishops and religious in the Church [14.05.1978] [hereafter: MR], n. 39.

<sup>20</sup> MR, n. 12.

<sup>21</sup> Cf. CONGREGATION FOR THE DOCTRINE OF THE FAITH: Letter to the Bishops of the Catholic Church on some aspects of the Church understood as communion [28.05.1992] [hereafter: CN], n. 5.

<sup>22</sup> VATICAN COUNCIL II: Dogmatic Constitution on the Church *Lumen gentium* [21.11.1964] [hereafter: LG], n. 12.

<sup>23</sup> W. ZIEMBA: “Homilia podczas Godziny Przedpołudniowej na rozpoczęcie II Sesji Plenarnej I Synodu Archidiecezji Warmińskiej.” In: *Warmia*, p. 159.

<sup>24</sup> The experience of the conference of bishops in Aparecida in 2008 is a testimony for the wide cooperation of bishops and faithful. It is described by Pope Francis as a moving participation of the Holy Spirit in the Church — work done without an introductory document, faith-wise discernment and the companionship of the faithful through prayer in the sanctuary. Cf. G. RYŚ: “Rozmawiając z Franciszkiem o Dokumencie z Aparecidy.” In: *Aparecida. V Ogólna Konferencja Episkopatów Ameryki Łacińskiej i Karaibów. Dokument końcowy*. Trans. K. ZABAWA, K. ŁUKASZCZYK. Gubin 2014, pp. 8—9.

#### 1.4. Limits of synodality and joint responsibility in the Catholic understanding

Synodality is a great gift for the Church as it highlights its communal character. It is also means of ownership for her life and mission by the spiritual and the lay. However, Catholics cannot understand it as means of democracy or choosing what the majority prefers. Specific border points are to be taken into account. These include doctrinal purity, Church's unity and the good of the faithful. Only then it is possible to develop the Church sustainably.

The first border point is doctrinal purity. Nobody except the Ecclesiastical Magisterium has the right to decide on dogmatic matters.<sup>25</sup> This does not forbid theological research and analysis of the faith by God's people.<sup>26</sup> Dogmatic fidelity is also manifested in maintaining the correct structure of the Church which is hierarchical and sacramental.<sup>27</sup> Therefore, synodality and ecclesiastical discernment cannot lead to modifying of the identity of the spiritual or the lay. It is necessary to avoid belittling of mission of bishops and presbyters' mission as they are responsible for pastoral service. On the other hand, it would also be wrong to reduce the voice of believers. A model of cooperation and shared responsibility is thus needed, with respect for the competencies stemming from one's own place in the Church. Therefore, the sanctification of clergy or "clericisation" of the laity is contrary to the nature of the community of the baptised.

The second criterion of the correctness of the discernment process is the concern for the unity of the Church. She is of course not a monolith, but at the same time she is not a coexistence of different perspectives

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<sup>25</sup> "But the task of authentically interpreting the word of God, whether written or handed on, has been entrusted exclusively to the living teaching office of the Church, whose authority is exercised in the name of Jesus Christ." VATICAN COUNCIL II: Dogmatic Constitution on Divine Revelation *Dei Verbum* [18.11.1965], n. 10.

<sup>26</sup> Growth in the understanding of faith is accomplished through contemplation and reflection of believers, the work of theologians, the understanding of spiritual affairs, or the Ministry of the preaching by the clergy. Cf. *Catechism of Catholic Church* [11.10.1992], n. 94.

<sup>27</sup> "[...] the hierarchal gifts proper to the sacrament of Orders, in its diverse grades, are given so that the Church as communion may never fail to make to each member of the faithful an objective offer of grace in the sacraments, and so She may offer both a normative proclamation of the Gospel and pastoral care." CONGREGATION FOR THE DOCTRINE OF THE FAITH: Letter *Iuvenescit Ecclesia* to the Bishops of the Catholic Church Regarding the Relationship Between Hierarchical and Charismatic Gifts in the Life and the Mission of the Church [15.05.2016] [hereafter: IE], n. 14.

on doctrinal teaching. An example of the importance of the situation is the synodal process started in Germany. And although a plenary synod as described by the canon law is a space for meeting and taking ownership for the Church in a given country, the German proposition goes way further. It suggests that matters out of reach for local Churches or episcopal conferences, such as understanding of power, sexual morality, form of priesthood (celibacy) and participation of women in Church services and offices (including ordination) should also be in scope of discussions. Therefore, in a letter addressed to Cardinal Reinhard Marx, Pope Francis noted that the synodal way is to listen to the Holy Spirit in unity with the universal Church which has its place in local discernment. In addition, the entire road to the restoration of the Church cannot take place primarily through structural, organisational and administrative reforms, but through the return to evangelization.<sup>28</sup> At the same time, it is necessary to harmonise the universal and the particular dimensions of the Church in order to preserve the identity of the Church.<sup>29</sup>

The third important border point is to focus on the good of the entire Church and individuals as well, while preserving the Revelation. Bearing in mind the abundance of people's talents and their desire to accept common responsibility, it is worth remembering that "the charismatic gifts given to individuals actually belong to the Church herself and are ordered towards a more intense ecclesial life."<sup>30</sup> Spiritual affinity is also born through cooperation and participation,<sup>31</sup> which allows us to walk the same road and search for solutions not through a decision of the majority, but through the search for the best answer to God's calling.

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<sup>28</sup> As noted by the Holy See, the Synod of German bishops in the proposed composition will be invalid ecclesologically as it contains the proposition of partnership between bishops and the Central Committee of German Catholics (a group proclaiming views that are contrary to Church's teaching, especially when it comes to sexual ethics and ordination of women). See "Watykan przestrzega biskupów niemieckich przed 'drogą synodalną'." See: <http://www.gosc.pl/doc/5850492.Watykan-przestrzega-biskupow-niemieckich-przed-droga-synodalna> (accessed: 13.09.2019).

<sup>29</sup> Cf. CN, n. 7—10.15—16.

<sup>30</sup> IE, n. 13.

<sup>31</sup> JOHN PAUL II: Apostolic Exhortation *Christifideles laici* [30.12.1988] [hereafter: ChL], n. 24.

## 2. Participation of lay people in the process of discernment under the current legislation

Active and subjective presence of the laity in the Church, especially those forming various groups, communities, associations and movements, is widely accepted nowadays. This includes not only practical participation, but also co-exploration, co-execution of Church's missions and the co-formation of the life of the community of the baptised. A new view, started with the teachings of the Second Vatican Council found its actualisation in pastoral practice and canon law. In this context it is worth highlighting the current theological and legal state of lay participation.

### 2.1. Rights and duties of laity

The Second Vatican Council emphasised the importance of the lay and also pointed to new accents and competences.<sup>32</sup> The biblical basis of this is the fact of incorporation into Christ through baptism, which made the living bedrocks of the Church and members of one Body from the faithful children of God.<sup>33</sup> This is the foundation of the *ecclesiology of communion* that reflects the truth about the unification of believers through the Word of God and the sacraments, and about the organic unity of the baptised. Thus, the Church cannot be seen pyramidically but communally. The Church is not a monolith, but a unity expressed in diversity and complementarity. That way, the lay cannot be seen merely as objects but as subjects, since they participate in the threefold mission of Christ: priestly, prophetic, and kingly. This is appropriately accomplished through prayer and sacramental life, witnessing and sharing the Gospel, and giving oneself through the acts of love. This mission has its source and strength in the Christian initiation. It also relates to the equal dignity of all the baptised, regardless of vocation,<sup>34</sup> although the lay nature is to be retained.<sup>35</sup>

<sup>32</sup> It was Pius XII who already stated that the laity not only belong to the Church, but in fact are its part in unity with the Pope and the bishops. Cf. AAS 38 (1946), p. 149.

<sup>33</sup> Cf. ChL, n. 9—13.

<sup>34</sup> ChL, n. 15.

