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FOUNDATIONS AND LIMITS OF *OIKONOMIA* IN THE ORIENTAL TRADITION*

I. INTRODUCTION: 1. *Point of Departure*; 2. *State of the Question in the Catholic Church and in the Orthodox Church*; II. FOUNDATIONS OF *OIKONOMIA*; III. FIELDS OF APPLICATION AND LIMITS OF *OIKONOMIA*: 1. *Internal or Pastoral Oikonomia*; 2. *"Ecumenical" or "Ecclesiological" Oikonomia*; CONCLUSION.

'For it is mercy that I desire, not sacrifice'
(Os 6,6; Mt 9,13).

I. INTRODUCTION

Among the authors who have written on *oikonomia* in the Oriental Churches – and they are quite numerous – there is a great variety of doctrinal positions as well as a heated discussion. The only thing in which all agree is that the Orthodox Church has not given an official definition of it, neither fixed criteria for its application...

As a first approach to the concept we can say that, within Canon Law, *oikonomia* is generally understood to embrace every decision taken by a legitimate ecclesiastical authority that, in the concrete case and in a provisional and exceptional manner, deviates from the strict application (*akribeia*) of the canons and disciplinary norms, with the goal of safeguarding the common good of the Church.¹

* This article is the translation of a paper read during the Congress «La "salus animarum" nell'esperienza giuridica della Chiesa», held at the Pontifical University of the Holy Cross (Rome), 6–7 April 2000.

¹ Ivan Žužek has tried to sum up the different descriptions promoted by canonical doctrine: «the overwhelming majority of the authors only applies the concept of *oikonomia* to disciplinary measures issued by a legitimate authority; by following these in a provisional and exceptional manner, it is permitted to disregard a law which has been established by the superior authority and cannot be challenged by an inferior one. This has to serve the purpose of safeguarding a common good, maintaining peace within the Church as well as unity and *symphony* between Civil government and the ecclesiastical authorities (...), the good of ecumenism or the international collaboration amongst Christians», I. ŽUŽEK, *L'économie dans les travaux de la Commission Pontificale pour la révision du Code de Droit Canonique oriental*, in «Kanon» Jahrbuch der Gesellschaft für das Recht der Ostkirchen, VI: *Oikonomia Mischehen*, Wien 1983, 67–83 (here 71) [the translation is mine]; Cf. also, J. H. ERICKSON, *Sacramental "economy" in Recent Roman Catholic Thought*, in *The Jurist* 48 (1988) 653. It should be noted that in the Church the private good of the souls – i. e. their salvation – belongs to the common good as well.

1. *Point of Departure*

To show the relevance of the matter, I would like to start my presentation with a burning problem: the remarried divorcés.

To this purpose I would like to quote a passage of Pospishil:

«[A]fter extensive study of the employment of *oikonomia* and its justification, Catholic writers concluded that for the problem of the remarried divorced in the Catholic Church, for instance, *oikonomia* could be a solution only if Catholic theology could be induced to see the Church as wielding a special, vicarious power, granted to it by her Divine Founder, enabling the Church, perhaps represented by the Roman Pontiff, to grant those relaxations which Christ would have granted were he present in his human body; in other words, precisely that what the Eastern Churches had done since the first days of Christianity. If pastoral economy is forever excluded from application in the Catholic Churches, is there another solution in the future of the Church?».²

The Orthodox, in fact – though asserting the indissolubility of the matrimonial bond – allow “by *oikonomia*”, as a lesser evil, a new marriage after a divorce – even if they do not consider it legitimate. In these cases it is tolerated twice, while a fourth marriage is excluded.³

The Catholic side, in January 2000, has responded in an authoritative manner with regard to this issue. The Holy Father personally addressed the following words to the members of the Tribunal of the Roman Rota:

«Today’s meeting with you, members of the Tribunal of the Roman Rota, is an appropriate setting for also speaking to the whole Church about the limits of the Roman Pontiff’s power over ratified and consummated marriage, which “cannot be dissolved by any human power or for any reason other than death” (*CIC*, can. 1141; *CCEO*, can. 853). By its very nature this formulation of canon law is not only disciplinary or prudential, but corresponds to a doctrinal truth that the Church has always held..

