

The legal situation of refugees from Ukraine. Current issues

Sytuacja prawna uchodźców z Ukrainy. Aktualne zagadnienia
Правовое положение беженцев из Украины. Актуальные вопросы
Правове становище біженців з України. Актуальні питання

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Summary: Almost two years ago, Europe, and we can say the whole world, was hit by one of the biggest refugee crises triggered by the war in Ukraine. This refugee crisis affected the neighbouring countries most of all, first and foremost Poland, and brought with it many humanitarian, economic and social problems. With the generous help of the neighbouring states and the international community, but especially Poland, it has been possible to manage this crisis. However, over time, the refugee crisis has also brought many questions and problems to the religious sphere. Questions have arisen about the celebration of the holy mystery of baptism and the inclusion of refugees in a particular church or in a church *sui iuris*, as well as their canonical status and the celebration of the initiation sacraments and marriage. Some of these questions are answered by canon law and the regulations of the various bishops' conferences, but some also need pastoral wisdom. These faithful are also faced with another problem, namely the great danger of losing their Eastern identity since they mostly live on the territory of the Latin Church. Therefore, there is a great call for the whole Church and the individual Churches *sui iuris* to help these refugees, first and foremost through the clear observance of the canonical norms and the regulations of the individual episcopal conferences, to preserve the Eastern patrimony, which expresses the richness of Christ's Church. In view of all these circumstances, the Church should seek and propose solutions to these problems, bearing in mind the canonical principle of *Salus animarum suprema lex*.

Key words: Church, CCEO, CIC, Church affiliation, canonical status, Church *sui iuris*, Orthodox Church

Streszczenie: Prawie dwa lata temu Europę, a nawet można powiedzieć, że i cały świat, dotknął jeden z największych kryzysów uchodźczych, wywołany wojną na Ukrainie. Kryzys uchodźczy objął przede wszystkim kraje sąsiednie Ukrainy, w tym zwłaszcza Polskę, i przyniósł ze sobą wiele problemów humanitarnych, gospodarczych i społecznych. Dzięki hojnej pomocy państw sąsiednich, społeczności międzynarodowej, a w szczególności Polski, udało się opanować zaistniałą sytuację. Jednak z czasem kryzys uchodźczy przyniósł także wiele wątpliwości i problemów w sferze religijnej. Pojawiły się pytania o celebrowanie świętej tajemnicy chrztu i włączenie uchodźców do Kościoła partykularnego lub Kościoła *sui iuris*, a ponadto o ich status kanoniczny oraz celebrowanie sakramentów inicjacji i małżeństwa. Na niektóre z postawionych pytań odpowiada prawo kanoniczne i rozporządzenia różnych konferencji biskupich, ale część wymaga również mądrości duszpasterskiej. Wierni ci są zagrożeni także innym problemem, a mianowicie niebezpieczeństwem utraty swojej wschodniej tożsamości, ponieważ w większości przypadków żyją na terytorium Kościoła łacińskiego. Dlatego pojawiło się wielkie wezwanie dla całego Kościoła, jak również dla poszczególnych Kościołów *sui iuris*, aby pomóc tym uchodźcom, przede wszystkim poprzez jasne przestrzeganie norm kanonicznych i przepisów poszczególnych konferencji episkopatów w celu zachowania wschodniego dziedzictwa, które wyraża bogactwo Kościoła Chrystusowego. Biorąc pod uwagę wszystkie te okoliczności, Kościół powinien szukać i proponować rozwiązania zasygnalizowanych problemów, mając na uwadze kanoniczną zasadę *Salus animarum suprema lex*.

Słowa kluczowe: Kościół, CCEO, CIC, przynależność obrządkowa, status kanoniczny, Kościół *sui iuris*, Kościół prawosławny

Резюме: Почти два года назад Европа, а можно сказать и весь мир, столкнулись с одним из крупнейших миграционных кризисов, вызванным войной в Украине. Миграционный кризис затронул в первую очередь соседние с Украиной страны, особенно Польшу, и принес с собой множество гуманитарных, экономических и социальных проблем. Благодаря щедрой помощи соседних стран, международного сообщества и, в частности, Польши, ситуацию удалось удержать под контролем. Однако со временем миграционный кризис также породил множество сомнений и проблем в религиозной сфере. Возникли вопросы о праздновании священного таинства крещения и о включении беженцев в отдельную Церковь или Церковь *sui iuris*, а также об их каноническом статусе и праздновании таинств крещения, миропомазания и Евхаристии, а также брака. На некоторые из поставленных вопросов отвечает каноническое право и постановления различных Конференций епископов, но некоторые также требуют пастырской мудрости. Этим верующим угрожает и другая проблема, а именно опасность потерять свою восточную идентичность, поскольку они в основном живут на территории латинской Церкви. Поэтому возник великий призыв ко всей Церкви, а также к отдельным Церквям *sui iuris*, помочь беженцам, прежде всего, четко соблюдая канонические нормы и правила отдельных Конференций епископов, сохранить восточное наследие, которое выражает богатство Церкви Христовой. Принимая во внимание все эти обстоятельства, Церковь должна искать и предлагать решения возникших проблем, помня о каноническом принципе *Salus animarum suprema lex*.