<sup>35</sup> Cf. LG, n. 31. It is still necessary to deepen the formation of the vocation of the lay. Cf. *La Chiesa italiana e le prospettive del Paese Documento del Consiglio Permanente*, 22—23, [http://www.chiesacattolica.it/wp-content/uploads/sites/31/2017/02/La\\_Chiesa\\_italiana\\_e\\_le\\_prospettive\\_del\\_Paese.pdf](http://www.chiesacattolica.it/wp-content/uploads/sites/31/2017/02/La_Chiesa_italiana_e_le_prospettive_del_Paese.pdf) (accessed: 14.09.2019).

However, in some circumstances the lay may be entrusted with certain functions in lieu of the spiritual, for instance, with the ministry of the word, leading of some liturgical prayers, baptising of others or distributing the Blessed Sacrament. Still, even then they do not lose their secular personality.<sup>36</sup> Regardless of the area of lay participation, it should be emphasised that their ministry cannot be limited to participation in the affairs of the world, but it is necessary to appreciate their mission in life and mission of the Church.<sup>37</sup> The Second Vatican Council clearly stated that the Holy Spirit is “making the laity ever more conscious of their own responsibility and encouraging them to serve Christ and the Church in all circumstances.”<sup>38</sup>

The Code of Canon Law precisely defines the rights, duties and responsibilities of lay believers. The basis for this is the baptism through which the faithful “have been incorporated in Christ [...], have been constituted as the people of God and [...] are called to exercise the mission which God has entrusted to the Church to fulfill in the world.”<sup>39</sup> This is the source of true equality regarding dignity and action by which they all cooperate in the building up of the Church,<sup>40</sup> which does not reduce the diversity of actions, particularly those associated with clergy’s vows. However, they are called to assume responsibilities on both global and local<sup>41</sup> levels, bearing in mind the common good of the community of the baptized.<sup>42</sup>

## 2.2. Levels of the responsibility of the lay

The responsibility of the lay take is there on several levels: of the Christian life, of cooperation, and of commitment. Surely the first is living according to the Gospel which builds the Church and shows her holi-

<sup>36</sup> ChL, n. 23.

<sup>37</sup> Cf. “Evangelizzazione e ministeri. Documento pastorale dell’Episcopato italiano.” In: *Notiziario della Conferenza Episcopale Italiana a cura della Segreteria Generale*. Roma 1977, no. 7, p. 133.

<sup>38</sup> AA, n. 1. In this context, Benedict XVI stated that “the lay cannot be seen only as *associates* for the clergy, but also as people actually *co-responsible* for the existence and actions of the Church.” *Kim jest świecki?* See: <http://www.papiez.wiara.pl/doc/1272559.kim-jest-swiecki> (accessed: 15.09.2019).

<sup>39</sup> CIC, can. 204 § 1.

<sup>40</sup> CIC, can. 208.

<sup>41</sup> It is the duty of faithful to preserve unity with the Church. Cf. CIC, can. 209.

<sup>42</sup> Cf. CIC, can. 222—223.

ness.<sup>43</sup> However, one cannot limit the responsibility of the lay only to the spiritual and moral aspects. They also have to take part in preaching the Word of God.<sup>44</sup> It is not surprising, therefore, that “lay persons who are found suitable are qualified to be admitted by the sacred pastors to those ecclesiastical offices and functions which they are able to exercise according to the precepts of the law.”<sup>45</sup> When analysing the state of the Church, it is easy to see that the division of responsibilities or offices occurs especially in regions that struggle with the lack of an adequate number of presbyters. Meanwhile, the participation of lay people cannot be understood only as a sociologically induced reality.

In addition, an important aspect is the relationship between obedience and the expectation of satisfaction of needs. On the one hand, the faithful are obliged to obey pastors as teachers of faith and governors of the Church, but on the other — pastors cannot ignore the needs of the faithful.<sup>46</sup> Establishment of new associations and following their goals are a very important dimension of execution of this goal. Still, it is necessary to respect the care for the catholic nature of works undertaken.<sup>47</sup> This applies not only to dioceses, but first of all to parishes where the parish priest has to support believers in pursuit of their mission, taking care of the ecclesial nature of their work.<sup>48</sup>

The responsibility of the lay is also expressed in advising on various issues and participating in relevant councils. Of course, appropriate powers are necessary to undertake these tasks.<sup>49</sup> This is done by discerning spiritual needs. On the one hand, believers have the right to grow and receive appropriate assistance from the hierarchical Church.<sup>50</sup> On the other, due to their involvement in the affairs of the world and

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<sup>43</sup> “All the Christian faithful must direct their efforts to lead a holy life and to promote the growth of the Church and its continual sanctification, according to their own condition” (CIC, can. 210).

<sup>44</sup> Cf. CIC, can. 211. “In the case of coming generations, the lay faithful must offer the very valuable contribution, more necessary than ever, of a systematic work in catechesis” (ChL, n. 34).

<sup>45</sup> CIC, can. 228 § 1.

<sup>46</sup> “The Christian faithful are free to make known to the pastors of the Church their needs, especially spiritual ones, and their desires.” CIC, can. 212 § 1—2.

<sup>47</sup> CIC, can. 215—216. This is especially important when it comes to theological studies which are also undertaken by lay people. For it is necessary to keep the boundaries set by the Magisterium. Cf. CIC, can. 218.

<sup>48</sup> CIC, can. 529 § 2.

<sup>49</sup> “According to each one’s own condition, they are also bound by a particular duty to imbue and perfect the order of temporal affairs with the spirit of the gospel and thus to give witness to Christ, especially in carrying out these same affairs and in exercising secular functions.” CIC, can. 228 § 2.

<sup>50</sup> Cf. CIC, can. 213.

knowledge of its state, they should participate in the preaching of the Word of God. Therefore, a cooperation between clergy and laity is necessary in this regard.<sup>51</sup> For every baptised person, regardless of their vocation, is called for evangelisation.<sup>52</sup> In the case of the lay, it is primarily by means of giving testimony, but also through active participation in preaching the Christian truth,<sup>53</sup> without abandoning their position in the world.<sup>54</sup> At the same time, they are called to recognise the needs of God's people and to ensure that they are appropriately catered for.<sup>55</sup> This is particularly evident at the parish level, where believers can care for the Church unity and evangelise non-believers or those who neglect their Christian life.<sup>56</sup>

### 2.3. Specific tasks and possibilities in shared responsibility

The participation of lay people in the Church also involves specific tasks, including real participation in the discernment of various issues. The Code of Canon Law draws attention to the importance of the economic council and the pastoral council which should not only consist of clergymen, but also of competent lay. Thus, each diocese should have an economic council consisting of at least three faithful skilled in economics with proper knowledge and ethics.<sup>57</sup> Similar councils should also be present in parishes in order to support the parish priest in the management of mate-

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<sup>51</sup> "According to the knowledge, competence, and prestige which they possess, they have the right and even at times the duty to manifest to the sacred pastors their opinion on matters which pertain to the good of the Church...". CIC, can. 212 § 3. The call to take up evangelisation is based on the fact that the lay live in "all of the secular professions and occupations. They live in the ordinary circumstances of family and social life, from which the very web of their existence is woven." LG, n. 31.

<sup>52</sup> "[...] lay persons [...] are bound by the general obligation and possess the right as individuals, or joined in associations, to work so that the divine message of salvation is made known and accepted by all persons everywhere in the world [...]" CIC, can. 225 § 1.

<sup>53</sup> "[...] they can also be called upon to cooperate with the bishop and presbyters in the exercise of the ministry of the word" (CIC, can. 759). "Lay persons can be permitted to preach in a church or oratory, if necessity requires it in certain circumstances or it seems advantageous in particular cases, according to the prescripts of the conference of bishops and without prejudice to can. 767 § 1." CIC, can. 766.

<sup>54</sup> ChL, n. 15.

<sup>55</sup> Cf. AA, n. 10.

<sup>56</sup> ChL, n. 27.

