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THE PROVISIONS OF THE TSAR'S UKASE OF 27 OCTOBER 1864 ON THE MAINTENANCE AND MANAGEMENT OF MONASTERIES IN THE KINGDOM OF POLAND

Summary: – 1. The division of monasteries into state-funded ones and self-funded ones. – 2. Monasteries and diocesan authorities. – 3. Monasteries and civil authorities. – 4. As conclusion – The provisions of the *Ukase* and the stance of the Holy See.

Multiple times in the 19th century, the partitioning powers effectively limited the functioning of the Catholic Church on Polish lands, including the functioning of orders and monasteries that were subject to them. After the fall of the January Uprising, the Russian authorities took repressive measures on the territory of the Kingdom of Poland by dissolving most of monasteries existing at that time.

However, the dissolution of monasteries resulting from the tsar's ukase of 27 October (8 November according to the Gregorian calendar) 1864 was of major significance for the functioning of orders in the Kingdom of Poland¹. As a consequence, 115 monasteries were dissolved which became considered “closed” or “dissolved” (fewer than 8 monks or nuns in a monastery). Out of 155 male monasteries

¹ Tsar's Ukase of 27 October (8 November) 1864 [in:] *Dziennik Praw*, vol. 63, pp. 407-419, Warsaw 1865, [hereinafter: *the Ukase*].

and 45 female monasteries, 20 male ones and 7 female ones were left, which, as self-funded but without the right to accept novices (called self-funded monasteries), could function until the number of their members dropped down to 7 people.

The subject matter hereof is the presentation of legal rules contained in the Ukase of 27 October (8 November) 1864, relating to the dissolution of monasteries in the Kingdom of Poland. Therefore, the only source used herein shall be the content of the Ukase and “Rules and regulations on the maintenance and management of Roman Catholic monasteries in the Kingdom of Poland of 22 November (4 December) 1864”. In the existing literature on the history of law, there are no references to the legal analysis of rules contained in the Ukase.

The publication of this Ukase is the reaction to the engagement of the Roman Catholic clergy in the January Uprising. The following can be found in the introduction to the Ukase: “During the turmoil, which thus resulted in the Kingdom, a part of the Roman Catholic clergy did not turn out to be faithful either to their pastoral obligation or the obligation resulting from being subjects. Without any regard even for the Gospel commandments and with disdain for religious vows taken willingly before the altar, the clergymen instigated bloodshed, incited murders, profaned the walls of monasteries and took sacrilegious oaths for committing crime; and some of them themselves joined the rioters and spilled the blood of innocent victims”².

² *The Ukase*, introduction, p. 407. V. P.P.GACH, *Kasaty zakonów na ziemiach dawnej Rzeczypospolitej i Śląska 1773-1914*, Lublin 1984; K. LEWALSKI, *Kościół rzymskokatolicki a władze cesarskie w Królestwie Polskim na przełomie XIX i XX w.*, Gdańsk 2008; R. PREIS, *Zakonnicy franciszkańscy Królestwa Polskiego po kasacie w 1864. Dzieje – postawy*, Warsaw-Sandomierz 2003; *Kasaty klasztorne na obszarze dawnej Rzeczypospolitej Obojga Narodów i na Śląsku na tle procesów sekularyzacyjnych w Europie*, t. I, *Geneza Kasaty na ziemiach zaborów austriackiego i rosyjskiego*, red. M. DERWICH, Wrocław 2014.

1. The division of monasteries into state-funded ones and self-funded ones

All Roman Catholic monasteries in the Kingdom of Poland, which under the Highest Ukase of 27 October (8 November) 1864 were not qualified for dissolution or closure, were divided into state-funded ones and self-funded ones. In each state-funded monastery, male and female ones, fourteen monks or nuns were designated, except for the Pauline Order in Częstochowa, which could have twenty four monks³.

