

Church Legislation in the Time of Patriarch Justinian Marina

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Abstract:

In the present study we briefly review the legislation of the Patriarch Justinian on the 40th anniversary of his passing away. The legislative body we focused on bears his name, that is The Laws of the Romanian Orthodox Church during His Beatitude Patriarch Justinian 1948-1953, including The Statute for the Organization and Functioning of the Romanian Orthodox Church, 10 Regulations, Decisions of the Holy Synod, Patriarchal Decisions and a Canonical Guide with an Alphabetical Index compiled by Fr. Professor Dr. Liviu Stan.

Keywords: *Romanian Orthodox Church, Patriarch Justinian, ecclesiastical organization, Religious and Civil Legislation, canon law*

The Holy Synod of the Romanian Orthodox Church proclaimed 2017 as the “homage year of the holy icons, iconographers and church painters and the commemorative anniversary year of Patriarch Justinian and of the defenders of the Orthodoxy during communism” in the Romanian Patriarchate.

In this context, the present study highlights both the personality and the legislative legacy of Patriarch Justinian on celebrating 40 years since his passing away, namely *The Laws of the Romanian Orthodox Church under the Rule of His Holiness Patriarch Justinian 1948-1953*, The Publishing House of the Biblical and Mission Institute of the Romanian Orthodox Church, Bucharest, 1953. Besides this compendium of Church law, Patriarch Justinian regulated various aspects of Church life that he transformed from *de facto* to *de iure*, aspects that we shall subsequently analyse in our study. As for his personality, the Worthy of Remembrance Metropolitan Bartolomeu Anania, a person who was close to Patriarch Justinian, brilliantly described him when asserting that he

impressed with strength and vivacity, a huge working capacity, prodigious memory as well as with almost perfect management skill. Later on, I was to discover the diplomat, the extremely skillful man who negotiates with the opponent in seemingly common positions. At that time, however, I only perceived the “official person” who enjoyed the confidence of the Communist government and shared socialist ideas, while refusing to violate the essence of Orthodox dogmas (Ananaia 2008: 175).

However, we must also bear in mind the political system of the time. In spite of the popular democracy and of the democratic state law regarding the denominations relying, at least at the declarative level, on the freedom of conscience and religious thought, the aim of the socialist state was “that man be free from the darkness of religion through the cultural-educational function so as to be uplifted to the general level of knowledge and reach the materialistic-scientific education” (Deleanu 1980: 288).

After the establishment of the communist regime, both in the Romanian society and in the church life, major changes occurred; thus, in the state-denominations relations, it was regulated that,

in order to be organized and function, the denominations should be acknowledged by a decree of the Presidium of the Great National Assembly, at the proposal of the Government, following the recommendation of the Minister of Denominations. In well-motivated cases, the acknowledgement may be withdrawn in the same manner (see Article 13 of Decree No 177/1948).

Furthermore, since 1948, through the Ministry of Denominations, the State takes over the right to supervise and control all religious denominations:

The Ministry of Denominations is the public service through which the State exercises the right of supervision and control to guarantee the use and exercise of the freedom of conscience and religious liberty (Art. 1 Decree no.178/1948, in Danielescu and Roman 2012: 264).

In this context, through its governing bodies, the Romanian Orthodox Church had to adapt to the new conditions. Consequently, on the basis of Article 14 of Decree 177/1948, the Statute for the Organization and Functioning of the Orthodox Church was issued, being prepared by Patriarch Justinian, approved and voted by the Holy Synod in the meetings on 19th – 20th October, 1948. Moreover, the Worthy of Remembrance Patriarch Justinian regulated all the fields of activity of the administrative-church life and all church bodies, issuing a series of regulations in this

