



Jurij POPOVIČ: *Hierarchical organization of the Church according to the CCEO*
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The number of Catholics of the Western/Latin liturgical rites who are subject to the discipline of the 1983 Code of Canon Law exceeds one billion worldwide, while the members of the Catholic Eastern Churches who are subject to the discipline of the Code of Canons of the Eastern Churches (CCEO 1990) are a minority in the Catholic Church, amounting only to tens of millions. Nevertheless, from a canon law standpoint (but not only), the institutions and spiritual life of these churches receive much more attention than would correspond proportionally to the relatively small number of addressees of the norms of the “Eastern Code” or the number of actually practicing faithful of these Eastern Churches. Sometimes behind this phenomenon there may be a flavour of a certain “exoticism”, an admiration for something mysterious and mystical, or an expectation of an impulse of spiritual renewal which may come from areas not yet so much affected by the decline of civilisation which, according to some critics, is already manifesting itself in the West (*lux ex oriente*).

For canonists, however, the specifics of the general law of the Eastern Churches also play a role, which can be aptly pointed out by an analytical analysis comparing Eastern law with the “more familiar” Western law, that is, the law of the Latin Church. The authenticity of the canonist’s interest in Eastern law is, however, mainly determined if he himself is a member of one of the Catholic Eastern Churches, which is also the case of the author of the present publication, the Slovak priest ICDr. Jurij Popovič PhD., a *protoiereus* with the right to wear the hypogonation, who

studied canon law at the Pontifical Oriental Institute in Rome and at the Catholic University in Lublin (Poland). He also teaches in this field at the Greek Catholic Faculty of Theology of the University of Prešov. In addition, for many years he has also served as a judge of the Church Tribunal of the Prešov Archeparchy.

His home church, the Slovak Greek Catholic Church (or: Byzantine Catholic Church in Slovakia), known in religion law as the (Slovak) Greek Catholic Church, had a very turbulent fate in Czechoslovakia, especially during the period of the harshest Stalinist persecution by the communist regime. As a consequence of the staged so-called Prešov Council in 1950, the Church was forced to convert to Orthodoxy, with the subsequent persecution of priests and believers who refused to conform to this manifest injustice. The regime thus succeeded in temporarily liquidating the church, which had about 300,000 members, and it was not until the “Prague Spring” of 1968 that its activities could have been restored.

As far as the publishing background for the study of canon law in Slovakia is concerned, it should be mentioned that the approved Slovak translation of the CCEO, published in 2012, is available. At the same time, there is a monograph on the particular law in the Church *sui iuris* of the Byzantine liturgical rite in Slovakia by the canonist Jozef Ivan (2006) and many other publications by the same author, dealing with various canon law institutions from the point of view of the canon law of the Eastern Churches. For comparison, it should be noted that the Czech Greek Catholic exarchate does not yet have an approved version of the translation of the Eastern Code (only a study translation was published in 1998 by the Prague publishing house Karolinum), but a collection of particular canon law published by the exarchate between 1996–2011 was published in 2011. The subject matter of Popovič’s book is closest in content to two Slovak scholarly publications, namely *Patriarchálne cirkvi v Kódexe kánonov východných cirkví* (Patriarchal Churches in the Code of Canons of the Eastern Churches) by Cyril Vasiľ (1999) and *Metropolitné cirkvi v Kódexe kánonov východných cirkví* (Metropolitan Churches in the Code of Canons of the Eastern Churches) by Jozef Ivan (2013).

However, Jurij Popovič’s book differs from the above-mentioned Slovak publications on Eastern Catholic law in its language: the author deliberately chose English, which can help both himself and the Slovak Greek Catholic Church and its jurisprudence to become known to the world professional and lay public. The publisher of the book is a Christian-oriented entity from Ljubljana, Slovenia: KUD Apokalipsa: Srednjeevropski raziskovalni inštitut Soeren Kierkegaard (KUD Apokalipsa: Soeren Kierkegaard Central European Research Institute). In his book, the author

quotes from almost seventy items of secondary literature, part of which are Slovak Greek Catholic authors with the aforementioned publications (J. Ivan, C. Vasil', and also Czech J. Dvořáček), and Slovak canonists dealing mainly with Latin law (e.g., V. Filo, J. Duda, K. Adam, D. Faltin). The author also overcomes the similar language barrier that separates the international canonist community from Slovak (and Czech) literature by citing authors and sources in Polish, Ukrainian, and Russian. However, the author also uses standard canonical literature published in Italian and English. Sometimes, however, the author makes a quite blurred distinction between sources and literature; it even seems that the decrees listed in the list of literature at the very end have accidentally "wandered in" from the sources section.