Ключевые слова: Церковь, *Codex Canonum Ecclesiae Orientalium* (CCEO), *Codex Iuris Canonici* (CIC), регистрация в Церкви, канонический статус, Церковь *sui iuris*, Православная церковь

Резюме: Майже два роки тому Європу і, можна сказати, весь світ вразила одна з найбільших криз біженців, спричинена війною в Україні. Криза біженців зачепила насамперед сусідні з Україною країни, зокрема Польщу, і принесла з собою багато гуманітарних, економічних і соціальних проблем. Завдяки щедрій допомозі сусідніх країн, міжнародної спільноти та Польщі зокрема, ситуацію вдалося взяти під контроль. Однак з часом криза біженців принесла також багато сумнівів і проблем у релігійній сфері. Виникли питання щодо уділення святої тайни хрещення та інкорпорації біженців у конкретний Костел або Костел *sui iuris*, а також щодо їхнього канонічного статусу та уділення таїнств ініціації та шлюбу. На деякі з поставлених питань дає відповідь канонічне право і декрети різних єпископських конференцій, але деякі також вимагають душпастирської мудрості. Цим вірним загрожує також інша проблема, а саме небезпека втрати своєї східної ідентичності, оскільки вони здебільшого живуть на території Латинського Костелу. Тому виник великий заклик до загального Костелу, а також до окремих костелів *sui iuris* допомогти цим біженцям, насамперед чітко дотримуючись канонічних норм і положень окремих Єпископських Конференцій, щоб зберегти східну спадщину, яка виражає багатство Христового Костелу. Беручи до уваги всі ці обставини, Костел повинен шукати і пропонувати рішення проблем, що виникли, пам'ятаючи про канонічний принцип *Salus animarum suprema lex*.

Ключові слова: Костел, CCEO, CIC, реєстрація у конкретному Костелі, канонічний статус, Костел *sui iuris*, Православний Костел

Introduction

We are currently facing the second anniversary of the bloody war waged by the Putin regime against Ukraine, and we continue to see the killing of innocent people, resulting in an ongoing humanitarian catastrophe. Russia's full-scale military aggression in Ukraine is leading not only to death and human suffering but also to the destruction of infrastructure, cultural and historical monuments, i.e. material

objects, and, consequently, to the deterioration of Ukraine's economic situation.¹ At the beginning of the war, many refugees from Ukraine assumed that the war would end quickly and that they would be back home in a month or so. But the reality is different. Nearly seven million people,² mostly women and children, are today forced to seek refuge from war to save their lives. The international community and the states that have been affected by the refugee crisis, especially Poland, have made enormous efforts to help solve this problem and provide everything necessary to deal with this crisis and subsequent integration into society. The Church, of course, together with other humanitarian organisations, was the first to provide aid. At the same time, it continues to strive to provide not only material aid but, first and foremost, spiritual support and care to these believers under the rules of law and other regulations. This issue is very broad and variable because the refugees coming from Ukraine belong to different Orthodox Churches, the Orthodox Church under the jurisdiction of the Moscow Patriarchate, the Orthodox Church of Ukraine, the Ukrainian Greek Catholic Church *sui iuris* and various religious communities. This article discusses the celebration of the initiatory holy mysteries of penance and marriage by these faithful.

1. Initiatory Holy Mysteries – an introduction to the life of the Church

Christian worship is an expression of the inner feeling by which believers acknowledge God and all that belongs to the sphere of the sacred. In an objective sense, worship is a set of liturgical acts by which the believer pays homage to God. Christian worship thus becomes an outward expression of faith in God as Creator and Lord of all things.³

By the very name divine cult, especially the sacraments, the legislator in this 16th title wants to emphasise the need to conform to the Eastern mindset according to which the holy mysteries, and especially the Eucharistic sacrifice, cannot be properly distinguished from the divine cult. The holy mysteries are, above all,

¹ W. Jakubczak, *Use of Genocide by the Russian Federation in the Conduct of Hybrid Activities and Warfare in Ukraine*, *Studia Prawnicze KUL* 2023, no. 4, p. 83.

² Eurostat Statistics Explained: Eurostat published statistics on the number of refugees from Ukraine benefiting from the Temporary Protection Mechanism as of November 2023, <https://www.consilium.europa.eu/en/infographics/ukraine-refugees-eu/> [access: 22.01.2024].