regard, thus creating new church legislation that was to bear his name. Among these regulations, we mention: *The Regulation of Procedure of the Disciplinary and Judicial Courts of the Romanian Orthodox Church* – drafted by Patriarch Justinian, approved and voted by the Holy Synod, in the meeting on the 8th June, 1949; *The Regulation of the Organization and Functioning of Educational Institutions for the Preparation of the Church Staff and the Recruitment of the Teaching Staff of the Romanian Patriarchate* – prepared by Patriarch Justinian, approved and voted by the Holy Synod, in the meeting on the 14th June 1952; *The Regulation for Determining the Patriarch's Attributes and for the Functioning of the Deliberative, Administrative and Executive Central Bodies of the Romanian Patriarchate: the Holy Synod, the Permanent Synod, the National Church Assembly, the National Church Council, the Patriarchal Administration and the annexed institutions* – drawn up by Patriarch Justinian, approved and voted by the National Church Assembly in the meeting on the 26th February, 1950, *The Internal Regulation for the National Church Assembly of the Romanian Orthodox Church* - drafted by Patriarch Justinian, approved and voted by the Holy Synod, in the meeting on the 23rd October 1948; *The Regulation for the Election, Functioning and Dissolution of Deliberative and Executive Bodies in the Parishes, Deanery and Dioceses of the Romanian Patriarchate* – drafted by Patriarch Justinian, approved and voted by the Holy Synod on the meeting on the 25th February, 1950; *The Regulation for the Appointment and Transfer of Parish Clergy, Capacity, Completion, Promotion, and Selection Exams for the Capital City, of the Deacons and Priests of the Romanian Orthodox Church* – drafted by Patriarch Justinian, approved and voted by the Holy Synod, in a meeting on the 28th February 1950, *The Regulation for the Administration of Church Patrimony* – drafted by Patriarch Justinian, approved and voted by the National Church Assembly, in the meeting on the 26th February, 1950; *The Regulation for the Organization and Functioning of the Clergy Relief Homes, Attached to the Dioceses* – drafted by Patriarch Justinian, approved and voted by the National Church Assembly in the meeting on the 15th June, 1952; *The Regulation for the Organization and Functioning of the Church Assets Insurance Funds* – drafted by Patriarch Justinian, approved and voted by the National Church Assembly, in the meeting on the 15th June, 1952; *The Regulation for the*

Organization of the Monastic Life and the Administrative and Discipline Functioning of the Monasteries – approved by the Holy Synod on February 25, 1950, by Decision no. 4928 of the Ministry of Denominations on the 26th March, 1953.

Beside Foreword, Extract from the Constitution of the Romanian Popular Republic – art. 84, *The Statute for the Organization and Functioning of the Romanian Orthodox Church* and the 10 Regulations mentioned, *The Laws of the Romanian Orthodox Church under the Rule of His Eminence Patriarch Justinian 1948-1953* also include Decisions of the Holy Synod and Patriarchal Decrees, namely: a) Additions to the Regulations of Appointments and Transfers; b) The retirement of the priests over the age of 60; c) the provision that a priest can perform, in the same day, a single Liturgy; d) Rules on church painting; and, last but not least, d) *The Laws of the Romanian Orthodox Church of 1953* also including a *Canonic Guide* with an Alphabetical Index drawn up by Fr. Prof. Dr. Liviu Stan, the greatest Romanian canonist, who, through his studies, contributed to the development of the Romanian church law and who set up a school of church law by the training of doctoral students.

Beside the regulations included in the legislative compendium of Patriarch Justinian, during his ruling, there were other regulations published in the “Official Journal” of the Romanian Orthodox Church, i.e. in the *Romanian Orthodox Church* journal: *The Regulation for the Organization and Functioning of the Pensions House and Church Aid of The Romanian Orthodox*, approved in 1959, *The Regulations of the Theological Boarding Schools* of 1954 and *The Cemetery Regulations* of 1958 (Floca 1988: 97, note 3).

The Statute for the Organization and Functioning of the Romanian Orthodox Church is the fundamental law of the Romanian Orthodox Church and its comparison with a “constitution” is not by chance since, on the one hand, it renders the realities of the life of the Church as a visible society, canonically organized according to its own rules, and since, on the other hand, on the basis of already existing realities, it creates the possibility of forecasting new realities and future transformations. In the same vein, canonist Liviu Stan claimed that the Statute is equally “summing-up and an action plan” (Stan 1949: 6), representing by analogy a “true map in the legal landscape of the social life of the Church as well

as a virtual map of the future image of the Church” (Stan 1949: 6). The formal sources of *The Statute* are the Holy Bible, the canons of the first millennium, the decisions of the Holy Synod of the Romanian Orthodox Church, the Constitution of Romania, and Decree no. 177/1948. However, *The Statute* does not have a documentary, static role, because it regulates the dynamic realities of church and social life, with its permanent changes.