The subject of the author's scientific research is the hierarchical organisation of the Eastern Catholic churches, that is, those elements of their hierarchical structure which share law of the Eastern Catholic Churches, contained in the CCEO, determines as common to all these Churches *sui iuris*, which are otherwise diverse in many aspects of their life and practice and differ from each other to a greater or lesser extent. As for the hierarchical gradation of institutions and persons in the Church, this phenomenon takes its name from the "hierarchy of angels" about which the sixth-century Neoplatonic anonymous Christian author Dionysios (really Pseudo-Dionysius) the Areopagite wrote in the 6th century AD. However, in the context of the Second Vatican Council's Constitution on the Church *Lumen gentium*, there is talk of abandoning the pyramidal understanding of the hierarchical structure of the Church, with the Pope himself at the top. The new conception is said to be not so "hierarchical", and is rather captured by the phrase "hierarchical communion" (*communio hierarchica*). Indeed, the scheme of that constitution was also inspired by the 1983 post-conciliar Code of Canon Law for the Latin Church, which, following a catalogue of the duties and rights of all Christians, moves on to a similar catalogue for lay Christians, before turning to clerics and their discipline. After that, there are the norms on Christian associations, which constitute a common platform for clerics and laity. Only then does the Code of the Western Church introduce the hierarchical structure "from above", where the Pope is listed as the first subject of regulation, together with the Ecumenical Council.

It is, however, noteworthy that this new post-conciliar logic is not followed by the Code of the Catholic Eastern Churches and in its structure immediately after the catalogue of duties and rights of all Christians of the Catholic Eastern Churches it passes to the hierarchical structure of the Church, or rather of the churches *sui iuris*, which is the actual subject of the publication in question. The author apparently deliberately omits the

highest level of Church-wide authority, that is, the topic of the Pope and the ecumenical councils, which is treated in the third title of the Code for the Catholic Eastern Churches in virtually identical terms to the Code of the Latin Church. In this context, one cannot overlook the fact that it is the papacy whose jurisdictional concept defined by the First Vatican Council (1870) is faithfully reflected in the law of the Code, which is the main cause of disunity between the Eastern Churches united with the Apostolic See of Rome and those Eastern Churches which do not recognise and reject such a concept of ecclesial unity, which are in particular the Orthodox Churches.

The author of the book therefore immediately approaches a specific form of ecclesiastical organisation, typical for the Eastern Churches, namely the topic of patriarchal establishment, which is the subject of the legal regulation of the fourth title of the CCEO. For a comprehensive introduction to the issue, the author considered it necessary to first discuss the historical formation of the Eastern Patriarchates against the background of the dogmatic development of the ancient Church Councils and the circumstances that led to the gradual splitting and mutual distancing of the Churches. It should not be forgotten that after the Councils of Ephesus (431) and Chalcedon (451) the so-called Old Oriental Churches were already separated from the existing ecclesiastical unity. Thus, the author first introduces the patriarchates of these ancient churches, then moves on to the patriarchates of the Byzantine tradition (Orthodox), and then finally, on the basis of the logic of historical and theological development, discusses the Catholic Eastern patriarchal churches that are governed by the CCEO legislation, namely the Melkite, Maronite, Syrian-Antiochian, Chaldean, and Armenian-Catholic churches. In the Christian West, patriarchates did not develop as structurally and independently as in the East, and in the course of time they disappeared and were absorbed by a single Roman papal “patriarchate”, while in the case of the Eastern Churches patriarchates represent a real specificity. For this reason, the author also introduces the reader to the basics of the doctrine of the Eastern Catholic Patriarchates as set forth in the conciliar decree *Orientalium Ecclesiarum* on the Eastern Catholic Churches. Of the canonists he cites here, we should mention C. Vasil, but there are also references to other prominent canonists, such as D. Salachas and G. Nedungatt (an Indian author whose work the author quotes from the Ukrainian translation).

From page 42 onwards, the author’s concept of interpretation is transformed into a commentary on selected canons of the CCEO, beginning with can. 55, which begins the fourth title of the CCEO dealing with patriarchal churches. Significantly, the author in places supplements the general abstract legalese, necessarily influenced by the language of the

individual canons, with concrete examples from the history and practice of the various Catholic Eastern Patriarchates. The author does not dwell too much on a specific symbolic manifestation of the relationship between the papacy and the patriarchal establishment, namely the fact that the pope neither confirms nor approves the newly elected patriarch, but the patriarch himself writes a letter to the pope according to canon 76 § 2 of the CCEO in which he assures him of the mutual hierarchical union and thus indicates his will to establish communion (*vinculum communionis*).

