

IV. PRACTICAL THEOLOGY

LAITY IN THE LEGISLATION OF THE ROMANIAN ORTHODOX CHURCH

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ABSTRACT. The present study analyzes the role and the rights of the laity, in various Statutes of the Romanian Orthodox Church. The present study shows that within the Romanian Patriarchate there are two different approaches concerning the extent of the involvement of the laity in the three-fold ministry of the Church, in particular as to its role in the field of Church governance. Thus, on the one hand one sees a strong tendency to limit the laity's role and rights in the governing of the local Church (the diocese) or at the supra-local level (the Metropolis or the Patriarchate). On the other hand, there is another position that allows a greater involvement of the laity in the governing of the Church. The lack of laity's involvement in the recently held Pan-Orthodox Council determines us to look again and critical to the situation within the ROC and argue for a return to an old and ecclesiological sound canonical practice of total integration and active participation of the laity in the Church.

Keywords: laity, rights, Canon law, Romanian Orthodox Church

The Pan-Orthodox Synod that took place in Crete in June 2016 has been criticized, among other things, for not allowing the laity to be involved both in its preparation and in the decision-making process. The question of the laity involvement in the synodal process is rather an old issue among the Orthodox and we have no intention here to go into its long history. What we wish to do in the present study is rather to look anew at the Romanian Orthodox canonical understanding of the role of the laity in the Church since the 19th century until today.

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For this reason, we will analyze the provisions concerning the laity found in several Statutes that governed or govern either ecclesial provinces of, or the whole Romanian Patriarchate¹. Each Statute will be presented in its historical context for a greater understanding of its canonical approach.

The present study argues that, as far as the Romanian Orthodox Church is concerned, there is a growing tendency, mirrored by the Statutes, to exclude or to limit the active role of the laity in ecclesial affairs. One may even call it the final stage of a process started long before the 19th century.

In 1925 the Romanian Orthodox Church was elevated to the rank of Patriarchate. She came into existence after the unification of four Romanian Orthodox Metropolitan provinces: the Orthodox Metropolitan province of Transylvania, the Orthodox Metropolitan province of Bessarabia², the Orthodox Church of the Kingdom of Romania and the Orthodox Church of Bukovina.³ The four ecclesiastical provinces not only did not share the same canonical order, but they also did not share the same understanding of the place of the laity in the Church, divergence which proved to be a challenging topic when they wished in 1920s to forge one unitary Ecclesial Statute.⁴

We will begin the present study with the first Church Statute in the Romanian provinces, namely the 19th century Organic Statute of the Orthodox Church in Transylvania. We will continue with the 19th and early 20th century state legislation concerning the Orthodox Church in the two unified provinces Moldavia and Ungro-Vlachia. The third part of the present study will discuss the role of the laity in the present (2011) Statute of the Romanian Patriarchate, whereas the fourth and the last part will analyze the role of the laity in three Romanian dioceses from Western Europe and North-America: the Romanian Orthodox Metropolia and Archdiocese of Western and Southern Europe (ROMWEA) with residence in Paris; the Romanian Orthodox Episcopate of America (ROEA), with residence in Jackson, MI near Detroit; and the Romanian Orthodox Metropolia of

¹ We use for convenience “Romanian Orthodox Church” (ROC), not as a technical term but rather to designate the Orthodox ecclesial structures existing in the Romanian provinces both before and after 1925. However, we “Romanian Patriarchate” as a technical, juridical term, only to designate the Romanian Orthodox Church after 1925.

² The Diocese of Bessarabia was between 1813-1918 under the Russian Orthodox Church jurisdiction. Richard Potz und Eva Synek, unter Mitarbeit von Spyros Troianos und Alexej Klutschewsky, *Orthodoxes Kirchenrecht: Eine Einführung. Aktualisierte und erweiterte zweite Auflage*, (Coll. *Kirche und Recht*, 28), (Freistadt: Plöchl, 2014), 151.

³ The Metropolitan Church of Bukovina was autonomous since 1874. Pr. Prof. Univ. Dr. Liviu Stan, *Biserica și dreptul: Studii de drept canonic ortodox*, 6 vols., ed. Pr. Conf. Univ. Dr. Irimie Marga, (Sibiu: Editura Andreiana, 2010-2015), III, 63. (Henceforth BD).

⁴ The present study will not treat laity’s canonical situation in the Metropolia of Bessarabia or of Bukovina because until 1920s these Metropolitan Churches had no a Statute. See Paul Brusznowski, *Rumänisch-Orthodoxe Kirchenordnungen (1786-2008): Siebenbürgen – Bukowina – Rumänien*, (Köln – Weimar – Wien: Böhlau Verlag, 2011), 192ff.

the Americas (ROMA, former Romanian Orthodox Archdiocese in the Americas - ROAA)⁵, with residence in Chicago, IL.⁶ Because until the time when this study was finished ROMA did not adopt yet a new statute that would reflect its new canonical rank, we will make use in our analysis of the ROAA's Statute.

1. Laity in Transylvania: *The Organic Statute*

For the Romanian Orthodoxy, the 19th century represented the beginning of the debates concerning the role and the rights of the laypersons in the Church. The main character and promoter of the laity's rights was Metropolitan Andrei Șaguna,⁷ elevated by the Holy Synod of the Romanian Orthodox Church among saints. Metropolitan Șaguna gave the Metropolitan region of Transylvania the famous "Organic Statute",⁸ which allowed the laity an extensive participation to all levels of Church administration. Already during his lifetime many criticized Șaguna for his understanding of the role of the laity in the Church,⁹ which looked too Protestant, although his theological and canonical vision were merely a continuation of the old but forgotten Orthodox practices.¹⁰

Projects for Church constitutions in Transylvania have existed since 1850s.¹¹ A first draft of the *Organic Statute* was presented in 1864 to the third Eparchial synod and it will constitute the nucleus of the 1868 Statute's final version.¹² Șaguna's project was discussed by a Commission comprising four clerics and eight laypersons and underwent extensive changes. Thus, from an initial 225 paragraphs, the commission preserved only 174. Changes have also

⁵ Since October 2016 the ROAA has been elevated to the rank of Metropolia.
<http://www.romarch.org/en/news.php?id=5867>, accessed 8.12.2016.

⁶ The two Romanian dioceses in North-America, although only one of them – ROAA/ROMA - is under the jurisdiction of the Romanian Patriarchate, they do share a common past and are in sacramental communion.

⁷ Pr. Prof. Dr. Mircea Păcurariu, *O viață închinată bisericii și neamului: Sfântul Ierarh Andrei Șaguna, Mitropolitul Transilvaniei*, (Sibiu: Ed. Andreiana, 2012); Keith Hitchins, *Orthodoxy and Nationality: Andreiu Șaguna and the Rumanians of Transylvania, 1846-1873*, (Cambridge, MA – London, UK: Harvard University Press, 1977).

⁸ The Statute can be found in *Constituția bisericii gr.-or. române din Ungaria și Transilvania sau Statutul Organic, comentat și cu concluzele și normele referitoare întregit de Ioan A. de Preda*, (Sibiu, 1914), more recently re-published in Paul Bruszanowski, *Reforma constituțională din biserica ortodoxă a Transilvaniei între 1850-1925*, (Cluj-Napoca: Presa Universitară Clujeană, 2007), 15ff.

⁹ Johann Schneider, *Ecleziologia organică a mitropolitului Andrei Șaguna și fundamentele ei biblice, canonice și moderne*, Trans. Ioan Ică Jr., (Sibiu: Deisis, 2008), 236ff;

¹⁰ Liviu Stan, *Mireni în Biserică: Studiu Canonic-Istoric*, (Sibiu, 1939).

¹¹ Șaguna himself prepared some projects which only treated the Church organization in broad lines. Furthermore August Treboniu Laurian submitted in 1850 a project of Church constitution to the first mixed eparchy synod. Maria Stan, *Andrei Șaguna and the Organic Statute* (Doctoral Dissertation), (Universităt Wien, 2009), 263.

¹² Păcurariu, *O viață închinată bisericii*, 149; Cf. Stan, *Andrei Șaguna and the Organic Statute*, 265.

been made to the content; the organization of the parishes and of the deaneries has been modified as well as the manner of the election of the protopresbyters, of the Eparchial Consistory and of the bishops.¹³ The Commission has also created new organs, and it removed the bishop's authority in relation to the decisions of the consistory. Furthermore, the Commission accepted that the bishop had full authority only in dogmatic and spiritual matters, in all other questions the Consistory could decide with a majority vote.¹⁴ A second analysis was undertaken by a Commission of 27 deputies established by the 1868 National Ecclesial Congress (NEC).¹⁵ The new Statute was then adopted by the Congress and one year later, in 1869, it was sanctioned by the Emperor Franz Joseph I.¹⁶

Șaguna saw the Church as a living organism which, in order to fulfill its mission, needs to have all its members functioning properly and in harmony one with another, and it is this ecclesiological vision that underlies his "Organic Statute" (1868).¹⁷ Among the fundamental principles of the *Organic Statute* Șaguna introduced the principle of laypersons' participation in the Church in a numerical proportion of 2/3, while the clergy had 1/3, as well as the principle of ecclesiastical autonomy in relation to the State and the constitutional principle. The constitutional principle involved the separation of legislative and executive powers, the representative-democratic principle, on an elective basis.¹⁸

The significance of the laity in the Church is clearly established from the beginning of the Statute. Thus, §2 states:

The constitutive elements of this Metropolitan province [officially called *The Romanian Greek-Orthodox Church from Hungary and Transylvania* (§1)] are the clergy and the faithful people; and its constitutive parts are: 1. Parishes, 2. Deaneries, 3. Monasteries, and 4. Eparchies.

Because they were constitutive elements of the Church, the laity, together with the clergy, has

¹³ Păcurariu, *O viață închinată bisericii*, 150.

¹⁴ Stan, *Andrei Șaguna and the Organic Statute*, 266; 272.

¹⁵ According to Stan, Șaguna did not present in 1868 the amended version of the Statute, but the original one. Stan, *Andrei Șaguna and the Organic Statute*, 267.

¹⁶ Ioan A. de Preda, "Introducere", 14ff; Cf. Păcurariu, *O viață închinată bisericii*, 156.

¹⁷ Paul Brusanowski, "The Principles of the Organic Statute of the Romanian Orthodox Church of Hungary and Transylvania (1868-1925)", *Ostkirchliche Studien* 60.1 (2011): 110-138, here 111.

¹⁸ Brusanowski, "The Principles of the Organic Statute", 112ff. In his book *Rumänisch-Orthodoxe Kirchenordnungen*, Brusanowski formulates these principles somehow differently. Thus, here he defines them as: the principle of Church autonomy, in the context of a subsidiary State; the Synodality, understood as collaboration between all the Church elements in the framework of a constitutional organisation; and differentiation between the purely Church affairs (which fall exclusively within the responsibility of committees of clerics) and the economic and cultural affairs (which are treated by associations in which laypersons participated in a numerical proportion of 2/3). Brusanowski, *Rumänisch-Orthodoxe Kirchenordnungen*, 24.

the right to participate in person or through representatives in all the actions (*affairs*) concerning the Church, the schools and the foundations, having at the same time the duty to sustain all the burdens on which depends the welfare of the Church. (§3)

Concerning the relationship between the various constitutive parts of the Church, the Organic Statute granted them almost total independence in the administration of their affairs, the constitutive parts, be it parish or diocese, being considered equal to the other (§3). Furthermore, each constitutive part had to be governed according to the principle of synodality:

All the action of the constitutive parts (...) are to be realized through the parish, protopresbyteral, and eparchial synods as well as through the National Ecclesial Congress (the Metropolitan Synod) (§4).¹⁹

Therefore, the laypersons were not only involved in the parish affairs, but also in the diocesan ones. According to Liviu Stan, Şaguna “gave synodality the most classical and the broadest interpretation, without trespassing on the dogmatic and canonical boundaries of the Church”.²⁰ Regarding the Eparchial Synod, the *Organic Statute* defined it as a mixed form of synodality:

the Eparchial Synod represents the Eparchy and is formed of the deputies of the clergy and of the people of the eparchy, and besides the bishop, the archbishop respectively, it comprises 60 members out of whom 20 are clerics and 40 laypersons (§87).