Through *The Statute for the Organization and Functioning of the Romanian Orthodox Church* (1948) two of the canonical principles of organization and functioning of the Romanian Orthodox Church were set out, namely: the principle of autocephaly and that of autonomy, which preserve the dogmatic, worship and canonical unity with the ecumenical Church of the East (Article 2, paragraph 2 of the Statute). Moreover, *The Statute* includes all the canonical principles of organization and functioning, even if some are not explicit, as we can see from the writings of the time (Marga 2006; Roman 2008), for example: Prof. dr. Gh. I. Soare, *Church Legislation*, in BOR 3-6 (1951) 173-204; Iorgu D. Ivan, *The Importance of Canonical Principles of Organization and Administration for Church Unity*, in *Mitropolia Moldovei și Sucevei* 3-4 (1969) 153-165.

In addition to the canonical principles of organization and functioning of the Romanian Orthodox Church, Patriarch Justinian also set up the necessary tools to enforce them, tools that would be drafted and explained *in extenso* in specific regulations. Among the changes brought about by the 1948 Statute, we mention

the reduction of the number of eparchies, the reorganization of the Holy Synod, the transformation of the former National Church Congress into the National Church Assembly, the reduction of the number of members (clergy and laity) in all the representative bodies of the Church, setting the norms for the reorganization of the preparatory education for church and monastic staff (Donos 1954: 76; Panțuru 2005: 147-171).

In the first chapter (articles 8-38), *The Statute* regulates the deliberative central governing bodies (the Holy Synod, the National Assembly of the Church) and the executive bodies (the National Church Council and the Patriarchal Administration) while their procedure is stipulated in *The Regulation for determining the responsibilities of the Patriarch and for the functioning of the deliberative, administrative and executive central bodies of the Romanian Patriarchate: the Holy Synod, the Permanent Synod, the National Church Assembly, the National Church*

Council, the Patriarchal Administration and the annexed institutions (ROC) and especially in The Internal Regulation for the National Church Assembly of the Romanian Orthodox Church.

Also, local bodies were established in Chapter II (Articles 39-114 of St.), namely: the parish, the deanery, the monastery, the eparchy, the metropolitan see while their functioning and proceeding were set out in *The Regulations for the Election, Functioning and Dissolution of the Deliberative and Executive Bodies in the Parishes, Deaneries and the Dioceses of the Romanian Patriarchate* and *The Regulations for the Appointment and Transfer of Parish Clergy, Capacity, Permanent Certification, Promotion and Selection Examinations for the Capital, of the Deacons and Priests of the Romanian Orthodox Church.*

Of the most important amendments, we mention those referring to the sessions of the Holy Synod that, according to art. 12 of *The Statute*, must be convened in ordinary sessions once a year, provision which is canonically supported by the canons 8 Syn. VI Ec and 6 Syn. VII Ec, or whenever necessary, in accordance with the can. 76 Syn. from Carthage; the establishment of the Permanent Synod (Articles 16-18 of the Statute) by analogy with the provisions of the canons 4 Syn. I Ec.; 18, 86 and 95 Syn. from Carthage and the old practice of endemic councils. The institution of the Metropolitan Synod is restored in art. 112, in accordance with the provisions of Canon 4, 5 Syn. I Ec.; 14, 15, 19, 20 Syn. from Antioch, etc.; the organization of ecclesiastical courts according to Canons 9 and 17 Syn. IV Ec with the three stages of judgment. In regard to the election of the hierarchs, the new Statute provides, according to the canonical tradition, the exclusion of divorced persons or those whose traits do not recommend them (Stan 1968: 292).