³ W.A. Bleiziffer, *Il culto dei santi, delle sacre icone o delle immagini e delle reliquie: aspetti disciplinari e teologici*, *Theologos. Theological Revue* 2018, vol. 20, no. 2, pp. 12–28.

a theophany of the Holy Trinity; therefore, by celebrating and conferring the holy mysteries, the Church, through her ministerial priesthood based on the Holy Spirit, places herself before the ministry of Christ and unites herself to the divine and perfect liturgy, which is celebrated there in the perpetual adoration of the Holy Trinity.⁴

The Church's liturgical lexicon, referring to the Latin *initiatio*, speaks of an initiation into a religious community in a special rite. This initiation has three parts: the symbolic rupture of the previous state, the actual change of the previous state and the initiation into the new state.⁵

The prescription of Can. 667 CCEO states that the Church is obliged to confer the holy mysteries to communicate the mysteries of Christ under a visible sign, and because in them "our Lord Jesus Christ sanctifies men by the power of the Holy Spirit, so that they may become true worshippers of God the Father, and inculcates them in himself and in the Church, his body". The holy mysteries, then, are above all the mysteries of Christ, all that He has done on earth to carry out the plan hidden from all ages in God who created all things (Eph. 3, 9–11): to "unite in Christ all things in heaven and on earth" (Eph. 1, 10), to present us "holy and blameless before His face in love" (Eph. 1, 4).⁶

The complete authority for arranging the public worship of God following Cann. 657 and 668 § 2 CCEO lies with hierarchs who head the Church *sui iuris*. According to the prescription of Can. 669 CCEO, it should be stated that the holy mysteries are sacraments of Christ, sacraments of the Church, sacraments of faith, sacraments of salvation and sacraments of eternal life,⁷ and belong to the divine treasure of the universal Church. Therefore, the supreme authority of the Church alone is enough to decide what is required for the validity and permission of the celebration of the various holy mysteries as prescribed in Cann. 42–54 CCEO.⁸

⁴ D. Salachas, *De cultu divino et praesertim de sacramentis*, in: *Commento al Codice dei Canonici delle Chiese Orientali*, eds. P.V. Pinto, Città del Vaticano 2001, p. 551. Cf. *A Guide to the Eastern Code. A Commentary on the Code of Canons of the Eastern Churches (Kanonika 10)*, eds. G. Nedungatt, G. Ruysen, Rome 2020, p. 657.

⁵ M. Tkáč, *Na ceste do chrámu – iniciácia kresťana*, Prešov 2018, p. 43.

⁶ Kongregácia pre východné cirkvi, *Inštrukcia na aplikáciu bohoslužobných predpisov Kódexu kánonov východných cirkví*, Roma 1998, p. 34.

⁷ Ch. Schönborn, *Die Katholische Lehre von den Sakramenten nach dem Katechismus der Katholischen Kirche*, in: *Ius et Iustitia Acta VI. Symposii iuris canonici anni 1996*, Spišské Podhradie 1997, p. 64. Cf. *A Guide to the Eastern Code...*, p. 589.

⁸ Cf. Д. Недунгатт, *Путівник по Східному Кодексу. Коментар до Кодексу Канонів Східних Церков*, Львів 2008, p. 411. Cf. *A Guide to the Eastern Code...*, p. 589.

At the Second Vatican Council, the Catholic Church made a decisive shift in its attitudes in its efforts to bring the divided Christian world together. In fact, what is at stake here on the part of the Catholic Church is the realisation of an entirely new view of non-Catholic Christian churches and ecclesial communities.⁹ At the Council, the Catholic Church recognised the freedom of human conscience and freedom from all compulsions against one's conscience, as stated in *Dignitatis Humanae*.¹⁰

Because we are currently facing a very delicate and complex problem, which is the celebration of the holy mysteries by refugees from Ukraine. How should the Catholic Church proceed when the faithful of the Orthodox Church come asking for the holy mystery of baptism to be conferred. We will look for an answer to these questions in the prescriptions of law and particular norms.

2. Enrolment in a *sui iuris* or Orthodox Church

As a result of the war, many believers from Ukraine found themselves in a country outside the structures of the Ukrainian Greek Catholic Church or other Eastern Catholic Church *sui iuris*. But there may also be a situation where there is only one personal Eastern Catholic parish in the country or a mission for Eastern Catholics in a Latin parish, or only a Latin parish, and the faithful come asking for the conferral of the holy mysteries of initiation or matrimony.¹¹ In such a situation, it must be borne in mind that the Eastern Catholic celebrant is governed by the CCEO and the Latin celebrant by the CIC and the regulations issued by the various episcopal conferences on such matters. Of course, both codes introduce the new principle that with the reception of baptism comes, by right, the enrolment of everyone in a particular Church *sui iuris*, i.e. by receiving baptism, everyone belongs to the Church *sui iuris* to which the Catholic father belongs.¹² According to the previous legisla-

⁹ F. Čitbaj, *Cirkev nie sú steny a strecha, ale viera a život...*, Prešov 2010, p. 207.

¹⁰ Sacrosanctum Concilium Oecumenicum Vaticanum II, *Declaratio de libertate religiosa Dignitatis humanae* (7.12.1965), no. 4, *Acta Apostolicae Sedis* (hereinafter: AAS) 58 (1966), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html [access: 22.01.2024].

¹¹ Cf. A. Танасійчук, *Канонічне право. Східних Католицьких Церков*, Львів 2019, p. 270.