The patriarchal establishment breathes its antiquity, although the number of believers in some Catholic patriarchal churches is currently very small. In contrast, some other Eastern Catholic churches are developing dynamically, but they cannot show such antiquity. For them, the structure of the archiepiscopal larger (high) churches, whose functioning, in many respects analogous to that of the patriarchates, is also discussed by the author. Here, too, the author proceeds to present the realities connected with their development, and introduces four of these churches, namely the Ukrainian, Syro-Malabar, Malankara, and Romanian Greek Catholic churches.

The metropolitan churches stand one step below. The author himself is a priest of one of them, the archeparchy of Prešov. The reader from the Latin Church will be particularly familiar with the fact that the Catholic Eastern Metropolitans also receive the pallium (in Greek, himation) from the Pope. An analysis of can. 159 of the CCEO, then, shows that the Metropolitans of the Catholic Eastern Churches have much broader powers than their Western counterparts, so that the position of the Metropolitans according to can. 435 et seq. of the Latin Code appears to be rather symbolic and “supplementary” in the structure of the Western Church. The commentary on canon 161 of the CCEO then draws attention to the importance of the liturgy for the preservation of unity in the Eastern churches, since this legislation specifies which hierarch – here specifically the Metropolitan – is to be placed (appointed) in the appropriate places after the Pope in the celebration of the liturgy. It could also be added (and the author has done so in another context on p. 189) that if the celebrant consistently refuses to cite the respective hierarchs even after admonition, he can be punished up to the penalty of major excommunication (can. 1438 CCEO).

One of the manifestations of common decision-making (so-called *sobornost*) in the Eastern churches are the councils of hierarchs, which even in the previous legal regulation of Pius XII’s *motu proprio Cleri sancititati*, nor in the conciliar decree *Orientalium Ecclesiarum*, did not yet have a binding legal form, which was given to them only by the

CCEO, as the author gratefully recalls. In contrast to these authentically Eastern collective bodies, the episcopal conferences mentioned in the CCEO also represent rather an implementation from the practice of the Western Church. However, the CCEO also has to deal with them since the meetings of the bishops' conferences are also attended by the hierarchs of the Catholic Eastern Churches who have episcopal consecration.

The seventh title of the CCEO on eparchies and bishops does not show so many peculiarities compared to the analogous legislation in the Code of the Latin Church. A visible difference is manifested in the fact that the election of a bishop is the rule, whereas in the Latin Church today the election of a bishop is the exception, although the Latin Code also explicitly provides for it (can. 377 § 1). The author proceeds to the degree of parish organisation in the Eastern Catholic churches. Here, the legislation is indeed similar to the way in which the Code of the Latin Church treats the institution of the parish and the person of the parish priest. However, it must never be forgotten that the CCEO represents only the general law of the Eastern Catholic churches, and therefore the actual life of the individual churches *sui iuris* may also involve specifics given by particular law or local custom. It should also not be forgotten that in most of the Eastern Catholic churches the priests are married, which certainly has practical implications for the day-to-day running of the parish and the approach of the priest himself to his ministry. Given that, for example, the territory of the Czech Republic is covered by the Apostolic Exarchate for the purpose of the Greek Catholic Church, it cannot be overlooked that the author also pays attention to this specific hierarchical formation towards the end of the book.

It is no coincidence that it is the theme of the hierarchical organisation of the Eastern Churches that the author of the book, as a Catholic canonist, deliberately chose. The fact that the Eastern churches are structured with a firm emphasis on hierarchical superiority and subordination does not at all detract from what may seem, to an outside observer of these Churches, to be the most valuable and attractive thing, namely, impressive liturgical celebration. Indeed, the mystically active Eastern rites are also based on hierarchically divided roles and functions, and this division of God's people and his servants does not in any way undermine but rather enhances the impressiveness of the mysterious liturgical action. Finally, it should also be noted that the author is writing about hierarchy in the Eastern Catholic churches. It is now very clear that the Orthodox model of ecclesiastical unity, based on virtually completely separate autocephalous churches, is running up against its limitations, with narrow national and transient political interests often preventing the agency of

Orthodoxy as a whole. This cannot happen in the Catholic polity, despite all the internal and external problems that the Eastern Catholic churches have to face, since the Apostolic See of Rome represents the ultimate safeguard that guarantees ecclesial unity according to Christ's words "you are Peter, and on this rock I will build My church."

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