It was this mixed Eparchial Synod that elected the bishop (§97).

The Metropolitan province was governed by the National Ecclesial Congress (NEC), which comprised 30 representatives of the clergy and 60 laypersons (§146). It was the responsibility of the NEC to elect the Metropolitan (§154). In this instance the NEC was enlarged to 120 members (§155). As one can see, these are forms of mixed sinodality. There is however also an expression of the “pure synodality”,²¹ as Liviu Stan calls the synod formed exclusively of bishops. Art. III § 171 of the *Organic Statute* speaks about the Episcopal synod (*Sinodul episcopesc*):

The episcopal synod is that gathering of bishops under the presidency of the Metropolitan bishop, where are treated spiritual, dogmatic and symbolic ecclesiastical causes.

¹⁹ According to Ioan A. Preda’s commentary to the Statute, §4 refers to the representative and legislative organs in the Church, the administrative and the executive ones being mentioned in art. 5. *Constitutia bisericeii gr.-or. române*, 35.

²⁰ Stan, *Mirenii în biserică*, 198.

²¹ Pr. Prof. Univ. Dr. Liviu Stan, *Biserica și dreptul: Studii de drept canonic ortodox*, 6 vols., ed. Pr. Conf. Univ. Dr. Irimie Marga, (Sibiu: Editura Andreiana, 2010-2015), III, 32.

It is clear from this that the Statute considered only the spiritual and doctrinal issues of the exclusive competence of the episcopate, whereas all the other issues, that is teaching of religion, administration of the temporal goods or election of the clergy and of the episcopate fell also within the sphere of competence of the laity and all the hierarchical states in the Church.

2. Laity in the Church of Ungro-Vlachia

2.1. *The Law of Synodality and the Crisis of Canonicity*

The Orthodox Church of the Kingdom of Romania came into being in 1864 after the union of two autonomous Metropolitan provinces, the Metropolitan Church of Moldavia and the Metropolitan Church of Ungro-Vlachia (or Muntenia).²²

Following the political and administrative unification of the two Romanian provinces, Moldavia and Țara Românească (or Ungro-Vlachia) in 1859 under the ruling of Prince Alexandru Ioan Cuza, the autonomous Metropolitan province of the two provinces have also been united, the newly formed Church declaring herself in 1864 autocephalous, but receiving her *Tomos* of autocephaly from the Patriarchate of Constantinople only in 1885.²³

As we mentioned already, before the 1864 unification, both the Metropolitan province of Moldavia and of Țara Românească were autonomous Metropolitan provinces. However, they were not autocephalous, being under the jurisdiction of the See of Constantinople. The situation is totally understandable if one takes into consideration also the fact that politically the two Romanian principalities were under the Turkish suzerainty. During this period, the Divan, composed of boyars, elected the bishops and the metropolitans and the Prince confirmed them. After 1848 the Divans have been replaced with the National Assemblies (a form of Parliament) of the two provinces.²⁴

²²The Romanian Church is the only Orthodox Church that preserves the metropolitan system of the first four Christian centuries. Anargyros Anapoliotis, "Einführung in das rumänische Statut und in die Strukturen des rumänischen Patriarchats", in *Rumänische Orthodoxe Metropolie von Deutschland Zentral- und Nordeuropa* (Hg.), *Kirchenstatut der Rumänischen Orthodoxen Kirche (2011)*, Übersetzt, eingeleitet und herausgegeben von Jürgen Henkel und Anargyros Anapoliotis, (=DRThB, 2)(Sibiu-Bonn: Schiller Verlag, 2012), 27.

²³Patriciu Vlaicu, *Le statut de l'Église orthodoxe en Roumanie post-communiste (1989-2007). Approche nomocanonique*, (Paris: L'Harmattan, 2013), 44; Ioan Vasile Leb, *Die Rumänische Orthodoxe Kirche im Wandel der Zeiten*, (Cluj-Napoca: Presa Universitara Clujeană, 1998), 73-124, here 85. For a short historical account of the ROC see also Ioan Moga, "Die Orthodoxe Kirche und die Orientalisch-Orthodoxen Kirchen", in Johannes Oeldemann (Hg.), *Konfessionskunde*, (Leipzig: Evangelische Verlagsanstalt- Bonifatius, 2015), 72-157.

²⁴Constantin Drăgușin, „Legile bisericești ale lui Cuza Vodă și lupta pentru canonicitate”, *Studii Teologice* 9, nr. 1-2 (1957): 86-103, here 87ff.

After 1859 Prince Alexandru Ioan Cuza promulgated a series of laws that regulated the life and organization of the Orthodox Church.²⁵ For the present study the most important of these laws was: “The Organic Decree for the establishment of a central synodal authority for the affairs of the Romanian religion”, promulgated on 3 December 1864.²⁶

The ecclesial situation of the two Metropolitan provinces was rather precarious in the middle of the 19th century, with no existing form of synodality and the Metropolitans ruling in fact the entire Church single-handedly. In this situation, and to consolidate the independence of the Church mainly in front of the Turkish Sublime Porte’s influence, Al. I. Cuza and his government entrusted the task of writing a legislative project that would regulate the affairs of the Orthodox Church, first to Bishop Dionisie Romano from Buzău and then to a Church commission. Bishop Dionisie proposed the establishment of a Holy Synod in which not only bishops would take part, but also representatives of the priests. The project was presented to the eparchies for discussions and then to a Church commission. The Diocese of Râmnic proposed also the participation of laypersons in the Holy Synod. This proposal was however opposed by some bishops, such as Bishop Neofit Scriban from Argeş. Nonetheless, in the *Organic Decree for the establishment of a central synodal authority*, laypeople were also represented in the two synodal structures erected. Thus, when the Minister of Cults after the approval of the Prince (Art. IX) convened the General Synod it comprised: “the Metropolitans, the Diocesan Bishops, the Romanian Bishops (and Titular Bishops), three delegates from each Diocese – elected by the secular clergy, but only from among the parish priests or well-known laypersons and theologians, the Rectors of the Theological Faculties in Jassy and Bucharest” (Art. IV).

²⁵ We mention here only the most important of them: the 1859 Law through which the properties of the monasteries dedicated to the Holy Places (either in the Middle East or on Mount Athos) became the property of the state; the 1863 law that imposed the Romanian language as official language of the divine service; “The Organic Decree for regulating the monastic life” promulgated on 30 November 1864, which regulated who can enter the monasteries and from what age and through which procedure. Drăguşin, “Legile bisericesti ale lui Cuza”, 92ff.

²⁶ Drăguşin, “Legile bisericesti ale lui Cuza”, 90ff. Before the 1864 law, since as early as the 15th century, the Romanian Orthodox provinces followed the so-called *Pravile*. They were first Slavonic, then Romanian translations of the Byzantine *nomocanons*, in particular the 14th century Matthew Blastares’ *Alphabetical Syntagma*. These *nomocanons* that regulated the life of the Orthodox Church circulated in all three Romanian provinces (Walachia, Moldavia and Transylvania) and they were: Alexandru cel Bun’s *Pravila* (1400-1433), *Coresi’s Pravila* (1570-1580), *Pravila from Govora* (1640-1641), *Vasile Lupus’ Pravila* (1646), and *The Great Pravila* (1652) or *Matei Basarab’s Pravila*.²⁶ Already in 1844, thus only 44 years since its first edition and 3 years since the second one, in Moldavia Neofit Scriban published the Romanian translation of the *Rudder* (Pidalion) of the two athonite monks Nicodim and Agapius. Pr. Prof. Univ. Dr. Liviu STAN, *Biserica și dreptul: Studii de drept canonic ortodox*, 6 vols., ed. Pr. Conf. Univ. Dr. Irimie MARGA, (Sibiu: Editura Andreiana, 2010-2015), II, 172ff; Victor Alexandrov, *The Syntagma of Matthew Blastares: The Destiny of A Byzantine Legal Code Among the Orthodox Slavs and Romanians - 14-17 Centuries*, (=Forschungen zur byzantinischen Rechtsgeschichte 29)(Frankfurt am Main: Löwenklau-Feselschaft E.V., 2012).

The Eparchial Synods²⁷ consisted of “the Eparchial Bishop or the Metropolitan as president, three members of the General Synod, the Rectors of the Eparchial Seminaries, in Bucharest and Jassy (Iași) also from the Rectors of the Theological Faculties” (Art. XXIV).

We see thus an attempt to allow laypersons to participate actively in the life and affairs of the Church. This is not by chance, because the main architect of the Synodal Law was the Transylvanian politician, historian, linguist and founding member of the Romanian Academy, August Treboniu Laurian, who wished to integrate into the new Statute the Șagunian principles.²⁸ Furthermore, some have argued that through these reforms, Cuza returned to the ancient Orthodox tradition, which existed also on the Romanian territory but had long been forgotten.²⁹

On 11 May 1865 a new law, comprising only three articles, concerning the election of the metropolitans and bishops was promulgated, according to which the hierarchs were no longer elected by the Parliament and by the episcopal synods, but were appointed by the Prince.³⁰

The two issues - lay participation and appointing of the Metropolitan and of the Bishops by the Prince - led, between 1865-1872, to a Church crisis, which has gone down in history as “the struggle for canonicity”. The direct consequence of this crisis was that the Synod has met only on three occasions (1865, 1867, 1869)³¹ without being able to impose its authority, even some of its members contesting its authority.

The crisis reached its apex in January 1871, when the Archimandrite Clement Nicolau, professor at the Seminary in Jassy, shot four bullets at Metropolitan Calinic Miclescu, without killing him though.³² The crisis came to an end in 1872 under the regime of the new Romanian King Carol I, when a new Synodal Law was promulgated. According to the 1872 law the Metropolitan and the bishops were elected by the Metropolitan and Diocesan Bishops, by all the titular bishops who are Romanian citizens or who became Romanian citizens, as well as by all orthodox members of the two Chambers of the Parliament (Art.1).

As a result of a deep separation of the episcopate from the rest of Church’s life, as well as of the fact that it became highly sensitive to the influences of the Political class, a new reform of the Church was attempted. Thus, in 1909 a new

²⁷ The Eparchial Synod refers both to the Metropolitan and to the Diocesan Synod (Art. XXIII).

²⁸ Drăgușin, “Legile bisericești ale lui Cuza”, 94.

²⁹ Stelian Izvoranu, „Sinoadele de sub regimul lui Cuza Voda: Importanța lor pentru viața bisericească”, *BOR* 78 nr. 7-8, (1960), 658- 682, here 659.

³⁰ Drăgușin, “Legile bisericești ale lui Cuza”, 95.

³¹ In fact the third time, which is in 1867, the Synod did not take place, because only 4 members showed up. Drăgușin, “Legile bisericești ale lui Cuza”, 94; Izvoranu, „Sinoadele de sub regimul lui Cuza”, 661.

³² Brusanowski, *Rumänisch-Orthodoxe Kirchenordnungen*, 109ff.

law was passed establishing the Church Superior Consistory³³ which had as members: a) all the members of the Holy Synod; b) a representative of the Faculty of Theology in Bucharest, c) a representative of all the professors from the Theological Seminaries, d) two starets (abbots) representing the monasteries, e) 17 representatives of the priests and deacons of all the Romanian dioceses (Art.19). The 1909 law also modified the manner of the election of the episcopate, a new category of electing members being introduced, namely “all the elected members of the Church Superior Consistory” (Art.1 §b). The Church Superior Consistory was responsible for “all the disciplinary actions and administrative tasks of the eparchies” (Art.18).