<sup>57</sup> Cf. CIC, can. 492.



rial goods in the parish.<sup>58</sup> It is also worth noting that the legislator recommends that each legal entity should have its own economic Council.<sup>59</sup>

The participation of lay people in the pastoral activities of the Church is also important. In dioceses it is realised through participation in the diocesan pastoral council as recommended by the Second Vatican Council.<sup>60</sup> The council contemplates and assists the bishop in the discernment of issues relating to the execution of the mission and life of the Church. Such a council consists of Catholics in full communion with the Church who are virtuous and reasonable. The council should well represent the People of God and specific areas of participation in the apostolate.<sup>61</sup> Although presence of such a council is not mandatory, its very existence reflects the nature of the Church as a community of the baptised. This is because it expands the room for necessary consultations, and more often than not for making decisions,<sup>62</sup> which makes discernment more accurate. Similar pastoral councils may or should also be founded in parishes, depending on the decision of bishops. This supports parish priests in the execution of pastoral tasks. Council members, however, act as advisors. The scope and competences of the councils are governed by norms established by the diocesan bishops.<sup>63</sup> Still, it is worth remembering that it is not only about the representation of lay people, but also about the faithful being conscious of the meaning of Church as a community and their real and active participation. So, it is about being a true subject of life and mission of the Church. Thus, the real challenge is quality and not quantity or a “sense of Church.” Only then can one discern, support the decision making and accept resolutions being made. It is the realisation of the communal nature of the Church. Eugeniusz Weron notes that “with

<sup>58</sup> CIC, can. 537.

<sup>59</sup> CIC, can. 1280.

<sup>60</sup> “The duty of this commission will be to investigate and weigh pastoral undertakings and to formulate practical conclusions regarding them.” CD, n. 27.

<sup>61</sup> CIC, can. 529.

<sup>62</sup> “The participation of the lay faithful in these Councils can enrich resources in consultation and the principle of collaboration — and in certain instances of decision-making — if applied in a broad and determined manner.” ChL, n. 25. “The competence of the Council includes the analysis of pastoral problems, formulation of practical conclusions and presentation of draft decisions to the Bishop of Płock.” *Gdzie jest Bóg, tam jest przyszłość. XLIII Synod Diecezji Płockiej. Prawo partykularne i program odnowy pastoralnej Kościoła Płockiego*. Ed. H. SEWERYNIAK. Płock 2015 [hereafter: Płock], p. 358. Translation mine. “The task of the Pastoral Council is to prepare, study, contemplate, and exchange experiences or creative projects relating to pastoral care and to inspire useful pastoral initiatives in the diocese and in parishes.” *Pierwszy Synod Diecezji Opolskiej (2002—2005). Statuty i aneksy. Parafia u progu nowego tysiąclecia*. Eds. H. SOBECZKO et al. Opole 2005 [hereafter: Opole], p. 182. Translation mine.

<sup>63</sup> CIC, can. 536. Cf. *IV Synod Archidiecezji Warszawskiej*. Warszawa 2003, p. 121.

this new philosophy comes also [...] the principle of joint responsibility and participation of the lay in all aspects of life and work of members of the Church.”<sup>64</sup>

In addition to the foregoing, other groups that support the process of discernment may come into existence depending on what is needed in a given moment. An example is the diocese of Płock where a Youth Pastoral Council was established to advise the Bishop of the diocese in getting to know the needs and forms of action indispensable for working with the youth.<sup>65</sup> Another important means is also so-called Youth Synods where the young are invited to participate in co-discernment within the Church.<sup>66</sup> Another example, this time in the universal Church, is the International Service of Communion *Charis* created by Pope Francis that assists and discerns the charismatic reality among Catholics, with a clear focus on spiritual sharing with all Catholics.<sup>67</sup>

### 3. Catholic movements and discernment

Church movements with various forms and structures have an important place in the life of the modern Church. Although the phenomenon is not new (history knows various fraternities and third orders), nowadays a strong presence of communities, movements and associations can be seen. Those can be created by the lay or by the lay and the clergy together. At the same time, these associations are taking on more and more tasks. They have therefore become an important element of the structure of the Church at every level. This is the real *Kairos* of God for the Church.<sup>68</sup> Thus, “Church movements and associations are not a mere addition or an ornament in her life. They are at the very center of her life and they make that very center of her life.”<sup>69</sup>

<sup>64</sup> E. WERON: *Powołanie i posłannictwo ludzi świeckich w świetle dokumentów kościelnych*. Poznań 1989, p. 276. Translation mine.

<sup>65</sup> Płock, pp. 55—56.

<sup>66</sup> Cf. *Synod Młodych Diecezji Warszawsko-Praskiej*. See: [www.florianska3.pl/synod](http://www.florianska3.pl/synod) (accessed: 16.09.2019).

<sup>67</sup> Cf. *Catholic Charismatic Renewal International Service (Charis). Statutes*. See: <http://www.drive.google.com/file/d/19A1XQekEI0-7FHBnIMcSSAYbpb2aTZlF/view> (accessed: 16.09.2019).

<sup>68</sup> E. WERON: *Ruchy odnowy we współczesnym Kościele*. Poznań 1993, p. 15.

<sup>69</sup> S. RYŁKO: *Misja Ruchów i Stowarzyszeń na nowe tysiąclecie*. See: <http://www.orrk.pl/ruchy-katolickie-w-kosciele-i-spoeczesztwie/134-misja-ruchow-i-stowarzysze-na-nowe-tysic> (accessed: 18.09.2019).

### 3.1. Nature of the movements

The Synod of the Diocese of Opole pointed out the importance of Church movements: “[...] a special place for the laity to participate can be in religious movements and associations which should be supported and surrounded with pastoral care.”<sup>70</sup> Forming associations by the faithful is their right that stems from their incorporation in the Church. Movements within the Church are also the natural consequence of their experience of communion. However, not every group of the faithful can be called a Church movement. For them to use the adjective Catholic, a consent of the competent Church authority is required.<sup>71</sup> In turn, for a community or a group to be considered a Church movement, it must meet the following criteria: putting the call to holiness first, responsibility in professing the Catholic faith, lasting and authentic communion with the Church (including hierarchy), congruency with the apostolic purpose of the Church, participation in the actualisation of the works of evangelisation and sanctification and participation in people’s affairs in accordance with the social doctrine of the Church.<sup>72</sup> These criteria lead to the spiritual growth of the faithful and to deepening of their spiritual identity.<sup>73</sup> That is why they have a voice during synods and during every day and pastoral discernment. So, it is needed that “mature ecclesial communities, in which the faith might radiate and fulfill the basic meaning of adherence to the person of Christ and his Gospel”<sup>74</sup> are formed.

As a result of accepting the existence of Church movements, movements and associations’ councils may come to life in a diocese. They aim at coordinating pastoral action, giving a testimony of unity, mutual support, and joint concern for the revival of the Church in terms of evange-

<sup>70</sup> Opole, p. 112.

<sup>71</sup> “No association is to assume the name Catholic without the consent of competent *ecclesiastical* authority [...]” (CIC, can. 300).

<sup>72</sup> ChL, n. 30.

<sup>73</sup> “Such as: the renewed appreciation for prayer, contemplation, liturgical and sacramental life, the reawakening of vocations to Christian marriage, the ministerial priesthood and the consecrated life; a readiness to participate in programmes and Church activities at the local, national and international levels; a commitment to catechesis and a capacity for teaching and forming Christians; a desire to be present as Christians in various settings of social life and the creation and awakening of charitable, cultural and spiritual works; the spirit of detachment and evangelical poverty leading to a greater generosity in charity towards all; conversion to the Christian life or the return to Church communion of those baptized members who have fallen *away* from the faith.” ChL, n. 30.

<sup>74</sup> ChL, n. 34.

lisation, personal development, spirituality and pastorate.<sup>75</sup> Also, the very presence of representatives of movements and communities in the bodies of a diocese contributes to the right discernment of the direction of life of the diocese.<sup>76</sup>

### 3.2. Movements' contribution to the life of the Church

The importance of Church movements in the process of discernment can be recognised by thinking of their enormous contribution to the life of the communities of the baptised. The communal character of the Church is realised so clearly with new communities being created all the time. This comes, first of all, from the need to experience a real community, personal relationships, and living the faith in the unity of a community in practice and not just in some sociological theory. An experience of belonging to the Church in this way simultaneously evokes a willingness to accept responsibility, to share one's observations and experiences verified by those responsible and by other members of a community. This is reinforced by the multidimensional formation undertaken by many movements and communities. That is how Catholics understand the Church more and more. That is also how one of the basic criteria of spirituality can be met — *sentire cum Ecclesia*. This does not mean a denial of personal pastoral preferences, but a mutual exchange of gifts between an individual or a particular community and the Church understood as a whole. Then what is partial and specific to a group becomes the heritage of all.<sup>77</sup> Therefore, movements should not be necessarily bound by “juridi-

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<sup>75</sup> Cf. Płock, pp. 363—364.