Pursuant to Article 2 of the *Rules and Regulations*, the following monasteries were considered as state-funded ones:

A. Male monasteries

1. The Pauline Order, one monastery in Częstochowa in Wieluń Poviát.
2. The Order of Reformed Franciscans, seven monasteries i.e. in the following towns: Kalisz, Włocławek, Stopnica, Pińczów in Stopnica Poviát, Lutomiersk in Sieradz Poviát, Pilica in Olkusz Poviát and Jędrzejów in Kielce Poviát.
3. The Order of Friars Minor, five monasteries, in Koło and Kazimierz in Konin Poviát, Warta in Kalisz Poviát, Widawa in Sieradz Poviát and Wielko-Wola in Opoczno Poviát.
4. The Augustinian Order, one monastery in the town of Wieluń.
5. The Dominican Order, four monasteries i.e. in the following towns: Lublin and Klimontów in Sandomierz Poviát and also in the following villages: Gidle in Piotrków Trybunalski Poviát and Koło-Wysoka in Radom Poviát.
6. The Franciscan Order, one monastery in Kalisz.
7. The Camaldolese Order, one monastery in Bielany near Warsaw.

³ *Rules and regulations on the maintenance and management of Roman Catholic monasteries in the Kingdom of Poland of 22 November (4 December) 1864* (pl. *Przepisy dotyczące utrzymania i zarządu klasztorów Rzymsko-Katolickich w Królestwie Polskim z 22 listopada (4 grudnia) 1864 r.*, [in:] *Dziennik Praw*, vol. 63, pp. 14-37, Warsaw 1865, [hereinafter: *Rules and Regulations*], Article 3.

8. The Capuchin Order, three monasteries in the following towns: Łomża, Nowe Miasto in Rawa Mazowiecka Poviast and Zakroczym in Płock Poviast.
9. The Order of sandaled Carmelites, one monastery in the village of Obory in Lipno Poviast.
10. The Order of Marians, one monastery in the town of Marynopol.

B. Female monasteries

1. The Order of Bernardine Sisters, two monasteries in the towns of Łomża and Sandomierz.
2. The Order of Bernardine Sisters, three monasteries in the towns of Wieluń and Warta in Kalisz Poviast and in Święta Katarzyna near Kielce.
3. The Order of Dominican Sisters, one monastery in Piotrków.
4. The Order of Franciscan Sisters, one monastery in Chęciny in Kielce Poviast.
5. The Order of Norbertine Sisters, one monastery in Imbramowice in Olkusz Poviast.
6. The Order of Sacramentine Sisters, one monastery in Warsaw.
7. The Order of Visitation Sisters, one monastery in Warsaw.

All other monasteries in the Kingdom of Poland were considered as self-funded ones.

The number of members in each religious congregation was deemed to include fathers superior and mothers superior of monasteries as well as all brothers and sisters. The number of all monks or nuns in each monastery, including those who after the dissolution or closure of certain monasteries were transferred to the existing ones, was to be determined according to the census. For the preparation of such list, *Rules and Regulations* gave three months from the issue of this document and were to be communicated by the diocesan authorities of the Governmental Commission for Internal and Clerical Matters (pl. Komisja Rządowa Spraw Wewnętrznych i Duchownych) and then, after their final verification by this Commission, they were considered as “the rule applicable to all calculations for the determination and

assignment of allowance for monks and nuns as well as applicable to other regulations as regards monasteries”⁴.

The transfer of monks and nuns from state-funded monasteries to self-funded ones was strictly forbidden⁵. However, if in any of the self-funded monasteries the number of monks or nuns, as a result of gradual loss, dropped to seven, such self-funded monastery was dissolved and monks or nuns were transferred to other monasteries⁶.

The acceptance of novices by self-funded monasteries was strictly forbidden. On the other hand, the acceptance of novices by state-funded monasteries was allowed only after complete dissolution of all self-funded monasteries of the same order. The acceptance of novices was in strict compliance with the rules indicated in part III of the Rules and Regulations⁷.

Articles 10 and 11 of the Rules and Regulations referred to the manner of funding of state-funded monasteries:

Article 10 For the maintenance of each state-funded monastery and also for fourteen monks or nuns designated therein, the amount of one thousand seven hundred and fifty silver roubles shall be assigned on an annual basis from the Treasury of the Kingdom. However, for the monastery in Częstochowa, where twenty four religious people were designated, the amount of three thousand silver roubles shall be assigned on an annual basis from the Treasury of the Kingdom.

Article 11 If, afterwards, in any of the state-funded monasteries, there is a shortage of monks or nuns in terms of their

⁴ *Rules and Regulations*, Article 5.

⁵ Cf. *Rules and Regulations*, Article 6.