Therefore, the Church of the Old Kingdom or the Romanian Kingdom before 1919 had no Statute issued by the Church itself, being ruled through laws issued by the State.³⁴ Nevertheless, the lay element, though present in various ecclesial decisional structures, was, in comparison with the Church from Transylvania, considerably reduced. At the same time, the Church-State relationship was significantly different, the State, in Ungro-Vlachia playing a very active role in the life of the Church. This model of Church-State relations reflects the so-called Byzantine Symphonia.

2.2. Laity in the newly established Romanian Patriarchate

Transylvania became part of the Romanian Kingdom in 1918 and between 1919 and 1925 negotiations were led between the Metropolitan province of Transylvania and the Orthodox Church of the Old Kingdom for the unification and the establishment of one national Romanian Orthodox Church. The main problems were the two Şagunian principles deeply embedded in the ecclesial conscience of the Church of Transylvania, namely the constitutional principle, which allowed the laity a very large involvement in the administration of the Church, and the principle of ecclesiastical autonomy vis-à-vis the state.

³³ The Law of the Consistory in German translation can be found in Brusanowski, *Rumänisch-Orthodoxe Kirchenordnungen*, 134ff.

³⁴ Beside the 1872 and 1909 laws mentioned above, the Church guided herself also according to two other laws from 1873, one concerning the “Rights of the Metropolitan Primate” and another concerning the “Discipline of the Clergy”. In 1875 a new law was issued concerning the “Election of the Titular Bishops”. In 1893 a first law on the lay clergy was given, followed in 1906/1909 by a second one. The distinction between State laws and Church laws can be deceiving for this period, if one considers the fact that the members of the Holy Synod were members of the Romanian Parliament with full rights, and that the Government was represented in the governing bodies of the Church. Paul Brusanowski, „Historische Einführung: Die Dispute innerhalb der Rumänischen Orthodoxe Kirche in der Zwischenkriegszeit über die Rolle der Laien und die Kirchenautonomie“, in Liviu Stan, *Die Laien in der Kirche. Eine historisch-kirchenrechtliche Studie zur Beteiligung der Laien an der Ausübung der Kirchengewalt*, Übersetzung von Hermann Pitters, Hrsg. von Stefan Tobler (Coll. *Orthodoxie, Orient und Europa* 4)(Würzburg: Ergon Verlag, 2011), 19-52, here 25.

In February 1920, the National Ecclesiastical Council (NEC) elected as Metropolitan of Transylvania Nicolae Bălan (1882-1955), a professor at the Seminary and a staunch defender of the Șagunian principles. The main adversary of the introduction of the Șagunian principles in the new constitution of the Romanian Orthodox Church was another hierarch of Transylvanian origins, Miron Cristea (1868-1938), elected in 1920, under the political influence, as Metropolitan Primate of the new unified Church.

In order to achieve a unitary Church organization a commission of 15 representatives of the four Metropolitan Churches that formed the new Romanian Orthodox Church was established in 1921.³⁵ The compromise was reached in 1925 by way of integrating the Organic Statute³⁶ in the new Church Constitution with some important changes: the Church autonomy towards the state was reduced; the "organic" nature of the Organic Statute was also reduced, leaving place for a more centralized administrative form of the Church; the autonomy of the dioceses was also reduced, the election of the bishops being transferred from the level of the diocese to the competence of an Electoral Collegium composed of all the members of the National Church Council (henceforth NCC) and of the Diocesan Assembly as well as some State high functionaries; the institutions and associations on the level of deaneries (*protopopiate*) became facultative bodies; it has introduced indirect elections for the NCC, whose members were now delegated by the Diocesan Assembly and not by the Ecclesial body; the Diocesan legislative and executive bodies/associations lost the right to make decisions independently, the Bishop now receiving the right to appeal against these decisions at the NCC. Therefore, the new Statute from 1925 of the newly established Romanian Patriarchate, though with some changes,³⁷ preserved nevertheless the Șagunian principles.

The next modification of the Romanian Orthodox Church's Statute was undertaken in 1948,³⁸ one of its authors being Liviu Stan,³⁹ and afterwards in 2007 and 2011.

³⁵ Maximilian Pal, "Importanța izvoarelor juridice în Biserica Ortodoxă Română", *Teologia* 9.3 (2005):10-31, here 28.

³⁶ The political influences were not missing during the discussions for a new Statute. Thus, as Pal argues, the Liberal government at the time preferred the Șagunian Statute because of the place it granted to the Church vis-à-vis the State. Pal, "Importanța izvoarelor juridice", 28.

³⁷ Brusanowski, „Historische Einführung“, 33-34.

³⁸ For an introduction to the 1948 Statute with modification until 2003 see Sr. Maria Mihaela Stan, "Die Rumänisch-Orthodoxe Kirchenverfassung und ihre Ekklesiologischen Grundlagen", *Kanon* 19 (2006): 95-110.

³⁹ Irimie Marga, "Concepția canonică a Pr.prof. Liviu Stan", in *Dreptul canonic în viața Bisericii*, 103-116, here 114.

3. The 2011 Statute of the Romanian Orthodox Church

3.1. Short introduction

The 2011 Statute is a modified form of the 2008 Statute, which, in its turn, replaced the 1948 Statute⁴⁰ adopted under the Communists. The 1948 Statute expressed the political reality in which the Church found herself, in the sense that through the Statute the power in the Church became increasingly centralized⁴¹ and in consequence the Church could be controlled more easily by the State.

At the beginning of the 1990s two positions formed within the BOR vis-à-vis the Statute. On the one side, there was the opinion that a brand new Statute was necessary, on the other side there were those who appreciated the virtues of the existing Statute, and who favored its preservation with some changes that would reflect the new realities.⁴² The second opinion prevailed and so until 2006 more than 100 modifications were brought to the 1948 Statute.⁴³

Thus, referring to the relation between the 2008 and the 1948 Statutes, P. Vlaicu, Professor of Orthodox Canon law in Cluj-Napoca, remarks that:

le nouveau [2008] statut n'apporte pas de modifications de principe, par rapport à l'ancienne organisation, mais clarifie seulement certains aspects et précise plus clairement certaines compétences.⁴⁴

In the words of HE Daniel, Patriarch of the Romanian Orthodox Church since 2007, the 2008 Statute

on the one hand, continues (*the 1948 Statute*) to a great extent or simplifies it, and on the other hand, brings important modifications, such as the manner of electing the hierarchs, which now follows the general pan-orthodox practice, but also assimilating with discernment the previous Romanian practice. The novelty of the Statute resides in the strong emphasis placed upon the relationship between freedom and responsibility or between one's own autonomy and the cooperation with others, at national, provincial (regional) or eparchial level.⁴⁵

Furthermore, according to HE Patriarch Daniel, the new Statute

⁴⁰ The Statute can be found in *Legiuirile Bisericii Ortodoxe Romane sub IPS Patriarh Justinian (1848-1953)*, (Bucuresti: EIBMO, 1953), 5-52.

⁴¹ Brusanowski, *Rumänisch-Orthodoxe Kirchenordnungen*, 394.

⁴² Vlaicu, *Le statut de l'Eglise*, 63.

⁴³ Patriarch Daniel Ciobotea, "Prefață. Libertate și responsabilitate pentru comuniune în Biserică", *BOR* 126, N°.1-2 (2008): 5-12, here 5.

⁴⁴ Vlaicu, *Le statut de l'Eglise*, 100.

⁴⁵ Patriarch Daniel, "Prefață. Libertate și responsabilitate", 9.

intensifies the synodality, in the sense that it grants increased responsibility to the Holy Synod, to the Permanent Synod and to the Metropolitan Synod. At the same time, the new Statute makes place for a broader framework for cooperation between the clergy and the laity in the National Ecclesial Assembly, in the Eparchial Assembly but foremost in the parish.⁴⁶

In his introduction to the 2008 Statute, P. Brusanowski, History Professor in Sibiu, regards the changes brought to the 1948 Statute from a rather different perspective than the Patriarch, summarizing them thus:

The new Statute completed a direction in the development of the Canon law, development which began in 1990, and which accentuates the following things: centralization at the level of administration; the strengthening of the hierarchical synodal organization as well as of the priests' position in the ecclesial community; a narrowing of the laity's rights. The [Church] organizations (*Körperschaften*) in which the laity were also members, lost the decisional right, having now only a consultative character. The Institution of the Ecclesial Electoral College was abolished, the bishops being now elected exclusively by the Holy Synod (to the Eparchial Assemblies has been granted only the right to submit proposals to the Holy Synod).⁴⁷

The Statute was confirmed through Governmental Decision (H.G. nr. 53/16 January 2008). The 2011 Statute has however a rather uncertain status. It has not been until now (December 2016) neither officially published by the ROC, nor approved by the State,⁴⁸ raising thus the question of authority.⁴⁹

⁴⁶ Patriarch Daniel, "Prefață. Libertate și responsabilitate", 9.

⁴⁷ Brusanowski, *Rumänisch-Orthodoxe Kirchenordnungen*, 479-480. (English translation SB).

⁴⁸ The 2011 Statute has not officially been published. Even the German Translation from *Kirchenstatut der Rumänischen Orthodoxen Kirche* is made after "für den innerkirchlichen Gebrauch gültigen Text mit Stand vom 21.Juli 2011". *Kirchenstatut der Rumänischen Orthodoxen Kirche*, 13. One can find the 2011 Statute here

<http://www.arhiepiscopiabucurestilor.ro/index.php/documente/viewdownload/7-secretariat-eparhial-relatii-publice/28-statut-bor-aprobat-de-sf-sinod-17-02-2011>, (accessed 19.08.2016).

⁴⁹ Although the first footnote of the 2011 Statute found on-line states that the amendments marked with red "have been approved by the Holy Synod in its working session from 17 February 2011, through Decision 385/2011", one is rather inclined to argue that the 2011 Statute, as a whole, lacks if not canonical at least juridical force. In support of this position comes the new version of the *Regulamentul autorităților canonice disciplinare și al instanțelor de judecată ale Bisericii Ortodoxe Române* approved by the Holy Synod of the ROC on its working session from 5-6 February 2015 (Decision No.: 937/2015) and where it is affirmed that: "The present *Regulation of the canonical-disciplinary authority and of the ecclesial tribunals of the Romanian Orthodox Church is compiled on the basis of the Statute for the Organization and Functioning of the Romanian Orthodox Church*, approved by the Holy Synod of the Romanian Orthodox Church and recognized by the Romanian Government through *Governmental Decision No. 53 from 16 January 2008*, published in *Romanian Official Monitor*, Part I, No. 50 from 22 January 2008". "Preamble" to *Regulamentul autorităților canonice disciplinare și al instanțelor de judecată ale Bisericii Ortodoxe Române* (București: Editura Institutului Biblic și de Misiune Ortodoxă, 2015). (*Italics in the original*). Nevertheless, the changes brought to the 2008 Statute have the power of the ecclesial law since they have been issued through various Synodal Decisions.

Among the differences between the 2008 and 2011 Statutes, one notices the extensive footnotes introduced in the latest Statute, which are references to various Canons or Synodal Decisions, even some theological concepts and historical presentations of the origins of a particular institution. The new dioceses erected after 2008 are introduced as well as other institution and representations.

Vlaicu argues that the 2011 Statute came into existence due to the impossibility of the old (2008) Statute “to respond to some problems, as well as because some inconsistencies were identified”.⁵⁰

In what follows we will focus our attention upon those provisions that concern the laypeople’s participation.