¹² *A Guide to the Eastern Code...*, pp. 141–142.

tion, under Can. 98 § 1 CIC 1917 and Can. 6 *motu proprio* Cleri Sanctitati of 1957, it was the liturgical rite of baptism that marked, as a rule, the inscription in the rite.¹³

According to the new principle, more ecclesiological registration is made in a particular Church *sui iuris* or the Latin Church rather than in an Order.¹⁴ It is not a rite, but the Church *sui iuris* constitutes the juridical person represented in all legal acts by the one who presides over it. The distinguishing factor for enrolment in a Church *sui iuris* is that the parents, in particular, belong to that Church *sui iuris*. Consequently, according to the law, the liturgical rite of baptism should correspond to the rite of the Church *sui iuris*, in which the baptised person is by right to be enrolled, not vice versa.¹⁵

By the Apostolic Letter *De Concordia inter Codices* in the form of a *motu proprio* of the Holy Father Francis, published on 15 September 2016, certain forms of the Code of Canon Law for the Latin Church, i.e. Cann. 111 and 112, which refer to registration in the Church *sui iuris*, were changed precisely to harmonise them with the CCEO.¹⁶

If the parents belong to different Churches *sui iuris*, in conformity with the customs of the Eastern countries and the “personal statutes”, the father primacy principle is applied, deciding in which the Churches *sui iuris* the child must be canonically enrolled by baptism under Can. 111 § 1 CIC 1983. Of course, this is a Catholic father.¹⁷

In the MP DCIC, Can. 111 abrogates this juridical primacy of fathers, which has been reproached in some regions of the Middle East for fear of the “extinction of their Church” in favour of the Latin Church. Consequently, if one parent belongs to the Latin Church and the other to the Church *sui iuris*, the child belongs to the Latin Church if the parents have agreed on baptism in the Latin Church; only in the absence of agreement between the parents is the child enrolled in the Church *sui iuris* to which the father belongs.¹⁸ As to the Catholic mother in a mixed marriage, to her belongs the solemn obligation to do everything in her power to see that all children

¹³ C.G. Fürst, *Sviatosť krstu: „status“ pokršteného veriacého v Cirkvi vo svetle CIC a CCEO*, in: *Ius et Iustitia Acta VI. Symposii iuris canonici anni 1996*, Spišské Podhradie 1997, p. 83.

¹⁴ *Codex Iuris Canonici. Kodeks Prawa Kanonicznego. Komentarz*, ed. P. Majer, Warszawa 2023, pp. 110–112.

¹⁵ Kongregácia pre východné cirkvi, *Inštrukcia...*, p. 40.

¹⁶ Francis, Apostolic Letter issued *Motu Proprio De concordia inter Codices, modifying some norms of the Code of Canon Law*, 31.05.2016, https://www.vatican.va/content/francesco/es/motu_proprio/documents/papa-francesco-motu-proprio_20160531_de-concordia-inter-codices.html [access: 22.01.2024]. Cf. *Codex Iuris Canonici...*, pp. 109–110.

¹⁷ *A Guide to the Eastern Code...*, p. 142.

¹⁸ Cf. G. Nedungatt, *Путівник по Східному Кодексу...*, pp. 98–99.

are baptised and brought up in the Catholic Church and enrolled by baptism in the Catholic Church *sui iuris* to which she belongs (Can. 814, 1). Should she fail to comply with this obligation, she is subject to the appropriate penalty (Can. 1439).¹⁹

In danger of death, § 4 allows the child to be baptised against the will of the parents – Catholic or non-Catholic. This clearly contradicts the prescription of Can. 586 CCEO.²⁰ Therefore, it must be emphasised that such sacramental action is legitimate only on the condition that the celebrant of the holy mystery of baptism does not in any way seek to proselytise or “force Catholicism.”²¹

Finally, the legislator permits the baptism of the child of non-Catholics if the parents, or at least one of them, or whoever legitimately represents them, so requests and if it is physically or morally impossible for them to reach their celebrant. However, the child is not enrolled in the Catholic Church *sui iuris*, in the liturgical rite in which the child received the holy mystery of baptism, but in the non-Catholic Church to which the child’s parents belong unless the parents request that the child be received into the Catholic Church. In this case, Can. 900 CCEO applies.

So far, this doctrine is consistent with Catholic teaching. The problem arises, however, in following these mysteries in succession. In the Eastern tradition, the sacrament of baptism restores the image of God, and chrismation with holy myron (confirmation) initiates the image-building in the Holy Spirit. Therefore, these sacraments are also conferred at the same time.²²

In fact, the Orthodox Church insists that before a newly baptised person can be a partaker of the Eucharist, it is necessary that the person first receive the gift of the Holy Spirit, that is, the anointing of the myrrh. It follows that the order of initiation of the sacraments used by the Latin Church today is unacceptable to the Orthodox.²³ Not only is the Eucharist dependent on the mystery of the myrrh, but also vice versa. Chrismation with holy myron is dependent on the Eucharist because the gift of the Holy Spirit, which the neophyte has received in Chrismation with holy myron, can only develop and at the same time grow spiritually if this Christian is a partaker of the Eucharist. Without the Eucharist, the Christian would not have developed spiritually and could not have fulfilled the mission of the universal priesthood and the resulting proclamation of the true Gospel.²⁴

¹⁹ Cf. Can. 814, 1° CCEO and Can. 1439 CCEO.