<sup>76</sup> The Synod of Warmia decided about the Diocesan Pastoral Council that “members of the Council are to voice their own and their peers' opinions during meetings.” Warmia, p. 384.

<sup>77</sup> “Being *members* of the Church takes nothing away from the fact that each Christian as an individual is *unique and irrevocable*. On the contrary, this belonging guarantees and fosters the profound sense of that uniqueness and irrevocability, in so far as these very qualities are the source of variety and richness for the whole Church. Therefore, God calls the individual in Jesus Christ, each one personally by name. In this sense, the Lord's words *You go into my vineyard too*, directed to the Church as a whole, come specially addressed to each member individually. Because of each member's unique and irrevocable character, that is, one's *identity* and *actions* as a person, each individual is placed at the service of the growth of the ecclesial community while, at the same time, singularly receiving and sharing in the common richness of all the Church [...]” ChL, n. 28.

cal straitjackets that deaden the novelty which is born from the specific experience.” On the other hand, it is necessary to protect the Church spirit and, thus, the unity of the Church.<sup>78</sup> Then, the novelty brought by movements affects the Magisterium and the Church and the hierarchy has an impact on the reality of particular communities.<sup>79</sup>

The Church movements make members feel that they belong to local communities and to the Church as a whole. However, the feeling itself is not enough. Through a practical formation of faith, members of movements and communities increasingly discover the universality of the Church and achieve the supernatural sense of faith. Profession of correct faith and sincere love for the Church protects believers from the tendencies of understanding joint responsibility as a parliamentary majority. The ecclesiastical discernment is not a question of the majority’s decision, but of the truth congruous with the will of God.

The existence of various kinds of movements and communities is therefore incredibly life-giving for the entire Church. Through their own ways, they bring renewing accents to the Church and emphasise certain aspects of piety or of execution of the Church’s mission (e.g. prayer of praise in charismatic groups, service to the needy by the Sant’Egidio Community, missionary groups focused on discernment for missions).<sup>80</sup> Sometimes the activity of a movement affects not only the local Church, but also the general Church. Movements and communities make it possible to understand the needs of the Church and the world, which is an important element of Christian vocation.<sup>81</sup> Properly formed lay can simultaneously recognise people’s different expectations, limitations, difficulties and hopes, which becomes necessary to execute the mission of the New Evangelisation.

#### 4. Challenges of the modern Church

Lives of the faithful are touched by trends in the modern world, especially by the emphasis of one’s own freedoms, autonomy, and the law being decided by the majority. It does not remain without influence on

<sup>78</sup> IE, n. 23.

<sup>79</sup> Cf. IE, n. 2—3.

<sup>80</sup> “The activity of the lay faithful, who are always present in these surroundings, is revealed in these days as increasingly necessary and valuable.” ChL, n. 35.

<sup>81</sup> “In this work of contributing to the human family, for which the entire Church is responsible, a particular place falls to the lay faithful [...]” ChL, n. 36.

their understanding of the Church. On the other hand, the very understanding of the Church as a communion allows for a bolder look towards a greater activity of the lay. Therefore, the Church faces specific problems that require specific answers. First of all, we can point to the greater commitment of lay people in the discernment and management in the Church, a deeper appreciation of the importance of Church movements and the integration of the particular with the commonplace.

#### 4.1. A real appreciation of the place of movements in the Church

Undoubtedly, the cooperation and common discernment by the clergy and the lay will bring more stress arising from the differences in vocations, lifestyles, and objectives.<sup>82</sup> Therefore, there must be a mutual understanding and respect for diversity in the Church. The gift of mutual trust remains the challenge here, along with mutual completing of individual (state and personal) charisms or the recognition of the complementarity of vocation. The help in achieving this goal is, first of all, concern for the space of faith. Thus, it would be a mistake to perceive movements and specific bodies with the participation of laity (synods, councils) as kinds of peculiar parliaments.

A focused, not only functional, approach is very important. It is about gathering people around a common goal and about creating a community of people who identify with the idea, execute it and take responsibility for it.<sup>83</sup>

Correct understanding of the place of movements and communities in the Church, both in the work and in the recognition of signs of times, pastoral needs and direction for the Church, also remains a problem.

<sup>82</sup> This is not just about modernity. As early as February 20, 1931, Cardinal Jean Verdier, Archbishop of Paris, pointed out some predictable difficulties: "When tomorrow the Catholic action takes its place next to the hierarchy, you will become (already and only) kings in constitutional monarchies. You have to accept the comments that parliaments voice. [...] The spirit of cooperation will be riddled with many tricks [...]" P.J. CORDES: "Rola ruchów i stowarzyszeń katolickich w Kościele i w nowoczesnym społeczeństwie." In: *Chrystus-Człowiek-Społeczności. Wiosna ruchów. Materiały z I Kongresu Ruchów Katolickich*. Eds. K. BOLEWSKA, B. JANIKOWSKA. Warszawa 1994, p. 41. Translation mine.

<sup>83</sup> Lack of focused approach leads to the individualisation of faith and creation of mentality of service-providing in the fields of religiosity, catechism, and of other activities.

Unfortunately, it happens that some treat the layas “resources in priests’ work, their *longa manus* — an extension of clergy’s arm, representatives to be sent where things get tough, *clergy in reserve*.”<sup>84</sup> However, it is important that movements and communities’ voice grows louder and that it is taken into account in local Church’s discernment, especially if it comes to pastoral affairs.<sup>85</sup>

## 4.2. Tension between hierarchy and charisms

The Church is constituted by hierarchical and charismatic endowment. These gifts should be accepted with grace and practiced responsibly.<sup>86</sup> However, one cannot forget about the specific task of bishops and presbyters who, acting *in persona Christi Capitis*, take the holy power associated with their ordinations. Therefore, the judgment about authenticity of charisms and their proper use belongs to the hierarchy of the Church, which makes it possible to act for the benefit of the whole community of the baptised.<sup>87</sup> Therefore, it is impossible to oppose the sacramental (hierarchical) structure to the charismatic and prophetic dimension. The whole history of the Church confirms the coexistence of orders. Starting with the first eremic movements and then born in various forms of monastic life, a charismatic call to the discernment between the needs of the Church and making substantial influences into her life is born. This, however, did not happen outside of the Church hierarchy, but in unity with bishops, especially with the Pope, who were the pillars of the new forms of Christian life that influenced local Churches. As examples we may quote: the spread of Benedictine and Irish-Scottish monasticisms, missions of Cyril and Methodius, medieval reform of monasticism or the spring of mendicant orders that all significantly influenced contemporary Church. And although there were quite a lot of heterodox movements (e.g. Albigenses, Cathars, reform movements), the final balance of origins

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<sup>84</sup> P.G. LIVERANI: *Dobre życie Ewangelią. W poszukiwaniu zaginionego powołania*. Trans. K. WOZNIAK. Kraków 2012, p. 87.

<sup>85</sup> “It is about making the voice of the lay clearly heard in the Church, and making modern parishes become real *communities of communities*.” Płock, p. 54.

<sup>86</sup> LG, n. 4. Cf. AA, n. 3. “Whether they [charisms] be exceptional and great or simple and ordinary, the charisms are graces of the Holy Spirit that have, directly or indirectly, a usefulness for the ecclesial community, [...] building up of the Church, to the well-being of humanity and to the needs of the world.” ChL, n. 24.

<sup>87</sup> LG, n. 12.30.



and importance of the movements brings a positive assessment of their contribution to the renewal of the Church. This is particularly evident in new post-conciliar movements and communities.