3.2. Provision regarding the laity

From the beginning one notices that the Statute (2011) itself is not subjected to the approval of any ecclesial body in which laypersons are members. Among the “Attributions of the Holy Synod”, Art. 14 §1 (g.) provides that the Statute is approved through “open vote” procedure and modified by the Holy Synod.⁵¹

The laypeople are represented in the National Ecclesial Assembly (NEA), which is the “central deliberative body of the ROC for administrative, social, cultural, economical and patrimonial problems” (Art.19).

NEA comprises 1 cleric and 2 laypersons from each eparchy,⁵² delegated by the respective Eparchial Assemblies (Art. 20 §1). The decisions of the NEA, in order to become executive, must be “ratified by the Holy Synod” (Art. 20 §4). NEA’s President is the Patriarch of the ROC (Art. 20 §3) and, although not mentioned among the members of the Assembly, still the hierarchs of the Holy Synod are mentioned as taking part to its working sessions (Art. 20 §2).

NEA meets once a year in regular session (Art. 21). Among its attributions (Art. 22), the NEA “approves the regulations regarding the manner of application of the Statute” (§b), elects, at the proposal of the Patriarch, the members of the National Ecclesial Council (NEC) (§c), but also approves the Annual General Report of the NEC (§f), of the Patriarchal Administration and of the Biblical and Missionary Institute of the Patriarchate (§g). Therefore, NEA has no attributions whatsoever in religious matters *per se*. Its role is rather to approve and to endorse budgets and budget proposals of central administrative bodies.

⁵⁰ Patriciu Vlaicu, *Lege și comuniune. Organizarea statutară a Bisericii Ortodoxe Române (2007-2012)*, (Cluj-Napoca: Presa Universitară Clujeană, 2013), 15.

⁵¹ See Art. 11, the Holy Synod is the highest authority of the ROC in all its domains of activity. Art. 12 §1 lists the members of the Holy Synod, who are: the Patriarch, all the Metropolitans, Bishops and titular bishops. The retired bishops, although are not mentioned among the members of the Holy Synod, are still required to abide the canonical synodal discipline.

⁵² In 2011 the ROC comprised 42 eparchies. (See Art. 6)

This institution has its origins in Șaguna's "National Ecclesial Congress" which was the highest decisional forum of the Church of Transylvania. In the modern legislation of the ROC the NEA still preserves its "deliberative" character. However, by having its decisions submitted to the episcopate for approval, its character should rather be considered as consultative.

The next ecclesial body that comprises laypersons is the National Ecclesial Council (NEC), which is a central executive body of the Holy Synod and of the NEA (Art. 28). According to Art. 29 §2, NEC comprises 12 members of the NEA, one cleric and one layperson from each Metropolitan province⁵³ (with the exception of the Metropolitan province of the diaspora). Besides these, all the patriarchal auxiliary bishops, all the patriarchal counsellors, the administrative patriarchal vicar and the general ecclesial inspector are members *ex officio* of the NEC. Its president is the Patriarch (Art.29 §3). "The members of the Holy Synod may take part at NEC's sessions having a deliberative vote" (Art. 29 §3). The patriarchal auxiliary bishops too have a deliberative vote (Art. 29 §4). However, this is not the case with the rest of the members of the curia (the counsellors, the administrative vicar and the inspector) who have only a consultative vote (Art. 29 §5).

NEC's main responsibilities are to draw up budget projects and to administer the Church's wealth (Art. 30). The role of the laity in Church related issues (though not in directly ecclesial matters) is further diluted through the establishment of a "Permanence of the NEC" (Art.31) which comprises no lay representatives.

In a rather odd manner, the ROC Statute passes from the Central Organization directly to the Local level (Chapter II, Art. 40ff), and only afterwards (Art. 84ff) discusses the regional (Diocese) and supra-regional (Metropolia; Art. 110ff) administrative levels.⁵⁴

For the sake of logical continuity, we will now treat the presence of laypeople at regional and supra-regional levels, and only afterward investigate their role at the local level ecclesial structures.

At the level of the Metropolitan province, no laypersons are members of the Metropolitan Synod, which is composed exclusively of bishops (Art.111). Neither is there any other ecclesial body of which the laypersons are members, since the Statute mentions no Metropolitan Assembly.

At the level of the diocese/archdiocese however the Statute makes provisions as to the Eparchial Assembly which comprises 1/3 clerics and 2/3 lay members from a total of 30 elected persons. For a person to candidate for the Eparchial Assembly, one needs the bishop's (written) blessing (permission)

⁵³ In 2011 ROC had 7 Metropolitan provinces within the borders of Romania.

⁵⁴ From a theological perspective, this way of describing the structure of the Church reflects an unclear ecclesiological vision. It is a combination of universalistic and Eucharistic ecclesiologies.

(Art. 91). At the recommendation of the diocesan bishop, the mandate of a member of the Eparchial Assembly whose activity “was hostile to the Church” is revoked (Art. 91 §1).

Among the assembly’s attributions the Statute provides the following:

Art. 92 §a: it supports the interests and the rights of the Church and of the eparchy, according to the Statute;

Art. 92 §h: it approves the annual general report prepared by the Eparchial Council;

Art. 92 § i-j: it approves the budget of the eparchy and of its institutions.

It is interesting to see that the Eparchial Assembly can be dissolved by Patriarchal decision when the local bishop requests it, in cases when it “perpetrated actions hostile to the Church” (Art. 26 §u).⁵⁵ In this case one can infer that the Church is represented only by the bishop and not by the people (laypeople and clerics). In the eventuality in which the bishop is not in agreement with the decisions made by the Eparchial Assembly, he can request the Patriarch, not to the Holy Synod, to dissolve the Assembly and start the process of electing another Assembly.

The Eparchial Council, which is the “executive body of the Eparchial Assembly” (Art. 95), comprises a total of 9 persons, 6 of which are laypersons (Art. 96).

The Eparchial Council is responsible mainly for approving budgets and for the administration of Church properties. It is however also charged with promoting the catechesis in the eparchy. It is also the diocesan body that confirms, suspends or dissolves the Parish Council at the request of the parish priest (Art. 98 §m). The decisions of the Eparchial Council become executive only after they have been approved by the diocesan bishop (Art. 99).

At the diocesan level one finds also a Permanence of the Eparchial Council whose attributions are far greater than that of the Eparchial Council or Eparchial Assembly, but where no lay delegate is present.

The Parish. Art. 45 is the only place where the rights of the laypeople, or Christian faithful, are mentioned, rights which are very limited in number and in scope:

⁵⁵ This concept of “hostile activity” remains unexplained in the Statute. Undetermined remains also the conditions and the institution which is to determine the perpetration of the act. A possible response to this dilemma might be found in the *Regulation of the canonical-disciplinary authority* (2015), mentioned above, where all the “misconducts” (*abateri*) are defined. However, first of all, the expression “actions hostile to the Church” are nowhere mentioned as such; and secondly, the *Regulation* treats only deviations perpetrated by individuals (clerics or laity), and not by groups or ecclesial organisms (such as the Eparchial Assembly). Therefore, as long as the Church is identified exclusively with the Bishop, one may say that, from an ecclesiological perspective, the present provisions of the Statute are highly questionable.

The Christian faithful of the parish have the following rights: to receive religious assistance; to be chosen in the parish administrative bodies; to receive philanthropic aid, according to the possibilities.

In the same article are mentioned also the obligations of the Christian faithful, which are:

to promote, strengthen and confess the faith of the Orthodox Church;⁵⁶ to live according to the teaching of the Orthodox faith; to take part in the divine service; to communicate with the Holy Sacraments;⁵⁷ to fulfil the Christian obligations of charity; to support (financially) the Church and her ministers.

The totality of the laypersons (men and women) who have reached the age of majority represent the Parish Assembly (Art. 54), which is the deliberative body. One notices that no other condition is imposed in order to be member of the Parish Assembly.

The Parish Assembly, among other things, elects the members of the Parish Council, approves the Activity Report prepared by the Parish Council, endorses the annual budget of the parish, which will have to be approved by the Permanence of the Eparchial Council, and is responsible for the good administration of the Church property (Art. 55).

The lay representatives compose, together with the parish priests and the other clerics of the parish as well as with the main cantor of the parish, the Parish Council. The number of lay persons in the Parish Council is 7, 9 or 12, depending on the size of the parish (Art. 59). The lay persons are elected by the Parish Assembly for a period of 4 years, but their mandate can be withdrawn by the Permanence of the Eparchial Council for "activity hostile to the Church, offensive or immoral behaviour" at the request of the parish priest (Art.60). The role of the Parish Council is rather to assist the priest in the administrative activity, although Art.64 (1) states that: "The Parish priest is the administrator of the entire Church property (mobile and immobile) together with the Parish Council". This means that they are regarded as a single unit, which is not the case with the National Ecclesial Assembly, whose decisions are conditioned by the approval of the Holy Synod.

Laypersons are also members of the Parish Committee (Art. 66). They are elected by the Parish Assembly and subordinated to the Parish Council and presided by the Parish Priest. The Parish Committee comprises 5 departments (Art. 67): the Social, missionary, cultural, youth, and the administrative department, which have the role to stimulate the pastoral activity in the parish.

⁵⁶ It is interesting to see that the Statute does not use the formula "the Orthodox faith", which is classical.

⁵⁷ It is curious that this is not mentioned among the rights of the Christian faithful, but among the obligations.

In regards to the election and appointment of the priests in parishes, the ROC Statute leaves this responsibility entirely to the discretion of the diocesan bishop, the lay members of the parish having no say whatsoever in the matter.

Regarding the lay participation in the ecclesial tribunals, the Statute provides that they can be members of the Protopresbyterial Disciplinary Consistory but only in cases where laypersons are involved, and not in judging the cases of priests (Art. 149).

At the level of the Eparchial Disciplinary Consistory no layperson can be appointed. The same goes for the Metropolitan Consistory and for the Ecclesial Superior Consistory (Art.155).

4. Laity in the Romanian Orthodox Diaspora

4.1. Romanian Orthodox Metropolia and Archdiocese of Western and Southern Europe (ROMWE)

4.1.1. Brief History of the ROMWE

Strictly speaking ROMWEA exists only since July 1972 when Bishop Teofil Ionescu erected the Romanian Orthodox Diocese for Western Europe.⁵⁸ However, by establishing this diocese Bishop Teofil broke with the older Romanian Diocese established already in 1949 at Paris by the former Metropolitan of Bukovina, Visarion Puiu and which was called The Romanian Orthodox Eparchy of Western Europe⁵⁹. Today the two parallel structure no longer exist, the last stage of their unification taking place on 26 November 2016 when the Diocese (represented by the Sts. Archangels Romanian Orthodox Parish from Paris) officially and juridically joined the Eparchy (now the ROMWE).

Visarion Puiu,⁶⁰ former Metropolitan of Czernowitz and Bukowina (1935-1940) and Metropolitan of Transnistria (1942-1944), was Doctor in Theology at the University of Kiev (1909), and was condemned in absentia to the death penalty in 1946 by the Popular Tribunal for cooperation with the Nazi Regime and for "participation in actions hostile to the State and to the Romanian people".⁶¹ To escape the Communists, Metropolitan Puiu flees to Western Europe.

⁵⁸ Iulian Nistea, „Arhiepiscopia Ortodoxă Română a Europei Occidentale”, în: *Autocefalie și responsabilitate*, pp. 891-902, (București: Editura Basilica a Patriarhiei Române, 2010), here 898.

⁵⁹ Nistea, „Arhiepiscopia”, 897.

⁶⁰ *Wikipedia, The Free Encyclopedia*, s.v. “Visarion Puiu”, on-line at https://en.wikipedia.org/wiki/Visarion_Puiu, (accessed 19.08.2016). See also Jean-Paul Besse, *L’Eglise Orthodoxe Roumaine de Paris*, (Paris: DUC, 1994); Mircea Basarab, “Rumänische Orthodoxe Kirche. Rumänische Orthodoxe Metropolie für Deutschland und Zentraleuropa”, *Orthodoxes Forum* 14 (2000): 25-34.