²⁰ Can. 586 CCEO.

²¹ L. Gerosa, *Právo Cirkvi*, Prešov 2005, p. 165.

²² M. Petro, *Človek – Boží obraz*, Theologos. Theological Revue 2018, vol. 20, no. 2, p. 49.

²³ M. Tkáč, *Na ceste do chrámu...*, p. 52.

²⁴ Cf. I. Belejkaníč, *Pravoslávne dogmatické bohoslovie II*, Prešov 1996, p. 54.

In some countries, bishops' conferences have issued instructions regarding the conferral of baptism on Orthodox believers. For example, on 8 March 2022, the Polish Bishops' Conference issued a decree on how to proceed with the conferral of the holy mysteries. In conferring the holy mystery of baptism, priests of the Latin Church are obliged to observe the following regulations:

1. Observe the prescription of Can. 868 § 3 CIC and Can. 681 § 5 CCEO.
2. A Catholic clergyman may justifiably baptise a child at the request of parents who are not Catholic only if they do not have access to a clergyman of their Church. They should formulate their request in writing. By keeping such a document in the parish archives, the Catholic pastor will be able to protect himself against the charge of proselytism, i.e. unworthy inducement to change religion. This reservation does not apply in the case of endangering a child or parents. Baptism must be administered under the liturgical books of the Catholic Church.
3. In such a case, the Catholic cleric at the baptism will not incorporate the child into the Catholic Church. Therefore, it must be recorded in the baptismal register that the child belongs to another church which is not in communion with the Catholic Church.
4. In the case of the baptism of a person over fourteen years of age, the rules for the baptism of adults must be observed, while in the case of children over seven years of age, they, too, must express their wish to be baptised.²⁵

The Spanish Pastoral Instruction on the Pastoral Care of Eastern Catholics in Spain prescribes that a child of non-Catholic Christians may be validly baptised in the Catholic Church, subject to two requirements of the CCEO: if baptism is requested by the parents or at least one of them, or a person legally representing them, and also for reasons of physical or moral unavailability of the Orthodox celebrant.²⁶

Concerning the entry in the baptismal register, PRO MEMORIA indicates: "In such a case, the Catholic clergyman, when baptizing the child, does not incorporate the child into the Catholic Church, and therefore it must be stated in the book of the baptized that the child belongs to another Church which is not in communion with the Catholic Church."²⁷ However, the Spanish instruction prescribes that baptism should not be entered in the baptismal register in a Catholic parish unless

²⁵ Konferencja Episkopatu Polski, *PRO MEMORIA dotyczące posług religijnych udzielanych wiernym z Kościołów i Wspólnot kościelnych niemających pełnej wspólnoty z Kościołem katolickim*, 8.03.2022, <https://episkopat.pl/pro-memoria-dotyczace-poslug-religijnych-udzielanych-wiernym-z-kosciolow-i-wspolnot-koscielnych-niemajacych-pełnej-wspolnoty-z-kosciolem-katolickim/> [access: 22.01.2024].

²⁶ А. Танасійчук, *Канонічне право...*, p. 271.

²⁷ Konferencja Episkopatu Polski, *PRO MEMORIA...*, point 5.

a reasoned request is made, and only then should the parish priest enter it. The Catholic celebrant must issue a baptism certificate if the baptism is not registered.²⁸

Can. 30 stipulates that every baptised person who has reached the fourteenth year of life is free to choose any Church *sui iuris* to be enrolled upon baptism received in it without violating the particular law established by the Apostolic See. This canon, as well as the canon corresponding to it in the CIC, provides that anyone who has not yet been baptised and has reached the fourteenth year of life may freely choose to be baptised in the Latin Church or in any Eastern Church *sui iuris* into which that person is actually enrolled by receiving baptism. This canon applies whether the parents are Catholic, non-Catholic or mixed. The saving clause of the special law is not intended to restrict the freedom of choice of the candidate, which is the same in the East and the West, but to avoid conflict with the personal status of Christians in countries such as Lebanon, where the rite is registered in civil law and denotes the identity of the person, and a change of religion is not permitted for minors.²⁹

First, Can. 588 emphasises that “catechumens have the right to enroll in any Church *sui iuris* according to the norm of Can. 30. But one must beware of persuading them to do anything that might hinder their enrolment in a church that is appropriate to their culture. A baptized person who has reached his fourteenth year of age at the time when he seeks to receive baptism is considered to be competent in the matter of a personal decision to be enrolled in a church *sui iuris*.”³⁰

The Polish bishops’ regulation PRO MEMORIA states that in the case of the baptism of a person over fourteen years of age, the rules for adult baptism must be followed, while in the case of children over seven years of age, they too must express their wish to be baptised.³¹

In this case, the prescription of Can. 35 CCEO applies.³² The prescription of this canon speaks of baptised non-Catholics who, of their own free will, enter into full communion with the Catholic Church. Above all, the precept confirms the statement of the Second Vatican Council.³³

²⁸ A. Танасійчук, *Канонічне право...*, pp. 27–272.