Nevertheless, there is an increasingly widespread idea that the Roman Pontiff’s power, being the vicarious exercise of Christ’s divine power, is not one of those human powers referred to in the canons cited above, and thus it could be extended in some cases also to the dissolution of ratified and consummated marriages. In view of the doubts and anxieties this idea could cause, it is necessary to reaffirm that a ratified and consummated sacramental marriage can never be dissolved, not even by the power of the Roman Pontiff. (...) the non-extension of the Roman Pontiff’s power to ratified and consummated sacramental marriages is taught by the Church’s

² V.J. POSPISHIL, *Chapter 70 (Appendix 6): Pastoral Economy*, in ID., *Eastern Catholic Church Law (Revised and Augmented Edition)*, New York (NY) 1996, 845–851 [here 851].

³ Cf. J. MEYENDORFF, *Byzantine Theology: Historical Trends and Doctrinal Themes*, New York 1974, 88–90 (here, 89). For a specific study on this topic, cf. A. KAPTIJN, *Divorce et remariage dans l’Eglise Orthodoxe*, in *Folia Canonica* 2 (1999) 105–128.

Magisterium as a doctrine to be held definitively, even if it has not been solemnly declared by a defining act».⁴

Should we, therefore, definitely ascertain the impossibility of appealing to *oikonomia* as a solution of this problem? I do think so. But what we have seen till now introduces us to the matter of our discourse: *what are the base and the limits of oikonomia? Is it possible to refer to it also within the pastoral government of the Catholic Church?*

Among the faithful of the Occidental Church *oikonomia* exists, if at all, as a greatly diluted and unclear concept. On one side, some tend to use it as a panacea for all the problems, without understanding its limits; on the other hand, some can view it with suspicion because they wrongly retain that its use simply implicates pure arbitrariness. Meyendorff warned us of this danger:

«In both historical and theological literature, the principle of *oikonomia* is often referred to illustrate the particularly Byzantine ability to interpret the law arbitrarily to suit political or personal purposes. Such a use betrays an obvious misunderstanding of the term, and is an injustice both to the principle itself and to its proper application».⁵

The great majority of the Byzantine Orthodox authors highlight the danger of the abuses in the practice of *oikonomia*. Rodopoulos, affirms for example, that «excessive use of *oikonomia* can possibly lead the Church into the unacceptable principle that “the end justifies the means”»; the author continues by saying that the scandal which might be caused by the inadequate application of *oikonomia* has to be avoided.⁶ (Nevertheless, according to the Orthodox thought, possible abuses should not cause unwanted precedents for future decisions, since the specific application of *oikonomia* cannot be extended beyond the single case).⁷

The problem arises when one tries to define the criteria of the well founded use of *oikonomia*. Moreover, there is an Orthodox reluctance to positively establish its limits, because one retains that this would endanger the freedom proper of Pastors. Alivizatos points out that «the inaccuracy of its employment

4 GIOVANNI PAOLO II, *Discorso di agli Officiali e Avvocati del Tribunale della Rota Romana, per l'inaugurazione dell'anno giudiziario*, venerdì, 21 gennaio 2000, nn. 6–7, in AAS 92 (2000) 350–355 [here, 353–354]. The English translation is taken from the official web site of the Vatican (http://www.vatican.va/holy_father/john_paul_ii/speeches/documents/hf_jp-ii_spe_20000121_rota-romana_en.html).

5 MEYENDORFF, *Byzantine Theology* (nt. 3), 88.

6 Cf. P. RODOPOULOS, *Introduction to the Topics of the Fifth International Congress of the Society for the Law of the Oriental Churches. I. Oikonomia*, in «Kanon» (nt. 1), 15–18 (qui, 17); cf., also, MEYENDORFF, *Byzantine Theology* (nt. 3), 89.

7 P. RODOPOULOS, *Introduction* «Kanon» (nt. 1), 18; F.J. THOMSON, *Economy*, in *The Journal of Theological Studies* 16 (1965) 368–420 (here, 383); P. TREMBELAS, *Dogmatique de l'Eglise Orthodoxe Catholique*, vol. III, Chevetogne 1968 (French version of P. Dumont), 61–62.

and its practical general application within the Church has been and absolutely is in line with the freedom and flexibility existing since the origin in the Orthodox Church».⁸

According to the Orthodox conception, therefore, the proper use of *oikonomia* depends only on the wisdom of the Pastor,⁹ who acts assisted by the Holy Spirit.¹⁰ Nevertheless, it seems that this kind of trust in Pastors is not enough to avoid practical abuses.

L'Huillier notes that «[o]ne should not have an exaggerated idea of the freedom bishops enjoy. (...) [I]n the spirit of a Canon Law conceived as expression of the Divine Will, the fact of not respecting the essential norms is felt as a form of sacrilege. Indulgence and compassion cannot at any rate cross this threshold».¹¹ But... what are those "essential norms"?