⁶¹ Besse, *L’eglise orthodoxe roumaine*, 112.

In August 1949, Metropolitan Visarion Puiu was invited from Switzerland by the Spiritual Council recently formed at the Parisian parish⁶² to come and organize the Romanian Orthodox diaspora in a diocese.

Metropolitan Visarion, in agreement with the priests established The Romanian Orthodox Eparchy of Western Europe with the seat in Paris claiming jurisdiction over the Romanian Orthodox diaspora in France,⁶³ Germany,⁶⁴ Sweden, Belgium, UK and Canada. After a week, on 4 September 1949, the Romanian community from Paris is internally divided along political lines, the French Minister of Interior intervenes, closes down the parish church, sets the parish association under judicial control (1949-1952) and forces Metropolitan Puiu to leave Paris (1950).⁶⁵

On 28 February 1950 the Holy Synod of the ROC, under political influence, deposed Metropolitan Visarion Puiu.⁶⁶ Under these conditions Metropolitan Puiu entered in communion with the Holy Synod of the Russian Orthodox Church outside Russia and on 26 December 1954 he ordained the hieromonk Teofil Ionescu as titular bishop.⁶⁷

Bishop Teofil Ionescu did his theological studies at Cernowitz and obtained a Doctorate in 1941 at the Protestant Faculty of Paris with a Dissertation on Peter Mogila.⁶⁸ Between 1954 and 1958 Bishop Teofil occupied the seat of the Romanian Diocese of America.⁶⁹ In 1958, when Metropolitan Puiu decided to withdraw from the seat, Bishop Teofil succeeded him. In 1970, during the Divine Liturgy celebrated on occasion of a Congress organized by the Daco-Romanian Society, Bishop Teofil, then still a member of the Synod of the Russian Orthodox Church Outside Russia, commemorated Pope Paul VI and some Romanian Greek-Catholic bishops. This act, which he justified in the name of the ecumenical movement as well as through the fact that the Greek-Catholics have also been victims of the Communist Regime, not surprisingly, attracted criticism not only from the Romanian community but also from the Russian Synod who demanded an explanation.

⁶² In Paris the Romanian Orthodox community gathered since 1882 in a chapel bought by the Romanian Kingdom. The chapel was called Sts. Archangels Michael and Gabriel and was (and still is) located at 9bis, rue Jean de Beauvais, in the Latin District. Nistea, „Arhiepiscopea”, 895.

⁶³ In France there were at that time only seven priests, all serving in the Romanian Church in Paris. Besse, *L'église orthodoxe roumaine*, 112.

⁶⁴ In Germany there were two Romanian Chapels: the Chapel Mihail Sturdza from Baden-Baden, established in 1864-1866, and in Leipzig, established in 1852. Nistea, «Arhiepiscopea Ortodoxă Română», 891.

⁶⁵ Nistea, „Arhiepiscopea”, 897.

⁶⁶ The Holy Synod will rehabilitate Metropolitan Puiu on 25 September 1990. Besse, 112ff.

⁶⁷ Besse, *L'église orthodoxe roumaine*, 118. For a biography of Bishop Teofil see also “Archbishop Teofil (Ionescu) of Sevres”, on-line at <http://www.rocorstudies.org/church-people/lives-of-bishops/2009/06/29/archbishop-teofil-ionescu-of-sevres/>, (accessed 8.12.2016).

⁶⁸ Besse, *L'église orthodoxe roumaine*, 121.

⁶⁹ His relations with the American Church date from the 1940s. Besse, *L'église orthodoxe roumaine*, 122.

In 1972 the Bishop Teofil asked the Holy Synod of the Romanian Orthodox Church and her Patriarch Justinian, to accept him in the Romanian Orthodox Church. On 12 December and 2 February the Holy Synod of the Russian Orthodox Church outside Russia condemned and deposed Bishop Teofil.

Teofil's gesture also represented the beginning of a schism within the already very sensitive Romanian orthodox diaspora, the Church in Paris, situated at Rue Jean de Beauvais no. 9, refusing to follow her bishop and to enter under the jurisdiction of the Romanian Orthodox Church.⁷⁰ The Eparchy was until 1998 under the canonical jurisdiction of the ROCOR. Between 2000-2009 it was under the canonical jurisdiction of the ROEA (in the OCA). However, if in the 1980s the Eparchy had aprox. 20 parishes in Western Europe, until 1990s the only parish remaining was the Sts. Archangels parish from Paris. Her return to the Romanian Archdiocese happened only in the year 2009.⁷¹ In November 2016 the religious association of the former Eparchy – which was the juridical form of the Eparchy under French law – was united with the ROMWE, thus ending the process of unification of the two Romanian Orthodox dioceses in Western Europe.

In 1974 Bishop Teofil was elevated to the rank of Archbishop and his diocese became Archdiocese. Between Teofil's death, which occurred in 1975, and 1980, the Archdiocese was lead by the auxiliary bishop Lucian Florea. In 1980 *locum tenens* of the Archdiocese is entrusted to the newly appointed auxiliary bishop Adrian Hrițcu,⁷² elevated in 1982 to the dignity of Archbishop. Archbishop Hrițcu lead the Archdiocese until 1992 when he retired. Between 1992-1998 Metropolitan Serafim Joantă of Germany was the *locum tenens* of the archdiocese.⁷³

⁷⁰ Besse, *L'église orthodoxe roumaine*, 123ff.

⁷¹ Nistea, „Arhiepiscopea”, 898-899.

⁷² *Wikipedia, The Free Encyclopedia*, s.v. “Adrian Hritcu”, on-line at https://ro.wikipedia.org/wiki/Adrian_Hri%C8%9Bcu, (accessed 19.08.2016).

See also “IPS Adrian Hritcu a trecut la Domnul”, on-line at

<http://www.doxologia.ro/actualitate/archiepiscopeia-ortodoxa-romana-europei-occidentale/ips-adrian-hritcu-trecut-la-domnul>, (accessed 19.08.2016); “Monografia Episcopiei Ortodoxe Romane a Italiei”, on-line at <http://episcopia-italiei.it/index.php/istoric/336-monografia-episcopiei-ortodoxe-romane-a-italiei>, (accessed 19.08.2016).

⁷³ In 1993 from the Romanian Archdiocese of Western and Central Europe a new ecclesiastical entity comes to life, the “Romanian Orthodox Metropolitan province for Germany and Central Europe” with the seat in Nuremberg. The Holy Synod erects the new Metropolitan province through the decision No.436/11.02.1993. Basarab, “Rumänische Orthodoxe Kirche”, 33. The official website is <http://www.mitropolia-ro.de>, (accessed 19.08.2016). As metropolitan was elected in 1994 Dr. Serafim Joantă, (then) auxiliary bishop in Sibiu. However, in the present study, due to its rather under-developed form, we will not focus our attention upon the Statute of the Metropolitan province-Archdiocese for Germany and Central Europe, which nonetheless, provides that the “Diocesan Assembly is formed of clergy and elected members from among the laypersons of each parish” (§16), and that “among the members of the Diocesan Council are five elected members, two clerics and three laypersons” (§30). Seven laypersons are members of the parish Council (§54).

<http://www.mitropolia-ro.de/index.php/mitropolia/statutul>, (accessed 19.08.2016).

Since 1998 ROMWE is headed by Metropolitan Iosif Pop, a 1993 graduate of the “Andrei Șaguna” Orthodox Faculty of Theology of Sibiu.⁷⁴ Being proposed by priests and Christian faithful of the Romanian Archdiocese of Paris, the hieromonk Iosif, then postgraduate student at the Institute Saint-Serge, in Paris, accepted to stand as a candidate for the archdiocesan see. In November 1997 hieromonk Iosif Pop was thus elected Archbishop for the Romanian Archdiocese of Western and Southern Europe by the General Assembly of the Archdiocese. The General Assembly that elected him was composed of 93 delegates, clergy and laity, from the Romanian parishes of England, the Netherlands, Belgium, France, Switzerland, Italy and Spain. The Holy Synod of the Romanian Orthodox Church ratified the election on December 11, 1997 and on March 15, 1998 the ordination took place in the Greek Orthodox Church “St. Stephen” in Paris. In 2001 the Holy Synod of the Romanian Orthodox Church elevated the Archdiocese to the rank of Metropolitan province, the Archbishop receiving also the title of Metropolitan.

Regarding the Statutes are concerned, as far as we are aware of, neither Metropolitan Puiu’s Eparchy, nor Bishop Teofil’s Diocese had a Statute, or a Canonical Charta. Both dioceses followed either the Statute of the ROC (the Diocese), or the Holy Canons of the Orthodox Church. The fact that they were Religious Associations under the French Law forced them however to have a form of Statute.⁷⁵

ROMWE’s first Canonical Statute was given in 1999, and, according to one of the members of the drafting committee, Fr. Patriciu Vlaicu, it followed the Statute of the ROC.⁷⁶

On November 9, 2002, the Diocesan Assembly adopted a new Statute for the Metropolia-Archdiocese, validated by the Holy Synod of the Romanian Orthodox Church in its session from 11-12 November 2003, and through the Synodal Decision 2675/3 December 2003.⁷⁷

In 2007 through the decision 4587/2007, the Holy Synod of the Romanian Patriarchate approved the erection within the ROMWE of a new diocese for Spain and Portugal.⁷⁸

⁷⁴ *Wikipedia, The Free Encyclopedia*, s.v. “Iosif Pop”, on-line at https://ro.wikipedia.org/wiki/Iosif_Pop, (accessed 19.08.2016). See also the official website of the Metropolitan province <http://www.mitropolia.eu/ro/site/63/>, (accessed 19.08.2016).

⁷⁵ Unfortunately, we were unable to consult either of the original Statutes. We have however consulted the modified Statute of the Association of the Eparchy as it was adopted on 26 November 2016 and which consecrates the integration of the Religious Association of the Eparchy into the ROMWE. Unlike the Canonical Charta, the Statute of the Association of the Eparchy is a simple juridical document, of little canonical or ecclesiological significance.

⁷⁶ Unfortunately we were unable to consult this first Statute.

⁷⁷ These information are found on the first page of the Statute which is published both in Romanian and in French on-line at <http://www.mitropolia-paris.ro/content/texte/statut.fr.pdf>, (accessed 19.08.2016).

⁷⁸ Redacția, “Hirotonia PS Timotei, zi de sărbătoare pentru Episcopia Spaniei și Portugaliei”, (1 July 2008), on-line at http://www.apostolia.eu/articol_44/hirotonia-ps-timotei-zi-de-sarbatoare-pentru-episcopia-spaniei-%C5%9Fi-portugaliei.html, (accessed 19.08.2016).

In the same year, on 21 June 2007, the Holy Synod of the ROC approved the proposal of the General Assembly of the Romanian Orthodox Vicariate for Italy, which, due to the large Romanian emigration (almost 1.000.000 Romanians and 76 parishes), requested the erection of a new diocese. On February 19, 2008 took place in Paris the Diocesan Assembly of the newly established diocese who designates the hieromonk Siluan Span as the unique candidate for the diocese of Italy.⁷⁹

On the same day, February 19, 2008, at the “Sts. Archangels Michael, Gabriel and Raphael” Romanian Orthodox Parish in Paris (Rue Jean de Beauvais 9bis) an Extraordinary session of the General Assembly of the Metropolitan province took place, which, in order to reflect the new realities,⁸⁰ voted in unanimity a new Statute for the Metropolia.⁸¹

4.1.2. The Laity in the ROMWE Statute

Art. 3 of the 2003 Statute mentioned the three principles that guided the organization of the diocese: the “constitutional principle”, the “hierarchical principle” and the “principle of autonomy”. Thus, the Metropolitan province

has a hierarchical governing structure, according to the canonical provisions in force in the Orthodox Church. It is administered in an autonomous form through its own representative bodies, whose members are clerics and laypeople, elected through the vote of the clergy and of the laity, or appointed by the Metropolitan.