⁶ “If in any of the state-funded monasteries, as a result of gradual loss of monks or nuns, any state-funded vacancy is discovered before the dissolution of all self-funded monasteries of the same order, such vacancy shall be filled by means of transferring a monk or nun from a self-funded monastery”. *Rules and Regulations*, Article 8

⁷ *Rules and Regulations*, Article 9.

designated number, the annual amount assigned from the Treasury of the Kingdom for such monastery pursuant to Article 10 shall be reduced by one hundred silver roubles for each vacancy until such vacancy is filled.

For all monasteries, state-funded and self-funded ones, the revenues originating from the so called “Jura stolae” were allocated in full. These revenues were allocated for covering expenses necessary for holding religious services and maintaining the church and monastery buildings⁸. Furthermore, the revenues from all real and movable properties that were owned by the monasteries and then placed under the management of the Governmental Commission of Revenue and Treasury (pl. Komisja Rządowa Przychodów i Skarbu) after the Ukase was published, after deducting not more than 10% from those revenues for necessary administration expenses, could be allocated exclusively for the following purposes⁹:

- a) for the maintenance of other monasteries¹⁰;
- b) for salaries, support and travel expenses of monks and nuns from dissolved or closed monasteries;
- c) for securing fixed and regular religious services in the churches of those monasteries;
- d) for the maintenance of any scientific and charity institutions functioning in those monasteries;
- e) for benefits for the Roman Catholic clergymen in need, who made exceptional contributions to the Church and State and

⁸ Cf. *Rules and Regulations*, Article 15.

⁹ *The Ukase*, Article 21.

¹⁰ “A separate Commission for Monasteries is hereby ordered to develop detailed projects about funds necessary for the sufficient maintenance of state-funded and self-funded monasteries still existing in the Kingdom of Poland and to develop regulations on the basis of which the civil authorities are to require the monasteries to strictly comply with governmental regulations. Such projects, after being considered in the Executive Committee (pl. Komitet Urządzący), shall be submitted for Our approval”. *The Ukase*, Article 17.

- in particular for the improvement of life of clergymen in the Roman Catholic parishes;
- f) for supporting and development of public education, in particular for the development of primary schools.

2. Monasteries and diocesan authorities

The bishops did not have any impact on the provisions contained in the *Ukase* which they did not accept. The *Ukase* stated that they would assume the canonical jurisdiction over the existing monasteries and of course exercise it according to the intentions of the tsarist authorities. Article 16 of the *Ukase* reads as follows:

“All monasteries in the Kingdom of Poland, both state-funded ones and self-funded ones, shall be subject to the general Diocesan Authority, however, any dependence thereof on provincials superior and generals superior of the given order is hereby abolished and any relations therewith are forbidden as well as all general chapters are hereby dissolved. Detailed regulations on the management of monasteries and designation of inspectors for the observance of order and discipline therein shall be issued separately”.

At the same time, as noted by Prof. Stanisław Gajewski, the rules of Canon Law forbade to assume such power without the approval of the Holy See. In their life, the monks and nuns followed their owned statutes and principles, managed by their superiors elected by them and headed by generals superior. Certain problem arose, relating to the proper functioning of the existing monasteries, which, after the dissolution, did not have their own legal authorities and they could not contact their own superiors who were outside the Russian state¹¹.

Pursuant to the *Rules and Regulations*, male and female monasteries were to be managed according to the rules and regulations if such

¹¹ S. GAJEWSKI, *Biskupi Królestwa Polskiego wobec ukazu carskiego o klasztorach z 8 listopada 1864 roku*, *Echa Przeszłości* IX (2008), p. 144.

rules and regulations were compliant with general national laws as well as civil law regulations on the Roman Catholic clergy¹².

Therefore, the office of provincials superior was abolished and any contacts with the central religious authorities (generals superior) were forbidden. The life in a monastery was decided upon by the bishop, on whose election the lay authorities had significant impact¹³. In practice, pursuant to Article 16 of the *Ukase* and Article 21 of the *Rules and Regulations*, the bishops were allowed, with the approval of the Governmental Commission for Internal and Clerical Matters, to elect deans or inspectors, one for each diocese. These clergymen should have the bishop's trust. The inspector, office not known in Church legislation, had, pursuant to the *Ukase*, all rights and obligations over the monasteries resulting from Church and national legislation. He acted as an intermediary for the purposes of handling matters between the monks and nuns and lay authorities. The inspector was dependent on the bishop, however, the bishop could not remove him from his office. This office was too important for the political authorities to agree to any candidacy. Therefore, in May 1865, the bishops were ordered to present three candidates, from among whom the inspector was to be elected. The Governmental Commission for Internal and Clerical Matters could, however, reject the proposed candidates for so long as the list contained a person who was important for the authorities and who could be accepted by them¹⁴.