²⁹ *A Guide to the Eastern Code...*, p. 143. Cf. A. Танасійчук, *Канонічне право...*, pp. 146–147.

³⁰ L. Adamowicz, *Przynależność do kościoła sui iuris według obowiązującego prawa kościelnego*, *Roczniki Nauk Prawnych* 1998, vol. 8, p. 144.

³¹ Konferencja Episkopatu Polski, *PRO MEMORIA...*, n. 5.

³² Can. 35 CCEO.

³³ Sacrosanctum Concilium Oecumenicum Vaticanum II, *Decretum Orientalium Ecclesiarum* (21.11.1964), no. 4, AAS 57 (1965), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19641121_orientalium-ecclesiarum_en.html [access: 22.01.2024].

Restoring full unity with the Catholic Church does not mean losing one's Christian identity or alienating oneself from it and from one's own rite, which is understood as liturgical, theological, spiritual and disciplinary heritage. The Council enjoins that when non-Catholics enter into full communion with the Catholic Church, they should preserve, honour and respect their heritage. To carry this out, Can. 35 commands that they enrol in the Church *sui iuris* of their own rite, leaving intact the right to appeal to the Apostolic See in special cases. The canon expresses a principle that is more extensively explained and regulated in the aforementioned Cann. 896–901 CCEO concerning baptised non-Catholics entering into full communion with the Catholic Church. Can. 35 effectively forbids Eastern non-Catholic Christian believers from being received into the Latin Church without the special consent of the Apostolic See, and the CIC does not contain this prescription.

3. Conditions for the reception of the Holy Mysteries by non-catholic Christians in the Catholic Church

As we have already noted, the Catholic Church at the Second Vatican Council made a decisive reversal in its attitudes in its efforts to bring the divided Christian world closer together. In fact, what is at stake here on the part of the Catholic Church is an entirely new view of non-Catholic Christian Churches and ecclesial communities.³⁴

In worship and especially in the holy mysteries, the Church affirms and reveals the unity of the Church. This is why faithful Catholics participate in Catholic public worship. However, the Catholic faithful may also participate in the worship of other Christians, i.e. in non-sacramental worship, while preserving the prescription of Can. 670, which establishes as a basic prerequisite for the participation of Eastern Catholics in the worship of other Christians *quae habita ratione gradus communionis cum Ecclesia catholica*, i.e. the norm of participation is the degree of communion with the Catholic Church. It must be borne in mind that the degree of communion with the Eastern non-Catholic Churches is very profound since they “possess the true sacraments, and especially – by the power of apostolic succession – the priesthood and the Eucharist.”³⁵ But as far as Reformed churches and ecclesial societies are concerned, the degree of communion is not so

³⁴ F. Čitbaj, *Cirkev nie sú steny a strecha...*, p. 207.

³⁵ Sacrosanctum Concilium Oecumenicum Vaticanum II, Decretum de oecumenismo *Unitatis redintegratio* (21.11.1964), no. 15, AAS 57 (1965), https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decree_19641121_unitatis-redintegratio_en.html [access: 22.01.2024].

profound because³⁶ “according to our faith, they do not retain the true and intact essence of the Eucharistic mystery, mainly because they lack the sacrament of the sacred state.”³⁷

Can. 670 § 2 gives authority to the eparchial bishop to permit the use of a Catholic building, cemetery or church according to the norm of the particular law of his own Church *sui iuris*. The basic proposition is the legitimate possibility of lending spaces owned by Catholics to non-Catholics in places where non-Catholics do not have their sacred places or cemeteries. Unadulterated ecumenical cooperation is one means of countering a secularised and liberal society that seeks to undermine the influence of the Church on social events and the lives of individuals. This prescription of the canon thus also becomes a means that ultimately serves the work of God, which all Christian churches and communities serve.³⁸ In addition, other Church documents provide some guidance on the issue to help deal with local problems.³⁹

At the same time, it must be remembered that even though the Catholic faithful are involved in Sunday ecumenical prayers, they have a solemn obligation to be present at the Divine Liturgy of their own Church *sui iuris*. According to Can. 671 § 3, Catholic ministers are also permitted to administer the sacraments of penance, the Eucharist and anointing of the sick to the faithful in Christ of the Eastern churches which are not in full communion with the Catholic Church if they voluntarily request it and are duly dispensed. This is also true of members of other churches in which the said sacraments are recognised and are, in the view of the Apostolic See, in the same position as the said Eastern churches.

The basic principle governing the common conferral of these holy mysteries celebrated in the Catholic Church on non-Catholic Christians of other churches or ecclesial communities was laid down by the Second Vatican Council in the Decree on Ecumenism *Unitatis Redintegratio*.⁴⁰

³⁶ *A Guide to the Eastern Code...*, p. 590.

³⁷ Sacrosanctum Concilium Oecumenicum Vaticanum II, *Decretum de oecumenismo...*, no. 15.