In the 2008 Statute this article disappears. Nonetheless the Statute preserves the principle of autonomy (Arts.1; 4), the hierarchical principle (Art. 5) as well as the constitutional principle, laypersons still being involved, although in a limited way, in various ecclesiastical bodies.

In the 2003 Statute, the Central governing bodies of the Metropolitan province, were: the Metropolitan, the Metropolitan Assembly, the Metropolitan Synod, the Metropolitan Administration (the Curia), and the Metropolitan Council (Art.8).

In 2008 a distinction between decisional and consultative governing bodies is introduced. Thus according to Art. 7, the 2008 Statute states:

⁷⁹ “Monografia Episcopiei Ortodoxe Romane a Italiei”.

⁸⁰ “Adunarea Extraordinara a Mitropoliei Ortodoxe Romane a Europei Occidentale si Meridionale” (18.02.2008), online at <http://basilica.ro/new/adunarea-extraordinara-a-mitropoliei-ortodoxe-romane-a-europei-occidentale-si-meridionale/>, (accessed 19.08.2016). One may assume that the Diocesan Assembly and the Metropolitan Assembly took place at the same time and in the same place.

⁸¹ The Statute can be accessed on-line at http://episcopia-italiei.it/media/statute/statutul_moreom.pdf, (accessed 19.08.2016). A French Translation can be found here <http://www.mitropolia-paris.ro/content/texte/statut.fr.pdf>, (accessed 19.08.2016).

“The Metropolitan province has these central governing bodies:

- the Metropolitan Synod;
- the Metropolitan
- the Metropolitan Assembly
- the Metropolitan Council
- and as consultative body for the pastoral and missionary coordination
- the Metropolitan Congress”.

Beside this distinction between consultative and decisional bodies one notices also a different arrangement of the order of the governing bodies, which marks the establishment of a new hierarchical order.

The Metropolitan Assembly. If in the 2003 Statute the Metropolitan Assembly was listed second after the Metropolitan, but treated first, in the 2008 it is listed after the Metropolitan Synod, formed exclusively of the bishops of the Metropolitan region (Art. 8 §1),⁸² and the institution of the Metropolitan.

In the 2003 Statute the Metropolitan Assembly was the “central representative body of the Metropolitan province, for all the administrative problems as well as for those issues that do not fall into the competence of the bishops or of the Metropolitan” (Art. 9). In its composition entered members *ex officio*, such as the Metropolitan and the auxiliary bishops, the protobesbyters, the metropolitan counselors, but also the directors of the theological schools and all the parish priests. Elected members were two laypersons from each parish (Art. 10). The president of the Metropolitan Assembly was the Metropolitan or, in his absence, the *locum tenens* appointed by the Holy Synod of the BOR (Art. 14). Among its attributions, the Metropolitan Assembly had in the 2003 Statute the role to elect the members of the Metropolitan Council (Art.15b), to elect the members of the Metropolitan Consistory (Art. 15 §d), to examine the annual general report of the Metropolitan and of the Metropolitan Council, to make decisions for the good development of Church’s life, and to approve the diocesan budget (Art. 15f).

The Metropolitan Assembly did not have the role to elect the Metropolitan. This role was entrusted to the Electoral College.⁸³

The composition of the Metropolitan Assembly was substantially modified in the 2008 Statute, no further reference being made to principals/rectors of theological schools, to members of the Metropolitan administration or to metropolitan counselors. According to the new Statute the Metropolitan Assembly comprised: members *ex officio* (the Members of the Metropolitan Synod, the Eparchial Vicars, the Protopresbyters, the starets of the monasteries),

⁸²The institution of the Metropolitan Synod, unlike in the 2003 Statute where it was treated under title “Chapter III. Auxiliary Bishops”, in a single article No. 25, in the 2008 Statute it receives a preeminent position, being treated in a separated section in 3 articles, Art.8-11.

⁸³ See below.

and 30 members elected from each diocese (10 clerics and 20 laypersons),⁸⁴ delegated by the respective Diocesan Assemblies (Art. 13 §2). The Assembly is presided by the Metropolitan (Art. 13 §3). The Metropolitan Assembly is “a central administrative body” (Art. 13 §1).

Laypeople are also represented in the Metropolitan Council, which is the executive body of the Metropolitan Assembly (Statute 2003 – Ch.V, Arts. 29-32; Statute 2008 – Arts. 17-20). In the 2003 Statute the laypersons were two from each Vicariate, institution that disappeared in the new Statute.

In the 2008 Statute, the Metropolitan Council has members *ex officio*: the Metropolitan Synod, the diocesan vicars, the exarchs of the monasteries; and elected members: a cleric and two laypersons from each diocese,⁸⁵ appointed for two years by the Metropolitan Assembly.⁸⁶

The Metropolitan Congress is a new institution introduced in the 2008 Statute and it is a “consultative body (Art. 21 §1, 2). Besides the members of the Metropolitan Council and of the Diocesan Councils, there are members of the Metropolitan Congress, the clergy and the laypersons delegated by each parish. The number of the lay representatives is decided by each parish (Art. 21 §1). The decisions made by the Congress “will be taken in consideration by the Metropolitan Assembly and by the Assemblies of the Dioceses” (Art. 21 §2).

Laity and the election of the Metropolitan-Archbishop and of the Bishops.

In the 2008 Statute the election of the Metropolitan-Archbishop and of the Bishops is entrusted to the Eparchial Council headed by the Metropolitan-Archbishop or by the bishop that assures the *locum tenens* and who designates a special commission for the preparation of the elections and the nomination of the candidates (Art. 30 §1). The Metropolitan or the *locum tenens* convenes then the Eparchial Assembly (Art. 31) who designates the candidates (Art. 34). After the designation of the candidates the Metropolitan-Archbishop /*locum*

⁸⁴ This form of limitation can be justified both through the fact that since 2007 when Romania joined the EU a massive wave of emigration in Western Europe took place leading to the explosion of the numbers of parishes. Accepting all the parish priests and two laypersons as parish representatives in the Metropolitan Assembly would mean now to count around 1200 participants. However, the question of having to accommodate so many persons during a Metropolitan Assembly is no real reason to limit the participation of the delegates to only 90, especially since the Metropolitan Assemblies and the Metropolitan Congress have been since organized together in the same place and in the same days.

⁸⁵ At the present moment there are three dioceses: the Archdiocese of Western Europe (jurisdiction upon the parishes from France, Belgium, Netherlands, UK and Ireland and Iceland), the Diocese of Italy and the Diocese of Spain and Portugal. Therefore, there are six laypersons in the Metropolitan Council.

⁸⁶ The Statute 2008 mentions that “Among the members (of the Metropolitan Council) with deliberative right a treasurer and a secretary are elected” (Art.18). However, no indication is given as to who has a deliberative right and does not. One may however assume that the deliberative right have only the members of the Metropolitan Synod.

tenens presents the list of candidates to the Holy Synod of the ROC (Art. 37 §1) who then elects the new Metropolitan-Archbishop or Bishop (Art. 37 §2).

The Holy Synod of the ROC can also refuse to elect the candidate(s) proposed by the Diocesan Assembly if it wishes to do so. In this case the Diocesan Assembly must propose another candidate.

Let us now focus our attention upon the diocese (the eparchy) and see where and how the laypersons are involved.

According to Art. 23 of the 2008 Statute, the eparchy is governed by:

- the archbishop or the bishop;
- the Eparchial Assembly;
- the Eparchial Council;
- the Permanence of the Eparchial Council.

Art. 24 defines the Eparchial Assembly as “the central governing body in which the parishes and the monasteries are represented”.

The Eparchial Assembly is constituted for a period of 4 years of members *ex officio*

- the Archbishop or the Bishop
- the auxiliary bishops
- the eparchial vicars
- the protopresbyters (the deans)
- the elected members of the Eparchial Council
- the members of the Permanence of the Eparchial Council
- the starets of the monasteries
- all the priests and deacons of the eparchy
- and of elected members
- two laypersons delegated from each parish and confirmed annually by the Parish Assembly.

The Eparchial Assembly has among its responsibilities the task to analyze the annual report of activity presented by the Bishop and by the Eparchial Council, making recommendations afterwards; it analyzes the manner in which the parishes and the administrative structures fulfill their obligations; it adopts decisions concerning the erection, the territorial delimitation or the suppression of the deaneries; it adopts the internal By-law of the Eparchy (Art. 28).

Laypersons are also represented in the Eparchial Council. Here their number is set to 6, and together with the Bishops and 3 clerics, they have deliberative vote (Art. 46).

Between the diocese and the parish, according to the 2008 Statute there is no other administrative structure where the laypersons have a role. The Protopresbyterate (the deanery) is a mere territorial coordinating structure,

administered by a protopresbyter appointed by the bishop (Art. 69-70). However, in the 2003 Statute, between the diocese and the protopresbyterats, there existed another institution, the Vicariate, where the laypersons played a role. Art.34 of the 2003 Statute defined the Vicariate as: “the administrative unit of the Metropolitan province formed of two or more deaneries”. At this level of administration two laypersons were delegated by each parish to represent them in the Vicariat Assembly (Art. 35).⁸⁷ Among the Vicarial Counselors could also be laypersons, according to the rules defined by each Vicarial Assembly (Art. 41).⁸⁸

The Parish. In the appointment of a priest in a parish the laypeople have no role, according to the 2008 Statute, which is a departure from the 2003 Statute where in appointing a priest the bishop had to consult first with the Parish Assembly and with the protopresbyters (Art.54). The Parish Council’s advise is requested in the 2008 Statute only when it comes to the number of priests appointed in a parish (Art. 56). The involvement of the parish in the appointment of the priest seems to be connected with the requirements for the parish to financially support the priest and his family. Thus Art.52 (Statute 2003) required the parish to assure at least a part of necessary funds to support the priest and his family; this requirement disappeared from the 2008 Statute.

The role of the priest in the parish is, according to the latest Statute, defined in terms such as “represents”, “convokes and presides”, “supervises” and “coordinates” (Art. 55).

The 2003 Statute provided that:

The Parish priest exercises in his parish his entire Church ministry: the sacramental, the teaching and the governing ministry. Those aspects of the teaching ministry as well as of the governing ministry which are not reserved exclusively to the clerics, may be exercised by other persons or groups of persons who receive in this regard the blessing of the parish priest (Art. 55).

Such provisions are also preserved in the 2008 Statute in Art.66.

⁸⁷ Among the responsibilities the Vicariate Assembly had, was that to resolve patrimonial related problems, cultural or administrative problems; to examine the general report of the Vicar and of the Vicarial Council; to guard that the decanates fulfil their duties (Art. 37).

⁸⁸ There are however remnants of these Vicariates in France for example, where an institution called “Doyenné Orthodoxe Roumain de France” is registered as Union Diocésaine Orthodoxe : Association culturelle n°3/07320 with the seat at the Metropolitan residence (1, boulevard du Général Leclerc 91470 Limours). It is a union of Orthodox religious associations (“une union d’associations culturelles orthodoxes”), that is, it is a supra-parish and a supra-deanery institution, where the episcopate is still involved in its governing, but it is not the diocese. According to the Reports of its General Assembly the Auxilliary Bishop presents the “Spiritual Report”, whereas the financial report is presented by a layperson. The manner of functioning of this kind of religious associations is however determined by the French legislation. (Available on-line at <http://www.paroissesaillouane.com/sites/default/files/AG du Doyenné 2010.doc>, (accessed 19.08.2016).