As we have said, the Orthodox Church does not even propose an official definition of *oikonomia*, and some Orthodox theologians declare that economy, by its own nature, cannot be defined.¹² In fact, according to many Orthodox authors, *oikonomia* is something that should be lived rather than described or defined.¹³ Nevertheless, as has been noted, this does not offer us a criterion for knowing which measures are acceptable and which ones are not.

The errors and abuses in the application of *oikonomia* should be susceptible to identification as such, and this cannot be achieved until its concept, foundations and limits have been clarified.¹⁴

2. State of the Question in the Catholic Church and in the Orthodox Church

During the works for the Catholic Oriental Codification, it was proposed by different groups of study to include among the preliminary canons of the *CCEO* a canon on *oikonomia*. However, at the end it was decided not to mention this question in the Oriental Code. The history of the decision was exposed by E. Jarawan in *Nuntia*¹⁵ and completed by I. Žužek in his article in *Kanon* VI,¹⁶ with the competence which derives from being a direct protagonist.

⁸ H. ALIVIZATOS, *Oikonomia secondo il diritto canonico della Chiesa Ortodossa* (in Greek), Atene 1949, 43; quoted in J. KOTSONIS, *Problèmes de l'économie ecclésiastique*, Gembloux 1971 (French translation of P. Dumont), 94. [English translations are mine].

⁹ RODOPOULOS, *Introduction* (nt. 6), 17, who quotes ALIVIZATOS, *Oikonomia* (nt. 8), 862–63.

¹⁰ SALACHAS, 'Oikonomia' e 'Akribeia' nella ortodossia greca odierna, in *Nicolaus* 4 (1976) 301–339 (here, 321.).

¹¹ P. L'HUILLIER, *L'Economie dans la tradition de l'Eglise Orthodoxe*, in «Kanon» (nt. 1), 19–38 (here, 24).

¹² THOMSON, *Economy* (nt. 7), 394–395.

¹³ B. ARCHONDIS, *The Problem of Oikonomia Today*, in «Kanon» (nt. 1), 39–50 (here, 40).

¹⁴ Cf. THOMSON, *Economy* (nt. 7), 420.

In the Commission for the Catholic Oriental Code (*PCCICOR*)¹⁷ a further study of the issue was made, also taking into account a document elaborated in 1971 by the Interorthodox Preparatory Committee for the Holy and Great Panorthodox Synod.

In 1976 three drafts of a canon on *oikonomia* were presented to the *PCCICOR*. Among these, the one which seems to me more exhaustive is the following:

«§1. By ecclesiastical *Oikonomia* is understood the competence of the Church to put into practice the Work of Redemption by Our Lord Jesus Christ, supplying with the abundance of His grace and love what is lacking in the concrete human person for being in full conformity with the sacred canons; therefore the Hierarchs, in urging canonical law, should seek more the salvation of souls than the strict obedience to the letter of the law.

§ 2. The Hierarchs have to practice *Oikonomia* with promptness, vigilance and caution; they shall avoid that by this exercise abuses or scandalous laxity of the faithful are introduced».¹⁸

In 1978 there were strong oppositions to these texts and also to the very opportunity of inserting a canon of such kind into the Code. By a marginal difference of votes it was decided to compile a more acceptable text to be placed either among the preliminary canons or in the preface of the Code. However, in 1980 the discussion on the opportunity of inserting into the Code any text on *oikonomia* was reopened, and a unanimous decision of not saying anything on the issue was reached.

The reasons given by the *PCCICOR* for not including the canon on *oikonomia* in the *CCEO* were the following:

¹⁵ *Nuntia* 10 (1980) 92–94.

¹⁶ ŽUŽEK, *L'économie* (nt. 1), 81–83.

¹⁷ Pontificia Commissio Codex Iuris Canonici Orientalis Recognoscendo.

¹⁸ *Nuntia* 10 (1980), 93. “§ 1. *Oikonomia ecclesiastica intelligitur competentia Ecclesiae exercendi opus salvificum Domini Nostri Jesu Christi supplendo ex abundantia ejus gratiae et amoris id quod homini in concreto sumpto deest, ut sit in plena conformatione cum sacris canonibus; quapropter Hierarchae, in lege canonica urgenda, magis salutem animarum quam strictam oboedientiam litterae legis intendunt.*

§ 2. *Hierarche debent Oikonomiam sollicitudine, vigilantia et cautela exercere, et caveant ne abusus et mirum relaxatio christifidelium in hoc exercitio irrepserint*”.