### 4.3. Active participation of competent laypeople

Constantly breaking the paradigm of ruling (hierarchy) and being ruled (the faithful) is a challenge for the contemporary Church. Constant deepening of the meaning of baptismal priesthood of the faithful and of the Holy Spirit's action, that is a source of unity and of complementarity of gifts and services in the Church, has to lead to greater awareness of communion. Therefore, it is necessary that the baptised act together. There can therefore be no question of any division in the Church as it is a single saving work and a single Church.<sup>88</sup> Yet, this commitment of believers cannot in any way diminish the role of bishops or presbyters acting on their behalf.

However, the role of the laity does not seem to be sufficiently emphasised at present. Although there is no fundamental problem with gathering of people in communities, the real participation of the laity in the work, including management, of various entities in the Church is insignificant. A departure from the model of the Church that teaches and listens towards the idea of the Church as co-participation requires the clergy to share more tasks with the faithful able to perform such services. Thus, the suggestion of the First Synod of the Archdiocese of Warmia that recommends pastors "to entrust the lay faithful with tasks important for the Church, to assist and counsel in initiatives undertaken but with the respect for their freedom and autonomy [...]" is very bold.<sup>89</sup>

At the same time, the Church faces the challenge of active participation of the laity in synodal processes. The final document of the Synod of Bishops on Young People includes an important call for the involvement of non-bishops in community discernment. It also suggests that synods should be characterised by fraternal listening and intergenerational dialogue.<sup>90</sup> According to the current legislation, lay people can be auditors.

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<sup>88</sup> This division would be harmful to the Church. Cf. JOHN PAUL II: *Crescita comune nell'unità e nella collaborazione reciproca*. In: *Insegnamenti di Giovanni Paolo II*, X, 1, 1987. Vaticano 1988, p. 478.

<sup>89</sup> Warmia, p. 95.

<sup>90</sup> XV GENERAL ASSEMBLY OF THE SYNOD OF BISHOPS: *Final Document of the Synod of Bishops on Young People, Faith and Vocational Discernment*, n. 120. <http://www.synod>

Thus, the question of greater involvement of believers in synodal issues remains open as it requires adequate canonical regulation.

Appreciating the role of women in the Church is an equally important issue.<sup>91</sup> Therefore, it is necessary to continue discussing “the case for the participation of women in the pastoral councils of dioceses and parishes, as well as in diocesan synods and in particular synods. [...] Without discrimination women should be participants in the life of the Church, and also in consultation and the process of coming to decisions.”<sup>92</sup> This process comes along in the Catholic Church. An example is the appointment of Linda Ghisoni, Micheline Tenace and Laetitia Calmeyn as the counselors of the Congregation for the Doctrine of the Faith by Pope Francis<sup>93</sup> or his appointment of Claudia Ciocca as the Prefect of the Secretariat for the Economy of the Holy See.<sup>94</sup>

#### 4.4. Common good of the faithful

Another challenge is the real desire not only to achieve a movement’s or a community’s own goals but integration with the good of the Church as a whole. So, the right education is needed so that there is an appropriate ecclesiastical vision that includes observance of particular values and the common good of people of God. Under this assumption, it is only possible that the movements have a genuine good influence on the Church and that they co-participate in pastoral discernment. To do this, it is necessary to set right priorities: spiritual renewal, expansion of the number of people who identify themselves with a given movement, creation of basic communities, coordination, patience with the process of integration and development.<sup>95</sup> How strong was Pope Francis’s call for the unity of

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.va/content/synod2018/en/fede-discernimento-vocazione/final-document-of-the-synod-of-bishops-on-young-people-faith-an.pdf (accessed: 30.09.2019).

<sup>91</sup> “Above all the acknowledgment in theory of the active and responsible presence of woman in the Church must be realized in practice.” ChL, n. 51.

<sup>92</sup> ChL, n. 51.

<sup>93</sup> “Papież powołał dwie kobiety na doradczynie w najważniejszej dykasterii Kurii Rzymskiej.” See: <http://www.deon.pl/kosciol/serwis-papieski/papiez-powolal-dwie-kobiety-na-doradczynie-w-najwazniejszej-dykasterii-kurii-rzymskiej,477629> (accessed: 21.09.2019).

<sup>94</sup> “Claudia Ciocca pierwszą w historii kobietą na czele dykasterii w Watykanie.” See: <http://www.misyjne.pl/claudia-ciocca-pierwsza-kobieta-szefem-dykasterii-w-watykanie/> (accessed: 21.09.2019).

<sup>95</sup> Cf. C.B. CLARK: *Budowanie wspólnot chrześcijańskich. Strategia odnowy Kościoła*. Trans. T. KOSIEK. Wrocław—Kraków 1994, pp. 173—182.

these aspects: “We need to pay attention to the global so as to avoid narrowness and banality. Yet we also need to look to the local, which keeps our feet on the ground. [...] The whole is greater than the part, but it is also greater than the sum of its parts. There is no need, then, to be overly obsessed with limited and particular questions. We constantly have to broaden our horizons and see the greater good which will benefit us all.”<sup>96</sup>

## Summary

- a) In the life and execution of the tasks of the Church one cannot understand the lay only as objects of pastoral activity, but also as its important subject: “Every one of us possessing charisms and ministries, diverse yet complementary, works in the very same vineyard of the Lord.”<sup>97</sup>
- b) In the Church, it is important to correctly understand synodality which expresses the passage into a common path and which is organically connected with the understanding of the Church as communion. The equal dignity of the baptised and the common responsibility of the faithful for the life and mission of the Church requires an effective cooperation of all her members. This does not mean democratisation, which would limit the execution of bishops’ ministry, since they are the shepherds and they make final decisions in the discernment process.
- c) Synodality and discernment require the faithful to lead a spiritual life since their purpose is to protect the legacy passed down by Jesus. Only by living in the Holy Spirit can one recognise signs of the times, the state of the Church, and above all the will of God for a local and universal Church. Otherwise, it would be merely a matter of earthly determination of needs and solutions. This would not serve the execution of the Church’s saving mission. It is worth remembering that many times in history institutions followed charismatic discernment.
- d) For the Catholic Church, a broader participation of the lay in the discernment process remains a challenge. While the Pope and the bishops should undoubtedly make final decisions, the freer participation of the lay in discussions, discernment, and suggesting solutions should nevertheless be sanctioned canonically.

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<sup>96</sup> FRANCIS: Apostolic Exhortation *Evangelii gaudium* [24.11.2013], n. 234—235.

<sup>97</sup> ChL, n. 55.

- e) The Synod also has its boundaries, regardless of the opinion of the majority. These boundaries are the preservation of purity of doctrine, unity of the Church and the real common good of the ecclesiastical community and individual believers.
- f) For structural and administrative actions are not enough for proper discernment (e.g. bishops' decrees). The Church needs a current, new look and something more than already existing solutions.

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PRZEMYSŁAW SAWA

## Synodalité, discernement, mouvements ecclésiaux

### Résumé

L'une des catégories fondamentales décrivant la nature de l'Église est la communion, qui a une dimension spirituelle, structurelle et juridique. En vertu du saint baptême, tous les fidèles doivent donc assumer une responsabilité commune et prendre vraiment soin de la vie et des secteurs particuliers de l'activité de l'Église. Cela inclut aussi le phénomène du discernement dans l'Église. Les synodes, ainsi qu'une synodalité au sens large, sont un espace spécial où s'exprime le caractère communautaire de l'Église.

La synodalité et le discernement communautaire, cependant, ne peuvent pas être compris de la même manière que le parlement et la prise de décision à la majorité. Il s'agit de discerner les besoins contemporains et de se découvrir en tant qu'Église dans le monde, tout en gardant la vérité révélée.

Les mouvements ecclésiaux qui forment des catholiques s'identifiant de plus en plus à la mission des baptisés sont essentiels pour reconnaître les chemins de l'Église. Le défi qui reste à affronter, c'est d'approfondir leur importance et de déterminer l'étendue de leur impact sur le processus de discernement dans l'Église, tant au niveau universel que local.