The laypeople are still involved in the governing of the parish through their presence in the Parish Assembly and the Parish Council. Thus, the Parish Assembly is the deliberative body of the parish and it is composed of “all the members of the parish who have reached the age of majority and who participate in parish life and contribute directly to its support” (Art. 58).

The Parish Council is the executive body of the parish and is composed of all the clerics of the parish, the main cantor of the church and 5 to 12 elected laypersons (Art. 62).

Neither in the 2003 nor in the 2008 Statute are laypersons present in the Consistories that judge the disciplinary deviations of the clergy.

In conclusion one can say that the latest Statute of the ROMWE limits the role of the laity in the Church either by reducing their number or by transforming some ecclesial institutions into consultative bodies. Furthermore, there is a great difference between the extent to which the laity is involved in the central administration of the Church and the local community. Thus, if in the decision-making process of the Diocese or of the Metropolitan the laity has a mere consultative role, in the administration of the parish its role remains however an important one.

Let us now look over the Atlantic and see whether there the laity plays a different role.

4.2. Romanian Orthodox Church in America – ROEA and ROAA/ROMA

4.2.1. Brief History of the Romanian-American Orthodoxy

Today the Orthodox Romanians are divided in two Archdioceses: the Romanian Orthodox Episcopate of America (ROEA) seated in Jackson, Michigan, now headed by Archbishop Dr. Nathaniel Popp;⁸⁹ and the Romanian Orthodox Metropolia in the Americas (ROAA/ROMA), seated in Chicago, Illinois, headed by Metropolitan Dr. Nicolae Condrea.⁹⁰

The origins of the two dioceses are found in the late 19th century when, due to large Romanian emigration from territories under the Austro-Hungarian Empire, that is Transylvania, Bukovina and Banat,⁹¹ Romanian orthodox parishes were established. The few american parishes that existed before the erection of the diocese were under the canonical jurisdiction of the Metropolitan of Transylvania, whereas those in Canada were under the Metropolitan of Jassy.⁹²

⁸⁹ <http://www.roea.org/hierarchs1.html>, (accessed 19.08.2016).

⁹⁰ <http://www.romarch.org/ro/pags.php?id=8>, (accessed 19.08.2016).

⁹¹ Gabriel – Viorel Gârdan, *Episcopia Ortodoxă Română din America – Parte a ortodoxiei americane*, (Cluj-Napoca: Presa Universitara Clujeana, 2007), 83.

⁹² Ion Casian [Liviu Stan], “Românii din America și viața lor religioasă”, *BOR* 68, 11-12 (1950): 588-602, here 593, 596.

On 9-10 March 1918, at Joungetown, Ohio a “national congress” of the Romanians in the USA took place, where the decision to erect an autonomous Romanian diocese was taken. In consequence a letter was sent to Bucharest in which the Romanians declared that they had established a new diocese in the USA and that they wished to put this diocese under the jurisdiction of the Metropolitan of Ungro-Vlachia, thus cutting the relations with Sibiu, which was then ruled by the renegaded Metropolitan Vasile Mangra.⁹³

According to Liviu Stan (who writes under the pseudonym of Ioan Casian)⁹⁴ there was a sentiment of mistrust among the Romanians in the USA towards the idea of establishing a diocese. Many of them were afraid that through the erection of a diocese the same despotic hierarchy from back home would be brought and imposed upon them. The one that played a decisive role in the organization of the parishes and of the erection of the Romanian diocese in the USA was the Czernowitz professor Dr. Lazar Gherman, who had fled the country in 1917 and since 1918 was rector and professor at the Ukrainian Seminary in Canada. Under his coordination in 1922 two clergy conferences were held during which the organization of the parishes and of the Romanian parish schools was discussed. Under Gherman’s presidency two more clergy conferences were organized in 1923 where, among other things, it was decided that the organization of the parishes would be based on the Şagunian Statute. A mixed (clergy-laity) Church Congress was held the same year, which decided on the erection of the diocese.⁹⁵

The Holy Synod discussed the American letter in 1920 responding positively and accepting the Romanian Orthodox diocese under the canonical jurisdiction of the Metropolitan province of Ungro-Vlachia. However, in order to avert a conflict with the Metropolitan from Sibiu, Nicolae Balan, the Metropolitan province of Ungro-Vlachia has done nothing concretely to exercise its jurisdiction in the US.⁹⁶ In 1928 the Holy Synod discusses again the idea of erecting a diocese in the US. On 21 November 1929 the National Church Congress approves the decision of the American Church Congress concerning the erection of an autonomous diocese in America. The official Synodal decision was made however on 1 November 1930 through the decision N° 10/219 and re-discussed on 21 October 1931 and on 20 May 1932 it was decided to send a bishop to the USA as soon as possible in order to organize the new diocese.⁹⁷

⁹³ The Letter is published in Gârdan, *Episcopia Ortodoxă Română din America*, 179- 180.

⁹⁴ Ioan Casian was a 4th-5th century monk declared by the Orthodox Church saint.

⁹⁵ Casian [L. Stan], “Românii din America”, 593ff.

⁹⁶ Gârdan, *Episcopia Ortodoxă Română din America*, 183.

⁹⁷ Casian [L. Stan], “Românii din America”, 598.

The first bishop of the new American diocese was the archimandrite Policarp Morușca,⁹⁸ the Holy Synod of the ROC electing him in 1935.⁹⁹ Morușca had a great though difficult administrative activity in America, establishing the seat of the diocese at “Vatra Românească”, at Grass Lake, Michigan. At the fourth Congress of the Romanians in the USA, which took place on 5 July 1935 in Detroit, under the presidency of Bishop Morușca, the Statute for the Organization of the Romanian Orthodox Church in America was voted, Statute approved in 1936 by the Church’s Central Council from Bucharest.¹⁰⁰

The first steps towards the schism of the diocese appeared after 1945 when the communist regime from Bucharest wished to replace Morușca, who after returning to Romania for a short period in 1939 was unable to leave it again for the United States, with another candidate. In 1948 Policarp Morușca was officially withdrawn as the head of the Romanian Diocese of America.¹⁰¹

On 17 May 1950, in Detroit, 8 persons who were in contact with Bucharest, held a “congress”, electing a new bishop in the person of Andrei Moldovan.¹⁰² This was a manner by which the Romanian Synod, who during those hard times was under the heavy control of the communist regime, wanted to make the Romanian Orthodox from America, who constantly demanded Morușca to be sent back to their diocese, accept a new bishop.

On June 5, 1950 a new institution is registered with the State of Michigan: *The Romanian Orthodox Autonomous Diocese of Northern and Southern America*, with headquarters in Detroit.¹⁰³ The election of Andrei Moldovan as bishop for the Americas, and the congresses held between 1948-1951 represent the acts of total separation of the ROEA from the Holy Synod of the ROC. The autonomous diocese entered under the jurisdiction of the Orthodox Church of America (OCA), and in recent years negotiations have been conducted in order to achieve a reunification of the Romanian American diaspora. This is briefly the history of the schism within the Romanian Orthodox community in the Americas.

Concerning the Statute of the ROEA, it was not brought by her first bishop Policarp Morușca, who only modified it after his enthronement in

⁹⁸ Policarp is his name taken at the monastic tonsure, his baptism name being Pompei. Pompei was a married priest, his wife being the sister of Metropolitan Nicolae Bălan. However, during WW I he is enrolled as capelan priest and sent to war, whereas his wife is deported to Hungary. Family tensions then lead to divorce. In 1925 after a pilgrimage to Jerusalem Pompei has a spiritual conversion and embraces monastic life, being tonsured into monachism and entering the Hodros-Bodog monastery, taking the name Policarp. He is a prolific author and is involved in Church administration. Gârdan, *Episcopia Ortodoxă Română din America*, 232ff.

⁹⁹ The Patriarchal Gramata is published in Gârdan, *Episcopia Ortodoxă Română din America*, 243.

¹⁰⁰ Casian [L. Stan], “Românii din America”, 599.

¹⁰¹ Gârdan, *Episcopia Ortodoxă Română din America*, 333.

¹⁰² Gârdan, *Episcopia Ortodoxă Română din America*, 337.

¹⁰³ Gârdan, *Episcopia Ortodoxă Română din America*, 338.

1936,¹⁰⁴ but it was written by a commission of priests from the American diocese, on the basis of the *Şagunian Statute*, and approved by the Diocesan Congress in 1933 and by Bucharest (slightly modified) the same year.¹⁰⁵

Therefore, in their present form the Statutes of the two Romanian dioceses in the USA still permit the laity a very broad participation in the decision-making process and in the administration of the Church.

4.2.2. *The Role of the Laypersons in the Church according to the ROEA and ROAA Statutes*

The latest ROEA Statute dates from 1994, whereas the ROAA is from 2006.¹⁰⁶ From the beginning one notices that the ROEA charta is divided in two sections “Statutul”, translated into English as “Constitution” and “Regulamentul”, translated into English as “By-Laws”. A similar division can be noticed in the ROAA Statute, which although it has no other title, still begins with Part 1: “Constitutional Principles”.

The ROEA “Constitution” makes a clear-cut division between the “spiritual affairs” upon which the bishop has full authority, and the “secular matters” upon which the “Episcopate Congress” is “the sole legislative and highest administrative authority” (Const. V. §§b,c), following thus the Organic Statute of Şaguna. The same separation of competences, though not so clearly expressed, is to be found in Art. 3.01 of the ROAA Statute.

For both Archdioceses the Archdiocesan Congress plays a central role, having a deliberative character and not a consultative one as in the ROMWE, as we saw above.

In the ROEA, the Congress has extensive role. It is its task to:

- “(a) Elect the Bishop;
- (b) Elect the Episcopate Council;
- (c) Elect two (2) Lay members to the Episcopate Tribunal;

¹⁰⁴ ROEA, *Constitution and By-Laws*, “Preamble”. In this section of the Statute the entire history of the Statute is offered. Moruşca proposed the Diocesan Congress to modify the Statute in an attempt to depart from the Congregationalist mentality that had penetrated the Romanian communities. In this regard he proposed that the bishop to be elected by the Holy Synod of the ROC. However, Gărdan argues that the changes Moruşca brought to the original Statute led to a weakening of the administrative autonomy the diocese had. Gărdan, *Episcopia Ortodoxă Română din America*, 259. Interesting enough, the ROAA Statute claims the same origins as the ROEA.

¹⁰⁵ Gărdan, *Episcopia Ortodoxă Română din America*, 186, 226.

¹⁰⁶ The ROEA Statute can be consulted on-line at <http://www.roea.org/officialdocuments.html>, (accessed 19.08.2016) and the ROAA at <http://www.romarch.org/statut.pdf>, (accessed 19.08.2016).

- (d) Examine and approve reports on activities of the Episcopate Council, and all other organizations affiliated with the Episcopate;
- (e) Examine and approve the budget;
- (f) Buy, sell, mortgage or otherwise encumber property of any kind, nature, and description belonging to the Episcopate;
- (g) Contract mortgages or any other debts secured or otherwise pertaining to Episcopate property;
- (h) Provide material means for the proper functioning of the Episcopate;
- (i) Create or dissolve Religious and Educational Institutions affiliated with the Episcopate;
- (j) Approve the Constitutions and By-laws of the Auxiliary Organizations, Religious Institutions and Parishes belonging to the Episcopate;
- (k) Amend the Constitution and By-laws of the Episcopate;
- (l) Establish the policy in external relations of the Episcopate;
- (m) Ratify the decisions of the Episcopate Council regarding the acceptance or exclusion of Clergy, Priests and Deacons and Parishes;
- (n) Establish and assess the dues and other contributions of the Parishes to the Episcopate;
- (o) Make the final, authoritative determination of the acceptance or rejection of Lay Delegates to be seated as voting members of that Congress;
- (p) Establish, enforce and amend, as necessary, obligatory Parish standards for Clergy remunerations”.