The other two texts proposed were the following:

a) “*Oikonomia per quam lex quaedam ecclesiastica non urgetur, sed magis, sub pastoralis sollicitudine et vigilantia Hierarchiae Ecclesiae, ad opus salvificum Domini Nostri Jesu Christi provocatur, magni avenda est*”.

b) “*Oikonomia ecclesiastica, qua opus salvificum Domini Nostri Jesu Christi applicatur ita exerceatur sub vigilantia Hierarcharum loci ut ubi observantia legum humano modo difficillima evadit, misericordia divina et amor maternus Ecclesiae suppleat*” (Ibid.).

1) on the one hand, the notion of *oikonomia* in itself goes beyond the strict competence of a Code;

2) on the other hand, *oikonomia* actually includes all the remedies already present both in the Code and in what is called "practice and canonical doctrine". With these remedies the cases in which a canonical law appears to be detrimental to the salvation of souls can legitimately find a solution.¹⁹

Also from the Orthodox side the Panorthodox Presynodal Conference had decided not to include this topic among the matters to treat in the future Holy and Great Synod, due to the serious dissents existing in this respect.

During the XXth century, the Orthodox scholars and hierarchy have dealt many times with the issue of the nature, extension and limits of *oikonomia*. As early as the mid-XIXth century, the relation with the Anglican Church had requested a study on the possibility of applying *oikonomia*. This was made necessary in order to accept Anglican baptisms and ordinations with the purpose of welcoming converts or even to proceed to a possible future union among the Churches.²⁰ Similarly, there had also been different attitudes of the Orthodox hierarchy regarding the validity of the Catholic baptism.²¹

In 1961, the first Panorthodox Conference gathered at Rodes for the preparation of the Holy and Great Synod of the Orthodox Church had included this topic among the matters to be dealt with. In 1968, the VIth Panorthodox Conference delegated the study of this subject-matter to the Church of Romania. Developing this study and other contributions, the Interorthodox Preparatory Committee for the Holy and Great Synod in 1971 elaborated a document²² in which they tried to formulate the common Orthodox vision of *oikonomia*. This document aroused strong discussions instead, and the polemic was so vivacious that in 1976 the Panorthodox Presynodal Conference decided not to include the issue of *oikonomia* in the agenda for the future Holy and Great Panorthodox Synod, leaving it for further studies.²³

It is possible, therefore, to ascertain that both from Orthodox and Catholic side, there were difficulties to accept an official definition. However, the reasons for not doing so were not the same.

19 Cf. ŽUŽEK, *L'économie* (nt. 1), 83.

20 Cf. The good report on the historical and doctrinal developments made by F.J. THOMSON, *Economy* (nt. 7), 370–394; P. RAI, *L'économie chez les Orthodoxes depuis 1755*, in *Istina* 18 (1973) 359–368 (here 363, 365–366 and footnote n. 22).

21 Cf. RAI, *L'économie* (nt. 20), 363.

22 COMMISSION INTERORTHODOXE PRÉPARATOIRE, *L'économie dans l'Eglise Orthodoxe*, in *Istina* 18 (1973) 372–383 (here, 375–376). An Italian translation can be found in COMMISSIONE INTERORTODOSSA PREPARATORIA, *L'Economia nella Chiesa Ortodossa*, in *Il Regno-Documenti* n. 257 (1 January 1973), 33–37. Cf. The reports of SALACHAS, 'Oikonomia' (nt. 10) 325–338, and K. DUCHATELÉZ, *l'économie dans l'Eglise Orthodoxe: exposé critique du rapport préconciliaire*, in *Irénikon* 46 (1973) 198–206.

23 Cf. ARCHONDIS, *The Problem* (nt. 13), 40–41.

II. FOUNDATIONS OF *OIKONOMIA*

We now have to take into consideration the theological basis of *oikonomia*, because we are dealing with a primarily theological concept, even if its concrete disciplinary consequences cannot be denied.²⁴ It is not a specific norm but an inspiring principle for the acting of a person with governing responsibilities.