**Mots clés :** synodalité, discernement, implication laïque, structure de l'Église, mouvements et communautés ecclésiaux

PRZEMYSŁAW SAWA

## Sinodalità, discernimento, movimenti ecclesiali

### Sommario

Una delle categorie fondamentali che descrivono la natura della Chiesa è la comunione nella sua dimensione spirituale, strutturale e giuridica. In virtù del santo battesimo, tutti i fedeli dovrebbero quindi assumersi la responsabilità comune e curare realmente la vita e i singoli settori dell'attività della Chiesa. Ciò include anche il fenomeno del discernimento nella Chiesa. I Sinodi, così come la sinodalità ampiamente intesa, sono uno spazio speciale dove si esprime il carattere comunitario della Chiesa.

La sinodalità e il discernimento comunitario, tuttavia, non possono essere intesi allo stesso modo che il parlamento e il processo decisionale a maggioranza. Si tratta di discernere i bisogni contemporanei e il modo in cui la Chiesa si trova nel mondo, custodendo la verità rivelata.

I movimenti ecclesiali formano i cattolici che si identificano sempre di più con la missione dei battezzati sono quindi essenziali per riconoscere le strade per la Chiesa. La sfida da affrontare resta quella di approfondire la loro importanza e di determinare la portata della loro influenza sul processo di discernimento nella Chiesa, sia a livello universale che locale.

**Parole chiave:** sinodalità, discernimento, coinvolgimento dei laici, struttura ecclesiale, movimenti ecclesiali e comunità





Part Two

# Reviews





Laurent SCHLUMBERGER: *À l'Église qui vient*  
Lyon: Olivétan, 2017, 316 pp.

Among the many ecclesiological and ecumenical issues addressed today, there is the issue of the future of the Church. This conceptualisation also includes the question about the future of the entire Christianity. Within the context of perceptible evolution in today's world, there is a concern for the communities of the Church, for whom these changes often become a serious challenge. Laurent Schlumberger, in his publication *À l'Église qui vient* poses questions about the shape of the Church which comes along with the changes of today. He develops his contemplation inspired by faith, spirituality, theology, and the mission of the Church, as well as the path of ecumenism.

The author of the reviewed publication is a pastor of the Evangelical Reformed Church in France. In the years 2010—2013 he was the president of the mentioned community deriving from a Calvinist tradition. From 2013 to 2017 he served as the head of the United Protestant Church in France, which was created as a result of the union of the Church of Calvinist and Lutheran traditions. The author is primarily an active ecumenical promoter. In addition to the discussed publication, he also authored the following publications: *Devant Dieu* (1995), *Dieu, l'absence, la clarté. Essai sur la pertinence du protestantisme* (2004), *Sur le seuil* (2016).

The book consists of four parts. The Foreword was written by Brother Alois of the Taizé ecumenical community. In the Introduction, the author familiarises the reader with the project of his publication, its purpose, and specificity. He explains what it means to be a Protestant in France and what specific tasks in changing the world it involves. The publication also includes a subject index, which makes it easier to find interesting issues addressed in the book.

The first part is entitled *Encouragés par la Parole* (Encouraged by God's Word). It is a collection of homilies (sermons), conferences, and Bible meditations delivered on various occasions. In this part he touches upon, among other things, the question of God's encounter with man, the question of authentic Christian life and the problem of hope. In this part, the conference delivered in 2012 during the international interfaith meeting is particularly interesting. The author stresses that the expression *Ecoute! Dieu nous parle* (p. 36) ('Listen. God is speaking to us') contains some important elements. First, it is the verb 'to listen' (*écouter*), which has a fundamental biblical meaning. It is the founding call of the chosen people (Hebrew *shema*). It also emphasises that in Protestantism the Church is understood as the fruit of the Word that is preached. It contains the celebration of the sacraments. The next expression is *Dieu parle* ('God speaks', p. 37). It points to God's speech in the past, present, and future. Finally, it emphasises the importance of the recipient of God's words. It is the human person. Not some chosen group of people, but rather every person without exception. Many Christian theologians wonder whether it is still possible to speak about God today, especially after Auschwitz, in a secularised European society, always in a rush without respite, drowned out by the noise of modern times. The author is of the opinion that today we should ask further questions: How can we listen to God today? (*Comment écouter Dieu aujourd'hui?*, p. 37); How to listen to His Word? At the same time, the author hones his conviction that God is present in the modern world and He speaks, but his voice is woven into silence. In searching and listening to God's Word there is an opportunity for man: to become more human.

The second part is entitled *Une Eglise qui fait signe* (The Church which makes a sign). It is primarily a collection of official speeches during the national synods of the Evangelical Reformed Church or the United Protestant Church in France. He touches upon the issues of the dynamism and renewal of the Church, the arrangements for the understanding and celebration of the sacraments, preparation for the unification of the Calvinist and Lutheran traditions, and finally the problem of difficulties and fears arising from the unification and hope for the future. As a source of inspiration, the author proposes the *Theological Declaration of Barmen*. The full text of this Declaration can be found in Annex 1 of the reviewed book. The author refers to an event that took place 80 years ago. On 29 May 1934, in one of the districts of the German city of Wuppertal, representatives of various Evangelical traditions in Germany met. The meeting took place in the context of Hitler's rise to power and Nazism gaining its momentum. Hitler decided to keep the German Catholic and Evangelical Church communities under strict control. The theological dec-

laration adopted at that time consisted of six points. Each of the points began with a biblical verse and the formulation and acceptance of the true and, at the same time, rejection of false doctrine. The Declaration is focused on Jesus Christ as the only Lord, while rejecting the idea of any other leader. The use of the German term *Führer* is a telling fact. The author also notes the total absence of any reference to the increasingly worse situation of Jews in Germany. In spite of this, the Declaration is of an enormous significance, which began to bear visible fruit after the end of the Second World War.

The author emphasises that the said declaration reminds us, first of all, of the vocation to be a witness of trust among the experiences of contemporary times. The Barmen Declaration is the result of a dialogue, sometimes very turbulent, between various Protestant traditions. Dialogue means taking up the issue of faith, the necessity of hermeneutics, it is a communitarian way, but also an institutional practice. Dialogue also means paying attention to ethical requirements. The context of the Barmen Synod, its conflict of interpretation, its interfaith character, is an excellent example and encouragement for the unifying communities of Protestant Churches in France. The author draws particular attention to the importance of trust, which is above all God's bounty. He takes up with due attention the problem of communion in the community of the Church. This also applies to the communion or unity of the whole Christianity, which is currently undergoing profound changes.

The third part of the book is dedicated to the issue of the courage of witnesses. These are conference speeches delivered at theological faculties or synod meetings. There are also speeches in honour of contemporary witnesses of faith or also funeral speeches. In the context of the question about the contemporary meaning of the Church, the author outlines the answer in the ecclesiological and sociological aspect. He also notes that contemporary man does not need the Church to have faith. Secularisation, ubiquitous pluralism, migration, globalisation, depopulated theological faculties, etc. are a clear sign of modern times. All this shows that we are living through the post-Christian era. In this situation the author sees an opportunity: the Church must become a community of witnesses, whose basic characteristic will be an authentic trust in Jesus Christ. This trust must be celebrated, worked on and preached by Christians, so that it becomes authentic and thus encouraging for others.