³⁸ F. Čitbaj, *Cirkev nie sú steny a strecha...*, p. 208. Cf. Pápežská rada pre napomáhanie jednoty kresťanov, *Direktórium na vykonávanie princípov a noriem o ekumenizme*, 25.03.1993, no. 137, <https://konferencia.kbs.sk/obsah/sekcia/h/dokumenty-a-vyhlasenia/p/dokumenty-vatikanskych-uradov/c/direktorium-na-vykonavanie-principov-a-noriem-o-ekumenizme> [access: 22.01.2024].

³⁹ Pontifical for the Pastoral care of Migrants and Itinerant people, *Instruction Erga migrantes caritas Christi*, 3.05.2004, part II, no. 56, https://www.vatican.va/roman_curia/pontifical_councils/migrants/documents/rc_pc_migrants_doc_20040514_erga-migrantes-caritas-christi_en.html [access: 22.01.2024]. Cf. A. Танасійчук, *Канонічне право...*, p. 255.

⁴⁰ Sacrosanctum Concilium Oecumenicum Vaticanum II, *Decretum de oecumenismo...*, no. 8.

Although the CCEO allows the Catholic faithful to receive the holy mysteries in the Orthodox Church, the canonical discipline of the Orthodox Church itself does not allow this because the Orthodox Church considers the faithful of the Catholic Church to be schismatics, who are forbidden to participate in the Holy Liturgy.⁴¹ To Eastern non-Catholics, for the same reasons given above, Catholic ministers may confer the holy mysteries of penance, the Eucharist and anointing of the sick if they voluntarily request these holy mysteries and are adequately prepared and available. The Directory for the Application of Principles and Norms on Ecumenism admonishes Catholic celebrants to avoid the appearance of proselytism.⁴²

Although the norm of the canon is less strict, it does not speak of emergencies or the possibility of contacting one's own cleric. The Orthodox often criticise it as an attempt at proselytism. In fact, the aim of this prescription is not proselytism but pastoral ministry with respect for other churches.⁴³

Can. 671 § 4⁴⁴ affects the faithful who descend from the Reformation of the fifteenth to the seventeenth centuries and later, which were formed by further schisms and which we know today as Protestant Christian churches. Above all, however, it should be noted that, despite the present state of relations between the Catholic Church and the ecclesial societies of the Reformed churches, agreement has not yet been reached concerning the holy mysteries, especially the holy orders. Consequently, the regulations concerning the celebration of the holy mysteries of penance, the Eucharist and the anointing of the sick by the faithful of these communities have more restrictions.⁴⁵

Can. 671 § 5 prescribes that for the cases referred to in §§ 2, 3 and 4, norms of particular law are not to be issued without consulting at least the local competent authority of the non-Catholic Church or ecclesial society concerned. The prescription of this section allows for laying down more detailed regulations, which are found in the preceding sections, according to the particular law. Such norms require consulting at least the local competent authority of the non-Catholic Church or ecclesiastical society concerned.⁴⁶

⁴¹ P.I. Boumis, *Kánonické parvo pravoslávnej cirkvi*, Prešov 1997, p. 104.

⁴² Pápežská rada pre napomáhanie jednoty kresťanov, *Direktórium na vykonávanie princípov...*, no. 125.

⁴³ A. Танасійчук, *Канонічне право...*, p. 258.

⁴⁴ Can. 671 § 4 CCEO.

⁴⁵ *A Guide to the Eastern Code...*, p. 591. Cf. D. Salachas, K. Nitkiewicz, *Rapporti interecclesiali tra cattolici orientali e latini*, Roma 2007, p. 136; L. Lorusso, *Il culto divino nel Codex Canonum Ecclesiarum Orientalium*, Bari 2008, p. 50.

⁴⁶ Cf. D. Salachas, *De culto divino...*, p. 557. Cf. Pápežská rada pre napomáhanie jednoty kresťanov, *Direktórium na vykonávanie princípov...*, no. 107.

As we have stated, the norms adopted by the various bishops' conferences at the country level are intended to provide for the faithful in their pastoral needs. For example, the Polish Bishops' Conference issued PRO MEMORIA, norms concerning the religious rites provided to the faithful from churches and religious communities not in full communion with the Catholic Church.⁴⁷ Also, detailed norms were issued for Catholic pastors to confer the holy mysteries of penance, the Eucharist and anointing of the sick for Protestants.⁴⁸

4. Blessing of marriage

The local hierarch may confer the sacrament of matrimony on non-Catholics by any Eastern or Latin Catholic priest in the area. First, however, the requirements of Can. 833 CCEO must be met. The norms of PRO MEMORIA prescribe, citing the regulations of Can. 1116 § 1 CIC and Can. 832 CCEO.⁴⁹ At the same time, they bring the guideline that a pastor does not have the authority to bless the marriage of two non-Catholics. If a Catholic priest is approached by two Orthodox Christians and expresses a desire to marry, the authority to bless the marriage must be requested from the ordinary of the place. The ordinary of the place cannot grant such authority to a deacon (Can. 1108 § 3 CIC and Can. 828 CCEO). Persons intending to marry should formulate their request in writing for the opportunity to marry in the Catholic Church.⁵⁰

The PRO MEMORIA norms guide Catholic priests that in the absence of documents attesting to baptism and witness statements, affidavits made by the persons intending to marry should be used. The testimonies and declarations of such persons should also be used to confirm their unmarried status. A person of the Eastern Rite intending to get married should be explicitly asked whether they have previously contracted a religious marriage. This is necessary because, in the non-Catholic Eastern churches, second and third marriages can be entered into, so the state of singleness may be understood differently. However, an examination of specific cases of decrees or declarations of divorce issued by the bishops of the Russian Orthodox Church does not show that any canonical examination has taken place

⁴⁷ Konferencja Episkopatu Polski, *PRO MEMORIA*..., passim.