¹² Cf. *Rules and Regulations*, Article 19.

¹³ In 1801-1842, this law was made less severe and electing of provincials was permitted, but they depended on the newly established Clerical College in Petersburg. According to the authorities' wishes, it was supposed to be the last instance in the hierarchy of authorities of the Catholic Church. In relation to monks, the College was granted the privileges and powers of generals. The dependence of the College on the Holy See became problematic, therefore, after the fall of the November Uprising, previous practises were restored. In 1832, out of 291 monasteries existing in the Empire, only 89 ones remained and were subjected to the jurisdiction of bishops again in 1842. S. GAJEWSKI, *Biskupi Królestwa Polskiego...*, op. cit., p. 145.

¹⁴ Cf. S. GAJEWSKI, *Biskupi Królestwa Polskiego...*, op. cit., p. 151.

The Rules and Regulations determined the inspectors' tasks in detail:

- a) Directly under the main authority of the bishop, the inspector manages all monasteries in the diocese, both male and female ones, without differentiation between the orders¹⁵.
- b) The inspector ensured that the monasteries complied with the rules and regulations if such regulations were compliant with the civil law and governmental regulations and also that such regulations were observed by the monks and nuns. "In the event of failure to observe the law, the inspector himself shall take proper measures in order to prevent that and shall immediately report that to the diocesan authorities and these authorities shall report that to the Governmental Commission for Internal and Clerical Matters, as well as he shall report any disorder that occurred and measures taken by the diocesan authorities"¹⁶.
- c) The inspector kept detailed lists of all monks in the given diocese and ensured strict compliance with the rules on novitiate as well as made sure that any vacancies in state-funded monasteries were filled according to the provisions of the *Rules and Regulations*, Articles 8, 9 and 39-43¹⁷.
- d) The inspector was the closest intermediary between the bishop and the monks in the diocese. All matters relating to the monasteries were presented by the inspector for the bishop's approval and he communicated all bishop's regulations regarding the monastic management to the monasteries. The inspector was responsible for any disorder allowed by him in the monasteries that were subject to him¹⁸.
- e) The inspector was obliged by the Governmental Commission for Internal and Clerical Matters to submit, on an annual basis, a general informative report describing clearly and in detail, as

¹⁵ Cf. *Rules and Regulations*, Article 22.

¹⁶ *Rules and Regulations*, Article 23.

¹⁷ *Rules and Regulations*, Article 24.

¹⁸ Cf. *Rules and Regulations*, Article 25.

regards each monastery separately, any changes occurring in the composition of the given monastery, any new composition of the given monastery for the following year, duties of each person in the given monastery, the state of church, buildings and monastic property, revenues and expenses, etc. One copy of such report, signed by the inspector, was submitted to the bishop who, after verification, submitted it together with the opinion on the state of the given monastery to the Governmental Commission for Internal and Clerical Matters¹⁹.

- f) As regards the affairs of general management of the diocese, the inspector had the right to participate in the meetings of the diocesan Comissary with the right to vote in all matters heard by the Consistory Court (today's diocesan curia)²⁰.

As payment for the inspectors, the Treasury of the Kingdom allocated, from the revenues generated from post-monastery properties, an annual salary of four hundred silver roubles for each inspector. Apart from that, the Governmental Commission for Internal and Clerical Matters also decided, with the Viceroy's (pl. Namiestnik) confirmation, on the reimbursement of travel expenses²¹. Hence, the inspectors not only obtained a guarantee that they could not be removed from their office but also it was aimed to affect their loyalty towards the Russian authorities by means of economic factors.

Another issue is the matter of monastic management. Articles 30-31 of the *Rules and Regulations* read as follows:

“The local management of each order is given to a person chosen by the bishop, with the approval of the Governmental Commission for Internal and Clerical Matters i.e. in male congregation to the Father Superior and in female congregations to the Mather Superior. These persons are direct supervisors of the internal order in monasteries and clerical discipline.

¹⁹ Cf. *Rules and Regulations*, Article 26.

²⁰ Cf. *Rules and Regulations*, Article 27.

²¹ Cf. *Rules and Regulations*, Article 28.