The church regulations drafted on the basis of the Statute present in detail and procedurally the issues mentioned by it. Thus, *The Regulation of Procedure of the Disciplinary and Judicial Courts of the Romanian Orthodox Church* stipulate the procedure for the functioning of the consistories provided in Articles 145-158, Chapter IV: The Discipline of the Clergy in the *Statute for the Organization and Functioning of the Romanian Orthodox Church, 1948*, which manages causes and proposes resolutions for the approval to that authority body in the Romanian Orthodox Church. This regulation included “all members of the parish

clergy and monks, irrespective of the occupations and functions they fulfill as priests and monks in the Romanian Popular Republic and in the Romanian Orthodox Church, in the country or abroad, as well as the chanters and sextons who will be guilty of any of the offenses listed in art. 2 and 3” (Article 1). It should be also emphasized that, on the basis of the canonical principle of the Church's autonomy from the State, in case of offense, the disciplinary liability of the clerical staff is determined by the church judgment bodies, since only they can assess whether the offenses are or not compatible with the orthodoxy and orthopraxia with a view to achieving the ultimate goal, namely *salus animarum*. Therefore, the principle of autonomy is not respected if ordinary law courts exercise control over the verdicts given by disciplinary and church judgement courts, since disciplinary liability is governed by ecclesiastical norms and not by the common law.

Regarding the disciplinary and judicial canonical authorities of the Romanian Orthodox Church, according to art. 145 of *The Statute of Organization and Functioning of the Romanian Orthodox Church 1948*, corroborated with art. 49 of *The Regulation of Procedure of the Disciplinary and Judicial Courts of the Romanian Orthodox Church*, these are the bishop and the church's court called consistories. Moreover, art. 145 of the Statute (1948) and Art. 53 provide a classification according to their competence for the judgment cases of the parish and monastic clergy, as well as for all non-clerical staff, in matters concerning administrative and church matters, namely: a) Disciplinary Deanery Consistory; b) The Eparchial Consistory; c) Central Church Consistory

The patrimony issue of the Romanian Orthodox Church was solved by Patriarch Justinian through the elaboration of *The Regulation for the Administration of Church Patrimony*, approved and voted by the National Church Assembly in the meeting of February 26, 1950, which, at art. 1, stipulates that “the goods belonging to the Patriarchate, Dioceses, Deaneries, parishes, monasteries and other legal entities of the Romanian Orthodox Church constitute ecclesiastical patrimony”, classifying it from the point of view of its purpose, into sacred goods, that is those which, through consecration, are intended for divine worship, and common goods, that is, those given for the maintenance of churches, their ministers, for cultural and charity works, or for other purposes of the Church (Article 2).

The regulation includes the administration bodies of church property and responsibilities, the change, encumbrance and alienation of church property, the administration of the assets of religious foundations, associations and schools for the training of church personnel, their responsibilities and final provisions. It is worth highlighting that the sacred and precious goods, according to art. 29 of this Regulation, are inalienable and indefeasible, and therefore cannot be exchanged, encumbered, alienated, pursued or impounded. Also, “the members of church property administration bodies are responsible for the damage caused to such property by bad faith, neglect or incompetence.” (Article 61).

Patriarch Justinian also supported the clerical staff and the members of the teaching staff by setting up the Clergy Counseling Centers, while also issuing *The Regulation for the Organization and Functioning of the Clergy Relief Homes, attached to Dioceses*, drafted by His Beatitude, approved and voted by the National Church Assembly in the meeting of June 15, 1952. All these relief homes functioned alongside the respective diocesan centers (Article 2 of *The Regulation for the Organization and Functioning of the Clergy Relief Homes*), their purpose being according to art. 3 of the same regulation to give loans to their members, the Diocese, parishes and monasteries; to provide funeral help to their members and their wives; to help in cases of serious illness their members and their wives.