According to the ROAA Statute, the Congress

Except for dogmatic and canonical matters, is concerned with all other matters which affect the life, mission, growth and unity of the Archdiocese and especially the uniform administration of the Deaneries and the Parishes. (Art. 15.02.)

And it “is the deliberative instrument of governance of the Archdiocese” (Art. 15.03).

The Congress is constituted similarly in both jurisdictions, besides the bishops and the clergy, the laypeople participate with two representatives from each parish and two delegates from each auxiliary organization (ROEA By-Laws III.1; ROAA Statute Art. 15.02).

Among the most important tasks of the Archdiocesan Congress is the Election of the Bishop(s) (ROEA By-Laws III.20; ROAA Art. 5.02). There are however differences in the manner of electing the bishops and the role played by the Congress. Thus, according to the ROEA By-Laws, the Congress elects the bishop, entrusting to the Metropolitan/Holy Synod of the Orthodox Church in America (OCA) only the task of canonically examining the candidate and the ordination (By-Laws III.12), whereas in the ROAA the Congress only proposes to the Holy Synod of the ROC the name of the candidate for confirmation (Art. 5.05).

The ROAA Statute provides that: “Each institution or organization of the Archdiocese¹⁰⁷ shall have an assembly as its central governing body. In general these shall be in the proportion of one third ($\frac{1}{3}$) clergy and two thirds ($\frac{2}{3}$) laity” (Art. 6.04).

In the ROEA By-Laws the laypeople are also present in the Episcopate Council (IV.1). Their number is fixed at 10. The Council is an executive central body of the ROEA having the role to “implement the decisions of the Episcopate Congress and administer the affairs of the Episcopate” (IV.2). Furthermore, the Council has the following powers:

- (a) To convene the Episcopate Congress in the event of vacancy in the Office of the Bishop for the purpose of executing the necessary formalities for the election, consecration, and installation of the successor Bishop;
- (b) To propose amendments to the Constitution and By-Laws;
- (c) To authorize the Parishes to buy, lease, and sell real estate, and other Parish property and to contract mortgages or other encumbrances, where necessary, in conformity with other provisions of the By-Laws;
- (d) To study and approve the creation of Missions and new Parishes and Deaneries, and to determine their respective areas of jurisdiction;
- (e) To receive petitions of Clergy, Priests and Deacons, and Parishes wishing to come under the spiritual, operational and adjudicative jurisdiction of the Episcopate, subject to the ratification by the Episcopate Congress;
- (f) To examine and suggest changes in blue-prints and to authorize construction of new churches and church-related structures;
- (g) To initiate and supervise the general activities of the Episcopate;
- (h) To hire and establish the salaries of the employees of the Episcopate and the remuneration of the Bishop;
- (i) To maintain an inventory of all Episcopate property;
- (j) To prepare an annual budget, and to suggest to the Episcopate Congress means of meeting it;
- (k) To provide for, and supervise the official publications of the Episcopate;
- (l) To recommend to the Bishop the bestowal of honors and/or elevation in rank on persons under the jurisdiction of the Episcopate;
- (m) To appoint delegates, as required, to represent the Episcopate;
- (n) To exercise supervision over the financial operations of the Episcopate, its Missions, Auxiliary Organizations and Institutions;
- (o) To bring an action in the Episcopate Courts against any person or group alleged to have violated this Constitution and By-Laws;

¹⁰⁷ “The Archdiocese consists of the following institutions or organizations: the Archdiocesan Central Administration, Deaneries, Parishes, Mission Parishes, Monasteries and other monastic institutions, Theological institutions, and such other institutions and organizations as may be created by the Congress” (§6.01).

- (p) To request and receive an audit of the financial records of any official, department, fund, Parish, or Parish Auxiliary in question, in the event a charge of financial or administrative irregularity for cause is brought to its attention;
- (q) To provide for the maintenance of the archives of the Episcopate;
- (r) To carry out the activities relating to church property provided in these By-Laws including, but not limited to, Article IX, Sections 4, 10 and 11.

In the ROAA the Eparchial Council is an executive institution and it is “advisory and consultative to the Archbishop” (Art. 16.10.a). It is formed from: “the Archbishop as President, the Hierarchical Vicar, the Administrative Vicar(s), the Secretary, two Treasurers, four clergy elected by the Congress, eight laity elected by the Congress, the President of the Ladies’ auxiliary (AROLA) and the President of the Youth organization (ROYA)” (Art. 16.02).

Among the Diocesan Council’s responsibilities one counts:

- (b) Except for doctrinal and canonical matters, it is concerned with matters and issues that affect the life, growth and unity of the Archdiocese and makes such decisions thereon as are required.
- (c) Together with the Archbishop, it is concerned with and oversees the ministries, institutions and financial affairs of the Archdiocese.
- (e) Together with the Archbishop, the Finance Committee and the appropriate heads of the departments of the Archdiocese, it prepares the proposed Budget for recommendation to the Congress.
- (g) It reviews all matters of a temporal and financial nature concerning the Archdiocese.
- (j) It reviews and ratifies the decisions of the Archbishop with regard to the ordination of the clergy and the appointment and transfer of clergy, according to the provisions of these Statutes.
- (l) Following the action of the Congress to purchase or sell real property, the Council shall be authorized to take all such actions as are necessary to effect the decision.
- (o) Under extraordinary circumstances, the Council may exercise the deliberative authority of the Congress between Congresses, subject to the ratification of these decisions by the Congress in its next session.
- (p) Together with the Locum Tenens, it oversees the administration of the Archdiocese upon the vacancy of the Archiepiscopal throne and directs the procedure for the election of the Archbishop pursuant to the provisions of Chapter XII, Articles 13.05-13.08 above.
- (q) The Council shall assist in the selection of a Vicar Bishop(s) pursuant to the provisions of Chapter XIII, Article 13.02 above.
- (r) If upon the two-thirds ($\frac{2}{3}$) vote of the Council it shall be determined that the Archbishop has become incapable of performing his duties as a result of either physical or mental impairment, the Council will address its concerns directly and discretely to the Patriarch, in his capacity as President of the Holy Synod, for consideration. (§16.10)

Let us draw some conclusions as to the role of the laypeople in the two American Orthodox Dioceses at central levels of Church governing.

First of all one notices that the laity is represented in the most important administrative – legislative and executive- bodies: the Diocesan Congress and the Diocesan Council. Therefore, although there are differences between the two dioceses, still the laity shares greatly in the governing ministry of the Church.

A close look into the responsibilities of these two bodies shows that their role is not a decorative one, the two governing bodies mentioned being a strong partner of Church governing to the episcopate. Through the role these institutions have, the laypersons also act as guardians of Church discipline and property, and as promoters of the wellbeing of the diocese.

At the level of the Deanery, the laypeople also play an active role. Unlike the ROMWE and the ROEA where the Deanery is just a territorial administrative body run only by a Protospesbyter, the ROAA still preserve the Deanery Assembly. Thus, according to its Statute:

The Deanery Assembly is composed of the parish priest, the first chanter, the president of the parish council, the religious education director, the ladies' auxiliary president and two (2) additional lay members from each parish of the Deanery, elected by the parish by the same procedure as the election of Parish Council Members enumerated in Chapter XXXII. The Dean shall be informed by the Parish Priest of those persons representing the parish in each category (Art. 19.01).

At the level of the Parish one observes the existence of the same principle of close cooperation between the clergy and the laypeople. Thus, in the ROEA By-Laws (IX.1) as well as in the ROAA (Arts. 24.03; 35.02) one finds that the priest administers the parish in cooperation with the Parish Council. The Parish Council may affect the removal of a priest from the parish (ROEA IX.21). The Parish Council, which, together with the parish priest, is the executive body, is appointed by the Parish Assembly.

The ROAA Statute (Art. 40.02) and the ROEA By-Laws (Art. XV) allow the participation of laypeople in judicial affairs as well. Thus, the Deanery Consistory, the first instance of judgment,¹⁰⁸ is constituted of two clerics and two laypersons. In the ROAA Statute, the laypersons do not participate however in the cases where priests are involved, but only when laypersons are (Art. 40.03). The laypersons are also members of the Spiritual Court of Second

¹⁰⁸In the ROEA the Deanery Consistory is called the "Deanery Peace Court" and it is a "court of mediation and dispute resolution" (XV.5). For canonical and dogmatic related issues the ROEA disposes of a Spiritual Consistory formed of three clerics appointed by the bishop (XV.6).

Instance – the Archdiocesan Court (Art. 40.05), which also receives the accusations against the bishop.

In the ROEA the Episcopate Tribunal, formed of “three (3) members of the Spiritual

Consistory and two (2) Laypersons elected by the Episcopate Congress for a term of two (2) years and of two (2) alternate Layperson members” (XV.7) represents the Court of Appeal for the cases presented to the Spiritual Tribunal.

To the question whether the American Dioceses allow the lay participation to the teaching office of Church, the answer is positive. This is confirmed by the provisions of Chapter IX of the ROAA Statute where the teaching in the parish is not confined to the person of the priests, but is regulated by the Parish Council, as well as by Art. VII.1 of the ROEA By-Laws – The Affiliated Institutions. In this section, which mentions the “Schools” the only two provisions are:

- (a) The Bishop shall be the head of all affiliated institutions.
- (b) With the approval of the Episcopate Congress, such institutions may be chartered as separate legal entities.

Conclusions

From the presentation we did several conclusions clearly come to the forefront.

First of all there are two distinct attitudes with regard to the role and the rights of the laity in the Church: on the one side there is the dominant position of those who limit the involvement of the laity in Church affairs, and, on the other side, there is the minority group, or part of the Church, that allows the laity a rather broad involvement in the administration of the Church. It is interesting to see that the minority group, represented here by the Romanian American Orthodoxy, in particular by the ROEA, preserves in fact an old Romanian tradition, which, in the 19th century, was (re)established by the Romanian Metropolitan and Canonist, St. Andrei Șaguna.

The second element one notices is that, within the direct jurisdiction of the Romanian Patriarchate, the tendency is to limit even further the lay involvement in Church affairs. To this fact testify the changes that have recently been made to the Statute of the Romanian Orthodox Church and to the Statute of the ROMWE.

Let us call Metropolitan Șaguna's justification of the greater involvement of the laity in the Church's affairs: "in order for the vitality of the Body of Christ to bear fruit it is necessary that all its vital parts cooperate in an organic harmony".¹⁰⁹ Furthermore, the Transylvanian Metropolitan is convinced that

Church's external vitality is conditioned by the strong functionality of all the personal and social organs of the Church, because there is no doubt that in that body in which the vital parts are neglected or not nurtured and left in passivity (...) there, the life of the body is numbed and unhealthy and easily perishable. This is why it is necessary that the organic elements of the Church not only not to hinder one another, but all together to be free to collaborate in harmony for mutual support, and for the mutual cultivation and prosperity.¹¹⁰

There are of course many arguments brought across the centuries in favor of the larger lay involvement in the Church. Let us add another one to these. By involving the laity at all levels of Church's life it is the only way by which the Orthodox Church can avoid the effects of secularization. To involve the laity in Church affairs does not mean to allow the secularization into the Church, but rather to bring the Church into the world.

Furthermore, by involving the laity in the Church's affairs, especially into the administrative ones, one puts into play various means of checks and balances that prevent the all too common abuses of power or acts of corruption, finally allowing the Church to grow as a transparent, socially responsible, missionary-oriented Body of Faithful that not only preaches social justice, equal rights for everyone, love and mercy, but also lives by these values.

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¹⁰⁹ Andreiu Baron de Șaguna, *Compendiu de dreptul canonic*, (Sibiu, 1913 [1868]), §132.2.

¹¹⁰ Șaguna, *Compendiu*, §133.

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