The Interorthodox Preparatory Committee pointed out that «the origin and the basis of the ecclesiastical economy is the incarnation of our Lord Jesus Christ and His entire work of redemption which was initiated in the moment of the incarnation as an action of divine indulgence and philanthropy. Economy draws its origin from the spirit of love and mercy of God towards men and it is impregnated by the very spirit of our Lord: "For God so loved the world, as to give his only begotten Son; that whosoever believeth in him, may not perish, but may have life everlasting" (John 3,16).» «The Church of Christ – the Committee continues – is the holy and infallible body in which and through which the salvific work of God for man is realized. (...) Economy is the condescension that saves man who has sinned, offering a saving hand to raise again he who has fallen (...). [E]conomy is an imitation of the divine philanthropy».²⁵

The Fathers of the Church have cited *oikonomia* mainly referring to the reaction of the Pastors regarding the sacraments administered by heretics. St. Basil, for example, in his Letter to Amphilochius,²⁶ even though generally rejecting baptism by heretics, admits via *oikonomia* the custom of receiving them without rebaptism, for fear that the excessive austerity be an obstacle for the salvation of some of them.

Oikonomia, therefore, is a suspension, relaxation, deviation, from the law in the specific case, while leaving the law as such intact.²⁷ It is not about abrogating or changing the law. If, therefore, the law is changed for a new, more favorable one, this cannot be called *oikonomia* in the strict sense.²⁸

But where is the theological justification of this usage? Why does the demand for harmony between *akribeia* and *oikonomia* exist?

As we have said, *oikonomia* is not to be confused with arbitrariness,²⁹ but rather represents a healthy discretion by the Pastors. Also, the Catholic Canon

24 L'HUILLIER, *L'Economie* (nt. 11), 27.

25 CIP, *L'économie* (nt. 22), 375–376.

26 Basil of Caesarea, *Ep. Ad Amphilochium*: PG 32, 669 B. Quoted by MEYENDORFF, *Byzantine Theology* (nt. 3), 88–89. This passage was received in the Byzantine canonical collections as canons 1 and 47 of Saint Basil (cf. RAI, *L'économie* [nt. 20], 364).

27 ŽUŽEK, *L'économie* (nt. 1), 77.

28 RODOPOULOS, *Introduction* (nt. 6), 16; ŽUŽEK, *L'économie* (nt. 1), 75, 76. That's why the custom *contra legem* is not *oikonomia*, because it does abrogate the law (cf. ŽUŽEK, *L'économie* [nt. 1], 77).

Law is permeated by such a request. This can be seen by simply reading the principles for the revision of the Oriental Code: «the concession of a somewhat greater liberty to bishops will manifest yet more clearly the pastoral character of the Code».³⁰ The discretion proper of the Orthodox *oikonomia*, however, is limited only by dogma, while our Catholic techniques of flexibilization of the law are limited by the principle of legality.

It remains true, however, that both Catholics and Orthodox recognize *akribeia* as the general means of salvation for everybody: «In the encounter between man and God – the Interorthodox Committee affirms – the relationship is a relationship of canonicity, of *akribeia*. This demands, firstly, the correct and complete reception of the revealed truth and grace and, secondly, the free, correct and complete conformity to the canons established by the Church».³¹ Then, «by her laws the Church assists the faithful and leads them to salvation. Nevertheless, she does not apply the law legalistically: “the sabbath was made for man, not man for the sabbath”».³²

Within the Church legalism is not admitted because, after all, justice in its deepest sense consists of completing the will of God. In this context, consequently, «[c]anonial structures may sometimes be inadequate to the full reality and universality of the Gospel, and, by themselves do not provide the assurance that, in applying them, one is obedient to the will of God».³³ The task is, therefore, to identify the will of God for each specific case. Thus, *oikonomia* can be applied only if the exception to the law reflects the divine will regarding the case in question.³⁴

At the same time it is obvious that the need of seeking the will of God for the individual beyond the written norm is not contrary to the canonical system in itself. This is not “metajuridic”. To seek substantial justice is something entirely juridical, even if at times it requires to go beyond the positive norms. Rather, it is the true juridical dimension: to give each one *his own*.

Only a positivistic vision of Canon Law could see *oikonomia* as contrasting the juridical dimension of the Church. If Canon Law is viewed as something extrinsic to the nature of the Church and her essential finality, it results that the means to reach that ultimate finality could be “anti-juridical”.

It seems that Corecco perhaps generalizes too much when he writes that: «Ultimately, Canon Law is not seen by Orthodox theologians as a carrying element that sustains the Church’s salvific truth, but only as a superstructure of the Church, in as much as it is a society, which can be overcome in the name of

29 L’HUILIER, *L’Economie* (nt. 11), 24.

30 *Nuntia* 3 (1976) 21.