To help the Father or Mother Superior, a vicar and prosecutor shall be designated”.

The aforementioned persons were chosen by the bishop and approved by the Governmental Commission for Internal and Clerical Matters. The Fathers and Mothers Superior in their monastic management, pursuant to the provisions contained in Article 19, were obliged to keep their subordinates in proper order and obedience. Inflicting of corporal punishment was prohibited. The Fathers and Mothers Superior also managed and controlled the revenues and properties left to each congregation, under the main supervision of the diocesan authorities (the bishop and the inspector). After taking over the management of the given monastery, the Father or Mother Superior was obliged to “take responsibility for any real and movable properties of the monastery and register them in the book of revenues and expenditures, and after leaving their office, to give it all to their successors as listed”²². Should the Father or Mother Superior “through negligence fail to enter into the book of revenues and expenditures all monastic or church revenues collected by them or use them not for the purposes of the monastery or congregation, then the prosecutor shall immediately inform the inspector about this fact as part of his responsibility”²³.

3. Monasteries and civil authorities

After the publication of the *Ukase* dated 27 October (8 November) 1864, all monasteries became regulated by this *Ukase*. Article 24 of this *Ukase* reads as follows: “All former rules and regulations that are incompliant with this Ukase as well as Rules and Regulations attached hereto are hereby repealed”. Rules regarding the relation between the monasteries and the civil authorities can be found first of all in the *Rules and Regulations*.

²² *Rules and Regulations*, Article 35.

²³ *Rules and Regulations*, Article 38.

The Roman Catholic monasteries could be joined by permanent residents of the Kingdom of Poland who were Roman Catholics, with no regard for their status, with the approval of the civil authorities and the diocesan bishop, who were responsible for making sure that there were no obstacles in terms of church or civil laws. The person who wanted to join the given order had to submit his/her request to the Governor, in whose governorate the monastery of that order was located, such request to be accompanied by a birth certificate and christening certificate. After obtaining such request, the Governor collected relevant information about such person and had to become convinced that:

- a) such person was not charged with any criminal acts;
- b) such person was not married;
- c) joining the monastery was not prevented by appearance in the military census;
- d) such person was at least 24 years old, strictly pursuant to Article 17 of the *Ukase* of 6 (18) March 1817.

All these conditions, except for the one mentioned in letter c), were also required to be met when joining a female monastery²⁴.

Having collected the aforementioned information, the Governor, at the request of such person, wrote an application and submitted it to the Governmental Commission for Internal and Clerical Matters, together with collected evidence, as well as information about the number of monks and novices in the given congregation that such requester wanted to join. After the Governmental Commission for Internal and Clerical Matters received the Governor's application and after it became certain that there were no obstacles to joining the monastery by the requester in terms of civil laws, the Governor referred to the bishop and requested formal examination whether there were any obstacles in clerical terms to joining the congregation by such novice. Having obtained such information, the Governmental Commission for Internal and Clerical Matters gave permission to the requester to join the monastery and informed the diocesan bishop

²⁴ Cf. *Rules and Regulations*, Article 41.

and the Governor about this fact, recommending them at the same time to make sure that *vota solemnia* “are taken after the requester reaches 30 years of age, pursuant to Article 17 of the *Ukase* dated 6 (18) March 1817”²⁵.

So that all conditions of prudence are met as regards *vota solemnia*, “it is stated that such vows are to be taken only in the presence of persons delegated by the diocesan authorities and two persons delegated by the Governor as witnesses on the part of the civil authorities. Vows taken without observing this necessary formality shall not be considered as valid”²⁶.

Other civil laws referred to education, collecting funds by the monks and discipline. And so, the *Rules and Regulations* read as follows:

- a) In the light of regulations that have been already issued and referred to granting the management of all Primary Schools existing so far in the monasteries to the Governmental Commission for Public Education (pl. Komisja Rządowa Oświecenia Publicznego) and referred to joining the Seminaries existing in certain congregations with the Diocesan Seminaries, there can be no studies, Seminaries, Primary Schools, Finishing Schools or any types of educational institutions, either male or female, established in the monasteries²⁷;
- b) Owing to the fact that both monasteries and monks living therein have fully secured maintenance as a result of allocating a state fund and monetary allowance by the government for this purpose, “therefore, any collection of funds by the monks i.e. the so called fundraising in places located away from the monastery and distracting them from pious exercises in the monasteries and giving reasons for any abuse or deprivation is hereby forbidden. Fundraising is only allowed within the monastery or

²⁵ *Rules and Regulations*, Article 43.