The final, fourth part, presents theology that is still developing (*Une théologie en mouvement*). Four speeches are presented here (addressed to the ecumenical community in Taizé, but also speeches at the Institute of Protestant Theology in Paris and Montpellier). During a symposium dedicated to Brother Roger, the founder of the Taizé community, the author

developed his reflection by formulating the question whether it is possible to be a Protestant and a monk at the same time? He noted that in the 16th century the Protestant reform rejected the religious vows and meant rather the abandonment of monasteries and the end of monastic life. Meanwhile, as the author emphasises, the form of monastic life is deeply in line with the intuitions and principles of the Protestant reform. The Protestantism of the 19th and 20th centuries discovered this form of Christian life. These two centuries have witnessed the emergence of many communities of the monastic type in Francophone Protestantism. The first sign was the foundation of the Deaconesses House of Reuilly in 1841 (*la communauté des Diaconesses de Reuilly*). The next phase of development of monasticism in French Protestantism took place in the first half of the 20th century. Three communities were established at that time: in Pomeyrol (1929), Grandchamp (1936), and Taizé (1940). The 1923 creation of the *tiers-ordre des Veilleurs* (p. 269) cannot be omitted in any way. It was a kind of “third order,” whose primary task was to watch over prayer. It was a prayer community, emphasising the value of spirituality and referring to the message of the Beatitudes from the Sermon on the Mount. These groups were initiated by Théodore Monod, a member of the Evangelical Reformed Church in France, an academician, pacifist, and most renowned experts in the field of desert fauna and flora. This monastic spirituality was clearly acknowledged by the great Protestant theologians of the last century: Karl Barth and Dietrich Bonhoeffer. According to the author, the monastic way is a real possibility to live in unity with God.

Speaking at the Montpellier conference, the author recalls the deep and lasting evolution to which Christianity is currently a subject. All Christian Churches are going through some transformations. He notes that these changes lead to the so-called post-confessional Christianity (*un christianisme post-confessionnel*, p. 283). The author attempts to acquaint himself, describe, comprehend, and analyse the transformations taking place. He wonders about the role of the Church, which he leads in the whole process of evolution.

The reviewed publication is intriguing in its various dimensions. Not a trace of false triumphalism may be sensed in it. Instead, one must acknowledge its reliability in presenting inconvenient truths to us. The book formulates, above all, the basic question about the future of the Church, and consequently, about the future of Christianity in the changing world. The author does not address his words exclusively to the members of his ecclesial tradition, but rather to all Christians, and does so with respect for the principles of ecumenism. It is a call to the reconciliation of the whole human family and not only to ecumenical dialogue,



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but above all to know each other in order to contribute to the growth and deepening of the Christian faith.

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Antonio SORRENTINO: *Zreformować reformę*  
[*Riforma della riforma*]. Trans. A. ŻĄDŁO. Kielce:  
Wydawnictwo Jedność, 2019, 260 pp.

The author of the discussed book, Fr. Antonio Sorrentino (born 1940) is the presbyter of the Archdiocese of Salerno-Campagna-Acerno, who for many years has been in charge of liturgical affairs. He is also a research fellow at the Istituto Teologico Salernitano and an Archbishop's Delegate for the Pastoral Care of Permanent Deacons. In 2019, the Polish edition of his *Riforma della riforma* (translated by Fr. Andrzej Żądło) was published by Wydawnictwo Jedność in Kielce. The reflections of a long-time pastor, liturgist, and lecturer, based on solid historical and theological research, are especially important and useful for the modern Church which still has to deepen the understanding of the liturgy and take care of the beauty of its celebration.

This publication fits into the widespread debate among Catholic groups over the character of the liturgy, especially of the Eucharist and the ways of its celebration.<sup>1</sup> A lively dispute between the supporters of Paul VI's renewal of the form of the mass and of the extraordinary form of the Roman rite (so-called Tridentine mass) causes a lot of confusion among Catholics. Many of them do not avoid discussions and clear opin-

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<sup>1</sup> "Of course the postulates that stand at the starting point of the probable changes, for example the care for the attitude of worship, the central position of the Cross at the altar and in the prayers of the people, are right. Only then these goals can be achieved without changes in the ritual itself. There are many groups in which the post-conciliar liturgy is explicitly centered on the Christ [...]. The controversy over the form of the liturgy is actually minor. It is more important that we understand the purpose of our faith [...]." T. KWIECIEŃ: *Świątyni nie dojrzałem*, <https://opoka.org.pl/biblioteka/P/PR/tp2010-06-liturgia.html> (accessed: 14.12.2019), translation mine — P.S.

ions even though they lack appropriate knowledge, both liturgical and historical. It seems that those are the supporters of the pre-conciliar most harsh in their judgments which also applies to the clergy. This includes: accusations of the destruction of the liturgy and liturgical tradition, of acceptance of Protestant influence and of *Novus Ordo* being responsible for the crisis of the Church since the 1970s. Unfair as it is, the voice is loud. Thus, a proper study of dogmatic theology, especially of ecclesiology and theology of the liturgy and basing the discussion on historical studies are necessary. Only then is creative conversation possible and the Church itself can recognise the proper understanding of the Eucharist.

The publication of Fr. Antonio Sorrentino fits into this discussion. Thanks to its simple form and to the factuality of arguments presented, it can lead to proper formation of the spiritual and the lay. The author notes “by persistently and wholly accepting the straightforward faith and honest love towards the Church of all members of the debate, I really tried to listen carefully to different opinions and understand their points [...] in hope that [...] the discord should pass and that much needed accord should begin, brightening up the life of our communities.”<sup>2</sup> Such a goal proves the meaning of the publication which did not take the form of a violent dispute but of a calm dialogue by being focused on facts and trying to understand the thoughts of each party. At the same time, one can notice a great love for the Church and the ecclesiastical realism which prevents the author from unrealistic statements that are often heard in heated debates about the liturgy.

The value of the book was also appreciated in the *Recommendation* (pp. 10–12) by Archbishop Piero Marini, the Chairman of the Papal Committee for International Eucharistic Congresses and a former Master of Pontifical Liturgical Ceremonies. Archbishop Marini lists the many values of the edition: well-documented facts, an understanding of feelings and tensions in interpersonal relations, visible scientific and pastoral experience of the author, proper description of the points of both sides of the discussion and its theological profoundness. Similar recommendation is given in the *Preface* (pp. 13–14) by the retired Archbishop of Salerno Luigi Moretti, who emphasises the fact that the Liturgy is celebrated in a given cultural and ecclesiastical context, which makes cancelling the reform impossible. If one takes this into account, the book will aid them in discovering the Church as a communion of faith and as an ecclesiological model which expresses an understanding of liturgy and the way in which it is performed. The same is noted by Fr. Andrzej Żądło, the trans-

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<sup>2</sup> Polish edition of *Riforma della riforma*, trans. A. ŻĄDŁO. Kielce 2019, p. 15. All the following in-text quotations are from this edition.

lator of the Polish edition of the book and a member of the Faculty of Theology of the University of Silesia in Katowice who wrote the Preface to the Polish edition (pp. 5—9). He drew attention to the historical placement of the dispute over the form of the Roman Rite, especially to how long the liturgical reform had been awaited.

The work of Fr. Sorrentino starts with the Introduction (pp. 15—16) which describes the purpose of the publication: to present appropriate arguments for pastors and persons involved in pastoral care, based on listening to various voices in the dispute. The book is concluded with a bibliography (pp. 255—257). The content itself is divided into six parts (chapters).

The first of them, “Extraordinary time for liturgy” (pp. 17—48), describes the historical context of the Second Vatican Council and the expectation of necessary reforms including those of liturgy that culminated in the liturgical reform carried out by Paul VI. The Pope gave an explicit message that only a new order prepared by capable people would be justified. Not without significance was also the atmosphere around the reform, that is, the great enthusiasm and, at the same time, the resistance of some environments.

The objections towards the reform are described in the second chapter entitled “Painful experiences of the Lefebvrites” (pp. 42—48). The author presents the peculiar extremism of Archbishop Marcel Lefebvre’s supporters which can be observed in their statement that the *Novus Ordo* expresses a new faith, a new Church and a detachment from past centuries. The essence of the case is thus objecting to the teachings of the Second Vatican Council. As a result, the Society of Saint Pius X and people around them are not open for a dialogue that would respect the direction set by the Council, despite John Paul II and Benedict XVI’s attempts to reach a compromise.

Taking into account the variety of opinions on the matter, the third part called “Revisionists’ way of thinking” (pp. 50—67) is very important. Fr. Sorrentino shows the mentality of Catholics who are in communion with the Holy See but are focused on the Tridentine Rite. They express concerns about the reform arguing that it interrupts continuity, lacks transparency, is influenced by Protestantism, lacks the feeling of *sacrum* and mystery, emphasises the priesthood of all believers, encourages too much spontaneity and disintegrates the liturgical unity of the entire Church. At the same time, it is necessary to keep in mind the heterogeneity of attitudes (Joseph Ratzinger, Nicola Bux, Mauro Gagliardi).