31 CIP, *L’économie* (nt. 22), 373; cf. also, *Nuntia* 10 (1980) 93.

32 RODOPOULOS, *Introduction* (nt. 6), 15.

33 MEYENDORFF, *Byzantine Theology* (nt. 3), 89.

34 L’HUILIER, *L’Economie* (nt. 11), 25.

a truth that really belongs to the sphere of dogma».³⁵ Though if what Corecco says can be true with regard to the formulations of some Orthodox scholars (and also of some Catholics), it seems to me that it cannot be generalized nor that his critique is applicable to the whole Orthodox Church. In fact, if we consider the Interorthodox Committee's affirmation quoted above on the necessary relationship of canonicity in the encounter between God and man, it can be admitted that they (at least the members of this committee) recognize the salvific – soteriological – character of canonical law.

III. FIELDS OF APPLICATION AND LIMITS OF *OIKONOMIA*

Having dealt with the theological basis in a summary manner, we will now try to point out the areas of application and the limits of *oikonomia*.

The final goal of *oikonomia* is the salvation of souls. This, ultimately, is the common good to which the whole activity of the Church tends. The supernatural goal of the Church involves therefore a concrete area of application, outside of which true *oikonomia* does not exist.

Oikonomia cannot contradict dogma.³⁶ In this context the Byzantines are accustomed to quote the words of Eulogius, patriarch of Alexandria (581–607): «One can rightly practice *oikonomia* whenever pious doctrine remains unharmed».³⁷ «In other words, *oikonomia* concerns the practical implications of Christian belief, but it never compromises with the truth itself».³⁸ Nevertheless, some Orthodox authors specify that it is necessary to distinguish, on one side, the content of dogma – which is of faith – and, on the other side, the interpretation of dogma, thus making possible to tolerate by *oikonomia* certain theological expressions if the dogmatic reality does not change.³⁹

Turning back to the example cited at the beginning, the Pope has clarified that, exactly because the indissolubility of marriage does belong to the deposit of the faith, the dissolution of a ratified and consummated marriage is outside his competence (see above). The Orthodox, instead, do not pose themselves the problem of the dissolution of the first marriage: they simply permit the second wedding. For the Catholics this formulation cannot be admitted because it is in contrast with the reality of things. Perhaps if the Orthodox had had a council of Trent, they would have resolved this problem differently.

35 E. CORECCO, *Handbuch des katholischen Kirchenrechts*, J. LIST – H. MÜLLER – H. SCHMITZ (Hrsg.), Regensburg 1983, 16. (Translation is mine).

36 «[The Orthodox Church] n'abandonna jamais l'exactitude en matière de foi et de doctrine, en ce qui concerne les éléments de base» (CIP, *L'économie* [nt. 22], 379).

37 Sermon 227, PG 103, 953.

38 MEYENDORFF, *Byzantine Theology* (nt. 3), 90; cf. also, RODOPOULOS, *Introduction* (nt. 6), 15; ŽUŽEK, *L'économie* (nt. 1), 74; L'HUILLIER, *L'Economie* (nt. 11), 21.

39 B. ARCHONDONIS, *The Problem* (nt. 13), 42.

Another limit for the application of *oikonomia* is found in the prerequisite of good dispositions: it, therefore, cannot be applied if there is a personal heresy;⁴⁰ nor can it be admitted if there is perseverance in sin.⁴¹

This criterion is of fundamental importance, because in order to reach the final goal of *oikonomia* (the salvation of souls), it is essential to keep to the basic requisite which we have already pointed out: to do the will of God in the specific case. This is incompatible with the cases of bad disposition.

The practice of *oikonomia* is submitted to the Pastors of the Church, the true *oikonomoi*, who administer in an official way – in the name of Christ – the Church, sacrament of salvation. Therefore, one cannot speak of *oikonomia* in the case of a decision by a layman or by someone without due competence regarding the concrete application. As a rule, the authorities who can practice *oikonomia* are the bishop, the synod and the council, even if the details concerned are regulated by the customs and practice of every local Church.⁴²

Regarding the ambits of application, some authors distinguish among “internal” *oikonomia* and “ecumenical” *oikonomia*.⁴³ Others prefer to call them “pastoral” *oikonomia* and “ecclesial” or “institutional” *oikonomia*.⁴⁴ We shall examine now this last distinction.