²⁶ *Rules and Regulations*, Article 44.

²⁷ *Rules and Regulations*, Article 45.

- in the town or within the boundaries of the rural parish, where the religious congregation is located”²⁸;
- c) Priests are not allowed to gather in monasteries in order to hold the so called retreats, congregation and other similar meetings without specific approval for this purpose of the Governmental Commission for Internal and Clerical Matters²⁹;
 - d) The Superiors of monasteries had to inform the local police in advance of any monastic and other celebrations, due to which people gathered in churches to pray, so that the civil authorities could ensure the observance of proper police order³⁰;
 - e) Monks and nuns could not be transferred from one congregation to another one without obtaining prior decision allowing for this from the Governmental Commission for Internal and Clerical Matters who, in such cases, “via the governorate authorities, collected detailed information about the reasons for which it is considered to be necessary to transfer the given monk or nun to another congregation. The Superiors of monasteries are obliged to immediately inform the local civil authorities about any changes in the composition of the given monastery”³¹;
 - f) Only the following persons are permitted to live in monasteries: “monks and nuns who in reality belong to the congregation and are placed as such on official lists and people who are indispensable for monastic service. The number of people for monastic service is determined in each monastery by the diocesan authorities and approved by the Governmental Commission for Internal and Clerical Matters”³²;
 - g) All monks and nuns were obliged to have their identity documents on them at all times and such identity documents had to state all information relating to them. The form and shape of

²⁸ *Rules and Regulations*, Article 46.

²⁹ *Rules and Regulations*, Article 47.

³⁰ Cf. *Rules and Regulations*, Article 48.

³¹ *Rules and Regulations*, Article 49-50.

³² *Rules and Regulations*, Article 51.

such identity documents were regulated by the Governmental Commission for Internal and Clerical Matters. "Such Commission shall be obliged to form and issue, with the Viceroy's confirmation, relevant rules and instructions regarding the manner of granting permission to monks and nuns to temporarily leave the monastery and issuing passports in such cases, regarding any stay of external persons in the monastery and in general regarding the presence of the local police, in strict compliance by monks and nuns with any civil laws and regulations. The responsibility for strict compliance with the aforementioned regulations is imposed in particular on the Inspectors and superiors as well as monastery superiors"³³.

- h) For the failure to comply with the aforementioned regulations, a monetary penalty can be imposed on the monastery in the amount of three to three hundred silver roubles, only pursuant to the decision of the Governmental Commission for Internal and Clerical Matters taken at the request of local Governor and after requesting an opinion from the relevant bishop in due course. "The determination of amount and any increase in such monetary penalties, proportionately to the significance of violation of such regulations, shall be made by the Governmental Commission for Internal and Clerical Matters with the confirmation of the Viceroy in the Kingdom. Such monetary penalties shall be recovered by means of deducting them from funds allocated for the maintenance of monasteries and from monetary allowances granted annually to those monasteries by the Treasury"³⁴.

For more serious crimes and infractions committed by one or more monks or nuns, such monks or nuns were tried before a criminal court. However, in the case of police infraction or more serious crime committed in a monastery or in the event of hiding persons without proper certificates in a monastery, the local civil and police authorities

³³ *Rules and Regulations*, Article 53-54.

³⁴ *Rules and Regulations*, Articles 55-56.

could enter such monastery but only with the superior's knowledge about this fact. In the event it became necessary to conduct a search or examination in the monastery, they were carried out only with proper respect for the temple and in the presence of the superiors of such monastery, who were obliged, without any excuses, to be present and help in finding the truth, using all measures available to them. In such cases, the utmost caution had to be exercised with regard to female monasteries³⁵. All complaints about illegal actions of the civil authorities as regards the supervision of monasteries were dealt with by the Governmental Commission for Internal and Clerical Matters.

The last Article of the *Rules and Regulations* refers to the Governor's powers. This Article reads as follows:

“The Governorate Authorities shall keep detailed lists of all male and female monasteries, with their division into state-funded and self-funded ones, with indication of funds allocated for the maintenance of each of them, amount of revenues, sources of such revenues and number of monks or nuns. Every year, the Governors shall provide the Governmental Commission for Internal and Clerical Matters with accurate and detailed reports on the current condition of monasteries, together with their own observations and conclusions. About any changes in the composition of monasteries, the Governors shall inform the Governmental Commission for Internal and Clerical Matters within deadlines set forth by such Commission, at the same time not allowing any monks or nuns to violate any applicable regulations in the slightest³⁶.