Part four, “Some views and positions of the traditionalists” (pp. 70—194) — is the most complex and interesting part of the book. It presents ten main issues raised by the traditionalists: anthropological orien-

tation (too much focus on the person), incomplete reference to the Tradition, loss of the meaning of mystery in the new liturgy, the need for return to the Latin language and Gregorian singing, misunderstanding of the conciliar idea of “active participation,” which should be conscious, pious, and active, the tension between ritualism and creativity, fears about the loss of the sacrificial character of the Holy Mass for the benefit of understanding it as a feast, objection to the location of the altar and the celebrant, postulate of the Eucharist *ad orientem* and decentralisation of the tabernacle. Antonio Sorrentino not only presents the views of the traditionalists, but leads a discussion based on historical and theological arguments rooted in a deep understanding of the Church. And although he supports the reform, he also points challenges for putting the beauty of the liturgy on the higher level.

To start a dialogue with groups with different opinion on liturgy, the fifth part of the book “No’ to radical solutions is important” (pp. 196—229), is dedicated to reconciliation through the rediscovery and actual use of the Roman Canon and other Eucharistic prayers, use of various vestments and respect for the various forms of receiving of the Holy Communion (on the tongue and on the hand). This underlines the richness of the Church, of its experiences and of various forms of expressing one faith.<sup>3</sup>

“Promoting a peaceful dialogue” is the last chapter of Antonio Sorrentino’s book (pp. 232—254). Therein the author presents various attempts to reduce the tensions emerging between the “old” and the “new.” The basic suggestion is to move away from juxtaposing forms of celebration. However, one also cannot give up on mentioning the advantages of Paul VI’s missal that appreciates the Word of God and the meaning of the congregation of the faithful. The missal is also based on the teachings of the Second Vatican Council, especially in the area of ecclesiology. One must, however, take care of the proper celebration of the Eucharist. Fr. Sorrentino expresses this need aptly: “It is necessary for us to bring the wise reform of liturgy and its reasonable execution into abundant fruition in the Christian life and ecclesial communion.”<sup>4</sup>

Comprehensively, it can be said that the publication presented is in line with expectations to find the right theological and liturgical reinforcement in the ongoing discussions about the form of the liturgy and the legitimacy of the reform fifty years ago. The value of the text has

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<sup>3</sup> “If we consider the bimillennial history of God’s Church, guided by the wisdom of the Holy Spirit, we can gratefully admire the orderly development of the ritual forms in which we commemorate the event of our salvation.” BENEDICT XVI: *Post-Synodal Apostolic Exhortation “Sacramentum Caritatis”*, 3.

<sup>4</sup> *Ibidem*, p. 254.

its source in its calm tone and in its accuracy of using historical, theological, and pastoral arguments which makes reading interesting. Then, the author's experience in both scientific research and pastoral tasks in a parish (pastor) and in the archdiocese (membership in its bodies, especially those responsible for liturgy) is also helpful. That is how the book becomes a help in a scientific reflection over the topic and an inspiration for further research. It will also be helpful for pastors as a help in liturgical formation — both their own and of the faithful.

Fr. Sorrentino's publication is also important for the understanding of the Catholic intra-Church dispute between the supporters of Paul VI's liturgical reform and the Lefebvrites along with the widely understood group of traditionalists. The book states clearly the essence of the dispute which is not about the language of rituals but about the understanding of the Church which is fully completed during the celebration of the Eucharist. The concept of the People of God and the Church as a communion<sup>5</sup> made explicit by the Second Vatican Council naturally leads to the necessity of the long-awaited reforms and implementation of the idea of "active participation."<sup>6</sup>

To sum up, the *Reforming the Reform* has one more important quality. Fr. Sorrentino's methods and the tone of the book can become an example of how difficult disputes should be carried out, even if a dialogue seems impossible. Love of the Church, desire of truth and respect towards the opponent should always be its foundation.

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<sup>5</sup> "All men are called to belong to the new people of God. Wherefore this people, while remaining one and only one, is to be spread throughout the whole world and must exist in all ages [...]. All the faithful, scattered though they be throughout the world, are in communion with each other in the Holy Spirit [...]" SECOND VATICAN COUNCIL: *Dogmatic Constitution on the Church "Lumen Gentium"*, 13.

<sup>6</sup> "Mother Church earnestly desires that all the faithful should be led to that fully conscious, and active participation in liturgical celebrations which is demanded by the very nature of the liturgy [...]. In the restoration and promotion of the sacred liturgy, this full and active participation by all the people is the aim to be considered before all else." SECOND VATICAN COUNCIL: *Constitution on the Sacred Liturgy "Sacrosanctum Concilium"*, 14.







*Registrácia cirkví a náboženských spoločností  
v zemiach Vyšehradskej štvorky, Rakúsku a na Ukrajine*  
[Registration of Churches and Religious Societies  
in the Visegrad Four Countries, Austria, and Ukraine]  
Ed. Damián NĚMEC. Praha 2019, 320 pp.

The discussed book is the outcome of the international academic conference held within the framework of the Visegrad Grant No. 21730060. All contributions therein have a unifying theme, namely, the registration of Churches and religious societies in the V4 countries, Austria, and Ukraine, and are written by experts in selected areas of law in the respective countries. The individual text also share internal structure, because their authors always begin with a historical outline of religiosity in a particular country, then proceed to the current legal regulations regarding the individual questions of institutionalised freedom of religion, and finally present unanswered questions and possibilities of their solution *de lege ferenda*. At the same time, the authors are given the freedom to emphasise the national specifics of individual legal regulations and their articles are obviously accompanied by corresponding bibliographies. The publication in both Slovak and English increases the potential impact of the contributions in question.

The reviewed proceedings combine research on the state of legal regulations with opinions of legal science on the investigated issues. What adds to the quality of the publication is the comparative concluding chapter which summarises and evaluates professional and other approaches to the regulation of marketing authorisations in individual countries, which imply possible sources of inspiration, or deeper reasons for the inability of an individual country to inspire others.

Let us now discuss individual texts of the book in question:

D. Němec's article on the registration of Churches in Slovakia is well quantified in terms of information; its last chapter directly invites to inspire the results of the research of other authors in the proceedings (in the case of numerical census, although in the Czech Republic, obviously with the necessity to point out important differences between the two countries).

B. Schanda's contribution, in turn, undertakes the topic of Churches registration in Hungary and matches the quality of the remaining texts. The final part of the article lives the readers with an impression that in Hungary Churches do not encounter any major difficulties in terms of registering their activity, but it may result from the neutral tone of Schanda's considerations.

W. Wieshaider's article on regulations in Austria complements other contributions. It reflects the specific problems or challenges of the Austrian legislation in multicultural, and so multilingual, environment. Although the Republic of Austria borders the V4 countries, it obviously is not one of them. Of course, it is not to say that the challenges that Austria is facing today will not affect the V4 countries in future, at least to a degree.

M. Sitarz's article on the registration of Churches in Poland also does not point to any conspicuous problems in this regard. However, the data provided by the author concerning the number registered Churches in Poland (166) suggest the need for unification of terminology across analysed group of countries.

Contribution written by K. Bubelová and M. Menke on the registration of Churches in the Czech Republic is a high-quality overview of the situation of Churches and their legal standing in the Czech Republic, especially with regard to how they can operate without registration. In this respect, the situation in the Czech Republic can be a stimulus to address the factual impossibility of registering new Churches in Slovakia.

The article authored by O. Bilash on the registration of Churches in Ukraine is again an inquire the conditions of legal registration of Churches in a state neighbouring the V4 countries. Its value stems from the fact that the legislation in Ukraine often escapes the attention of the public. Moreover, the article by Bilash is absolutely topical, as it maps the major changes made in legislation at the beginning of 2019. As we may learn from the text, these new amendments are already constitute a challenge and prompt some new doubts.

To summarise, the reviewed book is a valuable and interesting summary of the current legal situation in discussed countries and as such may only be recommended.

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