⁴⁸ Ibidem, Chapter III. *Udzielanie sakramentów innym chrześcijanom (np. protestantom)*.

⁴⁹ Can. 832 CCEO.

⁵⁰ Konferencja Episkopatu Polski, *PRO MEMORIA*..., Chapter II, point 6. *Małżeństwo dwojga prawosławnych*.

or that one of the grounds enumerated in the Church's legislation applies. Thus, we often find ourselves faced with statements that simply proceed based on the request made by the interested party. Consequently, the blessing of the dissolution of the ecclesiastical marriage and remarriage is then granted.⁵¹

So, the problem in principle is that in the judgements or decisions issued by the leaders of the Orthodox Churches, it is practically impossible to distinguish between “extinguishing nullity”, “annulment”, “dissolution” or “divorce”. Often, there are no serious reasons for issuing such a decision. Moreover, there are legitimate doubts about the seriousness of the canonical processes examining the eventual validity or nullity of marriage in the Orthodox Churches. This constitutes a real doubt as to the motives and legitimacy of such pronouncements and their further application in the Catholic Church. In fact, there is often legitimate doubt on this front. According to the principles of Catholic matrimonial law, the validity of a marriage is to be torn in doubt until the contrary is proven. However, many Orthodox Churches practically only approve the divorce decree of the civil court, i.e. the dissolution of a marriage celebrated in the temple. In other Orthodox Churches, for example, in the Middle East, the ecclesiastical hierarchy, which has exclusive competence in matrimonial matters, uses the *oikonomia* to pronounce judgements on the dissolution of the ecclesiastical matrimonial union.⁵² Such a practice is found in Orthodox Churches in Europe and Slovakia, i.e. to pronounce an ecclesiastical divorce, an application for an ecclesiastical divorce and a civil court decision on the divorce must be submitted to the Orthodox Church.⁵³ After the parish priest has reviewed these particulars, the entire documentation must be submitted to the diocesan curia, along with the request for permission to bless the marriage. The marriage should be recorded in the parish marriage register, clearly indicating the confession of the spouses, and a marriage certificate should be issued to the spouses.⁵⁴

⁵¹ C. Vasil, *Odlúčenie, rozviazanie manželského zväzku, rozvod a nový sobáš. Teologický a praktický postoj pravoslávnych cirkvi – otázky a odpovede pre katolícku prax*, in: *Vytrvať v Kristovej pravde*, ed. R. Dorado, Kežmarok 2015, p. 91.

⁵² *Ibidem*, pp. 103–104.

⁵³ *Ibidem*, p. 104.

⁵⁴ Konferencja Episkopatu Polski, *PRO MEMORIA...*, Chapter II, point 6. *Małżeństwo dwojga prawosławnych*.

Conclusion

The issue of the largest refugee crisis in Europe as a result of Russia's aggression against Ukraine is very broad. It encompasses various areas, including socio-economic issues, but, of course, the spiritual area is no less critical, that is to say, the question of the religious care of these believers. This issue is wide-ranging because it concerns believers enrolled in various churches and religious communities, such as the Ukrainian Greek Catholic Church *sui iuris*, the Orthodox Church of Ukraine and the Russian Orthodox Church. In addition to having played a significant role in helping Europe to cope with this crisis, the Catholic Church has first and foremost taken care to address the issue of the conferral of the holy mysteries and the fulfilment of spiritual needs. The pastoral care of the faithful of the Ukrainian Greek Catholic Church *sui iuris* is not overly challenging because this Church has official structures almost all over Europe, except for a few countries such as Slovakia, the Czech Republic or Romania. The great challenge for the Catholic Church is the faithful who belong to the Orthodox Churches, and it is, therefore, suitable that the individual national episcopal conferences should adopt specific regulations concerning the pastoral care of these faithful in addition to the canon laws which regulate inter-ecclesial relations, as the Catholic Church in Poland has done. These regulations reflect the danger of losing the Eastern identity,⁵⁵ because many documents of the Church say that Eastern believers have the right and duty to preserve their heritage, know it and live it. These prescriptions also respect and consider the ecumenical principles and laws of the Catholic Church. However, no such regulations have yet been issued by the Slovak Bishops' Conference, although many dioceses in Slovakia are actively involved in helping to address the pastoral needs of these faithful.

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⁵⁵ Kongregácia pre východné cirkvi, *Inštrukcia...*, p. 12.

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