Among the important events in church life at that time, we mention the education reform in 1948, through *Decree no. 175/1948 for the reform of the education of August 3, 1948*, which regulated the new organization of the education in Romania, which was obviously anti-religious (The Official Journal 1948: 6322-6324). Thus, the previous right of the religious denominations to have general education schools was abolished while those for the personnel were still under state control (see Decision of the Ministry of Religious Denominations No. 42898/1948) (The Official Journal 1948: 9175-9178). Consequently, the 1948 education reform also affected the religious education, which was taken out of the public educational system and given into the responsibility of the Church. Thus, *The Regulation for the Organization and Functioning of Educational Institutions for the Preparation of the Church Staff and the Recruitment of the Didactic Body in the Romanian Patriarchate*, drafted by Patriarch

Justinian, was approved and voted by the Holy Synod in the meeting of June 14, 1952; accordingly, art. 1 stipulates that, for the training of the worshipping staff, the Romanian Orthodox Church organizes the following educational institutions: a) schools of church chanters; b) monastic seminaries; c) superior theological institutes.

The schools of church chanters prepare chanters and candidates for the superior theological institutes (Article 2 of *The Regulation for the Organization and Functioning of Educational Institutions for the Preparation of the Church Staff and the Recruitment of the Didactic Body in the Romanian Patriarchate*), while the monastic seminaries prepare monks at Neamț monastery and nuns at Agapia and Hurezu monasteries (art. 3 of the same regulation). Further, the institutes of theology are meant to prepare candidates for the parish clergy and for the higher ranks as well as teaching staff for the training of the church personnel, specialists and scholars in different branches of Theology; one of these institutions was set up in Bucharest – for The Archdioceses of Bucharest, Craiova, Iași, the Bishopric of Râmnic and Arges, the Bishopric of Buzău, the Bishopric of Roman and Huși, of Dunărea de Jos and another one in Sibiu, for the Archdiocese of Timișoara, the Bishoprics of Sibiu, Arad, Cluj, Oradea, under the rule and guidance of the Metropolitans and Bishops of the place (art. 4 of *The Regulation for the Organization and Functioning of Educational Institutions...*).

As regards the right of guidance and control, we notice that

the canonical jurisdiction, the dogmatic teaching and discipline, as well as the guidance and control of the education and management of theological schools and institutes belong to the bodies of the Romanian Orthodox Church, entitled to this by the Statute for the Organization and Functioning of of the Church and by the present Regulation (Article 7 of *The Regulation for the Organization and Functioning of Educational Institutions...*),

being enacted by an inspector for the monastic seminaries and the chanters schools while

state control, stipulated by the Constitution of the Romanian Popular Republic, is exercised through the Ministry of Denominations, according to the provisions of its organization law and the Law on the General Regime of Religious Denominations (Article 7 of *The Regulation for the Organization and Functioning of Educational Institutions...*).

Besides the general provisions, *The Regulation for the Organization and Functioning of Educational Institutions* comprises 3 parts, namely: Part I regulates the schools of church singers, stipulating the organization of the education, the school subjects, the teaching staff, school management, courses and exams, the discipline, internship; Part II regulates the organization of the education of monastic seminaries, the subjects, the management of the monastic seminars, courses and exams, discipline, internship; Part III regulates the organization of the education in the superior theological institutes, the subjects, the teaching staff, the management of the institutes, the courses for the license, exams and diplomas, the courses for the Master's degree, the obtaining of the PhD, the equivalence of the foreign academic titles, fees, final provisions.

Patriarch Justinian also played a decisive role in the reorganization of monasticism, which he wanted to integrate into the new socialist reality. Thus, *The Regulation for the Organization of the Monastic Life and the Administrative and Disciplinary Functioning of the Monasteries* (1953), which regulates the monastic settlements and their purpose, the reception in the monastic life with all its stages, the management of the monastery and the persons exercising clerical ruling (the abbots), the monks' occupations, the communal life, the hospitality or welcoming of the aliens, the controlling bodies, the courts for the monks, etc.