1. Internal or Pastoral Oikonomia

Within the Orthodox Church *oikonomia* is often used for the benefit of her own faithful. Kotsonis gives many concrete examples:⁴⁵ – in case of necessity, to baptize in the houses instead of doing so in the church; – not to observe the eucharistic fasting in case of illness; – to celebrate the Eucharist without deacons if it is not possible otherwise; – to ordain presbyters or deacons before the canonical age or without all the foreseen studies; – to transfer bishops from one See to another; – to reduce penalties or penance; – to celebrate the *Euchelaion* (the anointing of the sick) by one priest only, instead of the seven requested (but at times they even allow for laymen to anoint the sick with consecrated oil); – to gather synods with less frequency than prescribed by the

40 J. H. ERICKSON, *Oikonomia*, in K. PENNINGTON – R. SOMMERWILLE (eds.), *Church and Society*. Essays in honour of S. Kuttner, Philadelphia 1977, 225–236 (here, 232).

41 J. H. ERICKSON, *The Value of the Church's Disciplinary Rule with respect to Salvation in the oriental Tradition*, in *Incontro fra canonici d'Oriente e d'Occidente*. Atti del Congresso internazionale, R. COPPOLA (ed.), Bari [1994], 246–274 (here, 265).

42 SALACHAS, ‘*Oikonomia*’ (nt. 10), 321–322; KOTSONIS, *Problèmes* (nt. 8), 115–137; ŽUŽEK, *L'économie* (nt. 1), 75.

43 ERICKSON, *Oikonomia* (nt. 40), 231.

44 POSPISHIL, *Pastoral Economy* (nt. 2), 848.

45 KOTSONIS, *Problèmes* (nt. 8), 183–198; cf. also, C. CUPANE, *Appunti per uno studio dell' oikonomia ecclesiastica a Bisanzio*, in *Jahrbuch der österreichischen Byzantinistik*, H. HUNGER (Hrsg.), Wien 1998, 53–73.

canons; – in case of war, not to fast during the established times; etc. Kotsonis sees the requisite of celibacy of bishops as something introduced by *oikonomia*⁴⁶, while Rodopoulos, contrarily, points out as *oikonomia* the fact of allowing the use of marriage by clerics.⁴⁷ Though, in reality, the legislator has issued laws regarding celibacy (cfr. Trullo Can. 12, 13, 48) and, therefore, these would not concern *oikonomia* in a strict sense.⁴⁸ The authors also speak of *oikonomia* in the case in which a third wedding is – in contrast with the general norm – permitted even if the person is younger than thirty years.⁴⁹ Erickson accurately reports the polemic concerning the fourth marriage of the emperor Leo the Wise (a. 906), permitted by *oikonomia*.⁵⁰ Besides, as we have seen, *oikonomia* is often applied for authorizing new marriages of the divorced Orthodox.

As can be seen, the majority of these cases are perfectly universally acceptable. However not all of them are: actually, some are not compatible with the Catholic point of view.)

In the Catholic Church, the criterion of the *salus animarum suprema lex* is implemented by the ecclesial government through the different techniques of flexibilization of the law. They follow the principle of legality, thus avoiding to fall into concessions contrary to dogma or morals, incompatible with the correct way of seeking the true good of the souls. There is no true charity without justice, nor justice without truth.

As we have said, the oriental tradition – in theory – agrees with this approach, even if at times particular solutions are for us rather inadmissible.

Kotsonis⁵¹ tries to point out the limits of *okionomia* when he establishes some criteria to identify “false ecclesiastical *oikonomia*”. According to this author, the following cases are not *oikonomia* in the true sense:

- a) The provisions which do not foster the achievement of the goals of *oikonomia*, i.e.:
 - Those that look for extra-ecclesial goals.
 - Those originating from a disposition of complaisance.
 - Those that stem from hypocrisy, laxity and fear.
 - Those linked to the personal interests of the authority.
 - Those deriving from negligence or indifference.
- b) The decisions which upset the canonical order of the Church and threaten the salvation of souls.
- c) Measures taken without due competence and in an arbitrary manner.

46 KOTSONIS, *Problèmes* (nt. 8), 186–187.

47 RODOPOULOS, *Introduction* (nt. 6), 16.

48 ŽUŽEK, *L'économie* (nt. 6), 75–77.

49 KOTSONIS, *Problèmes* (nt. 8), 187–189.

50 ERICKSON, *The Value* (nt. 41), 263–264.

51 Cf. KOTSONIS, *Problèmes* (nt. 8), 101–114.

Once again the problem consists in the difficulty of finding objective parameters to evaluate these resolutions.