³⁵ Cf. *Rules and Regulations*, Articles 58-59.

³⁶ *Rules and Regulations*, Article 62.

As conclusion – The provisions of the *Ukase* and the stance of the Holy See

In view of the fact that the provisions of the *Ukase* and of the *Rules and Regulations* attached thereto were in evident contradiction to the provisions of Canon Law, certain bishops addressed this issue in official communication with the pope. The Governmental Commission for Internal and Clerical Matters returned all such letters to the bishops. They were accused of misunderstanding the spirit of the *Ukase*. The pope reacted to such news from the Kingdom some time earlier. On 2 December 1864, he discussed this problem at a secret meeting with the Secretary of State, J. Antonelli, and the Austrian Ambassador to the Holy See, Baron Bach. As stated by Prof. Gajewski, the pope was determined to denounce the tsar's government in an official speech, what would lead to the severance of diplomatic relations. However, his advisers had a different opinion. Later, Austria defended the tsar's government by alleging that Polish clergy had been engaged in revolutionary activities during the January Uprising³⁷. On 30 January, Cardinal Antonelli sent a note to the Russian Ambassador to the Holy See, F. Meyendorf, where he tried to prove the illegality of the *Ukase* of 27 October (8 November) 1864 from the point of view of international law. In the non-agreed articles (Article 7) attached to the concordat of 3 August 1847, the Russian government assured that "if dissolution turns out to be necessary, it shall be previously agreed with the Holy See". The diplomatic relations between the Holy See and the Russian government deteriorated from the moment the *Ukase* was issued and they were completely severed in 1866.

Postanowienia ukazu carskiego z 27.X.1864 r. dotyczące utrzymania i zarządu klasztorów w Królestwie Polskim

Na ziemiach polskich w XIX w. władze zaborcze skutecznie ograniczały funkcjonowanie Kościoła katolickiego, w tym funkcjonowanie zakonów z podległymi im klasztorami. Po upadku powstania styczniowego, władze

³⁷ Cf. S. GAJEWSKI, *Biskupi Królestwa Polskiego...*, op. cit., p. 149. More on the engagement of the Polish clergy in the January Uprising: B. KALINOWSKA, *Kasata zakonów w Królestwie Polskim jako konsekwencja ich zaangażowania w powstanie styczniowe*, *Zeszyty Naukowe Ostrołęckiego Towarzystwa Naukowego*, 17 (2003), pp. 36-42.

rosyjskie na terenie Królestwa Polskiego zastosowały represje, kasując większość istniejących jeszcze wówczas klasztorów. Jednak zasadnicze znaczenie dla funkcjonowania zakonów w Królestwie Polskim miała kasata będąca realizacją ukazu carskiego z 27 października (8 listopada według kalendarza gregoriańskiego) 1864 roku. W konsekwencji zlikwidowano 115 klasztorów, które uznano za „zamknięte” lub za „zniesione” (mniej niż 8 osób zakonnych w klasztorze). Ze 155 klasztorów męskich i 45 żeńskich, pozostawiono 20 klasztorów męskich i 7 żeńskich, które jako nieetatowe mogły funkcjonować do chwili, kiedy ich stan liczebny zmniejszy się do 7 osób.

Przedmiotem niniejszego artykułu jest przedstawienie norm prawnych zawartych w Ukazie z 27 października (8 listopada) 1864 r., które dotyczą kasaty klasztorów w Królestwie Polskim. Stąd też jedynym źródłem wykorzystanym w opracowaniu będzie treść Ukazu oraz „Przepisy dotyczące utrzymania i zarządu klasztorów Rzymsko-Katolickich w Królestwie Polskim z 22 listopada (4 grudnia) 1864 r.”. W dotychczasowej literaturze historii prawa nie odnoszono się do analizy prawnej norm Ukazu.

SŁOWA KLUCZOWE: historia XIX w.; klasztory; Królestwo Polskie; prawo zakonne; Ukaz cesarski z 27.X.1864

KEYS WORD: history of XIX; Kingdom of Poland; monasteries; religious law; Tsar's ukase of 27 October 1864

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