The Communist regime exercised great pressure to fully control the monastic life and took advantage of Patriarch Justinian's intention to reorganize the monastic life with interference in this sense, but, due to the providential interventions of the patriarch, such attempts were doomed to failure. However, the Communist government succeeded in imposing a series of amendments that stipulated the reduction of the number of monks and nuns by removing them from monasteries, namely "minor persons; people not having attended the minimum of 7 classes; people who broke the monastic, moral rules; those who were convicted of common law; counter-revolutionary elements, as well as those who are known to have hostile manifestations towards the regime, etc." (ACNSAS, Documentary sources, file 72, p. 478). However, Patriarch Justinian managed to soften the conditions for entry into monasticism in the new *Regulation for the Organization of Monastic Life*, approved by the Department of Religious Affairs of the Council of Ministers, by Decision no. 11.525 / 1959 and

published in the official bulletin “The Romanian Orthodox Church”, no. 1-2 / 1960, pp. 171-183. Thus, Patriarch Justinian managed to find solutions to counteract the interference of the communist regime in the monastic life, both in the legislative sphere, by amending *The Regulation for the Organization of Monastic Life*, as well as in the practical, economic sphere for the survival of the monasteries and the well-being of the monastic life.

In addition to the legislative compendium published in 1953, we should also mention other events that left a mark on this period, namely the solemn canonization of some Romanian saints and the generalization of the worship of some saints whose relics are in our country, the restoration of the spiritual unity of the Orthodox Romanians, unity lost through the passage of a part of the Romanians to Uniatism. All these events generated specialist studies published in Orthodox periodicals (Marga 2006: 31-35, notes 15, 16, 17).

Another important aspect is the “social apostolate” project, having a pastoral-missionary character, which is the pastoral method of Patriarch Justinian to “adapt” and “integrate into the realities of the church and national life of our people” (Marga 2006: 13), with a well-defined purpose to prevent that rupture between the Church and its faithful. As Father Irimie Marga also states, “the Church had to react, as far as possible, to all the political and social changes of the time” (Marga 2006: 13).

Another achievement of Patriarch Justinian was connected to the salaries of the clerical staff, which were calculated

by analogy with the members of the teaching staff of the general training and middle school education, and the priests who run the Parish Office receive a monthly allowance as school headmasters, the allowance being included in the average tariff salary starting with the 1st March, 1970 - according to the approval of the Department of Denominations no. 6408 of 27th March 1970 – according to which the pensions are settled (Bădiuțeanu 1974: 761).

Therefore, the payment was set according to functions, seniority and the level of training through an allowance granted by the Department of Denominations and a supplement up to the level of the salary from own funds (Bădiuțeanu 1974: 761). Moreover, on the 1st January, 1959, based on Decree no. 718/1956, the House of Pensions and Aid of the Romanian Orthodox Church was set up under the direct guidance and supervision of Patriarch Justinian, which has the status of a legal entity with its own patrimony and operating on the basis of a Regulation approved by the

Department of Denominations (Bădiuțeanu 1974: 761). The purpose of the establishment was that the clerical staff and employees of the Romanian Patriarchate would have the same rights as the employees of the state sector in terms of social insurance, namely:

the material insurance in case of old age or incapacity of work, by granting pensions or material assistance, in case of temporary interruption of the work capacity; health care through treatment and resting referrals on the account of the Pension House of the Romanian Orthodox Church and on personal account; the health care in state health institutions; the assistance of elderly pensioners without family support at Viforita and Dealu sanatoriums in Dîmbovița County (Bădiuțeanu 1974: 762).

Also,

the employees and pensioners of the Pension and Aid House of the Romanian Orthodox Church and their family members benefit from free medical care and medication in all state sanitary institutions based on art. 6 of Decree no. 718/1956, under the same conditions as employees in the state sector, which demonstrates the care of the superior church leaders for the life and health of the members of the House (Bădiuțeanu 1974: 762).

The church legislation of Patriarch Justinian had three characteristics in fr. Liviu Stan's opinion, namely: "a clear perception of the realities, a solid attachment to the valid foundations of tradition and a fairly just commitment to the mission of the Church" (Stan 1953: 516), which "ended a century of struggles around canonicity and set the beginning of a new age in the life of the Romanian Orthodox Church" (Stan 1953: 516). In regard to the personality of Justinian Patriarch, the same canonist states that he

confesses an energy, skill and passion for the Church, clergy and faithful, impossible to find and equal, which places him among the great shepherds of our ancestral Church, among most worthy rulers in the great turnings of national and ecclesial history (Stan 1953: 516).

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