Many times *oikonomia* is confused with the canonical *dispensatio*. The dispensation, however, is just one of the multiple means to apply *oikonomia*. Canonical dispensation is regulated by canonical laws, and there are issues which are not dispensable by bishops, despite being merely human laws (e. g. trial norms). Contrarily, according to the Orthodox conception, bishops could dispense by *oikonomia* even from canonical trial.

As we have just said, dispensation is one of the various means of flexibilization of the law at the disposition of the Catholic Church. These means – in some way – could be considered as instruments for applying *oikonomia*. Without pretending to make an exhaustive enumeration, among these the following can be listed:

- The *aequitas canonica*.
- The *sanatio* of the juridical acts and the other different *fictiones iuris* (legitimation of children, etc.).
- The principle *Ecclesia supplet* in cases of common error, as well as positive and probable doubt.
- The causes exempting from the obligation of the merely ecclesiastical laws in case of grave inconvenience.
- The principle according to which the laws do not bind in case of doubt concerning the law.
- The rules on the strict interpretation of the invalidating laws, and of those incapacitating or limiting freedom.
- The obligation of a benign interpretation of the penal laws.
- The legal clauses providing exceptions to the norm (“unless...”, etc.).
- The innumerable clauses granting discretionary powers in the application of the law (optional penalties, etc.).

Even though *epikeia* concerns the single faithful – not the authority – as acting subject, some scholars regard it as *oikonomia* in a wider sense.⁵²

2. “Ecumenical” or “Ecclesiological” Oikonomia

The majority of the studies we have consulted preferably deal with this type of *oikonomia*.⁵³ Anew, ecumenical economy could seem, at first glance, a

⁵² Cf. ŽUŽEK, *L'économie* (nt. 1), 76; *Nuntia* 10 (1980) 94. Y. Congar, on the contrary, only admits as *oikonomia* the *epikeia* used by the authority as a criterion of judgment (cf. Y. CONGAR, *Propos en vue d'une théologie de l'Economie dans la tradition latine*, in *Irénikon* 45 [1972] 154–206 [here, 191]).

⁵³ Cf., es., L. STAN, *Economy and Intercommunion*, in *Diakonia* 6 (1971) 215; P. L'HUILLIER, *Economie et théologie sacramentaire*, in *Istina* 17 (1972) 17–20; K. DUCHATELEZ, *Economie baptismale dans l'Eglise Orthodoxe*, in *Istina* 16 (1971) 13–36; P. DUMONT, *Economie ecclésiastique et réitération des sacrements*, part II, in *Irénikon* 14

merely theological issue (not one of discipline), but its practical consequences are of a clear canonical nature.

In the ecumenical field, as we have said, there are many similar cases resolved by the Orthodox hierarchy in different ways, depending on the historical circumstances and varying from one autocephalous Church to another.

To take an example, the *recognition of the sacraments administered outside the Orthodox Church*, e.g. Christians of other confessions wanting to convert to Orthodoxy. On this matter the written opinions vary and there are different formulations of the problem. Thomson points out that «extreme Orthodox theories of economy seem to have arisen in an attempt to explain how the Church could accept or reject the validity of the same sacraments at different times, or at the same time by different autocephalous Churches».⁵⁴

Depending on the specific ecclesiological approach, there are two extreme positions among the authors:

a) Those who, radicalizing Cyprian's principle "extra Ecclesia nulla salus", do not admit valid sacraments outside Orthodoxy. For these authors a possible recognition of the sacraments of the heretics who convert to Orthodoxy would imply "to create" – by means of *oikonomia* – something that did not exist before (Androustos, Balanos, Dyovouniotis).

b) Those closer to the Augustinian approach who sustain that, in order to apply *oikonomia*, the previous existence of a certain objective reality is required, even if it is not "canonical" in the full sense (Bratsiotis, Alivizatos, Bulgakov, Milasc, Florovsky).⁵⁵

In all the cases, however, the recognition of these sacraments will depend on the dispositions of the subject and on the utility for the Church. In fact, according to some Orthodox hierarchs and theologians, the attitude of heterodoxy towards Orthodoxy can influence the recognition of the validity of its sacraments, because a hostile attitude toward the Orthodox Church would constitute a fundamental deviation from the Christian faith.⁵⁶ Thus the historical

(1937) 339–362 ; EDITORIAL, *Pour une théologie de la 'communicatio in sacris'*, in *Istina* 14 (1969) 194–195 .

⁵⁴ THOMSON, *Economy* (nt. 7), 418. Scholars try to explain the reasons why the Orthodox hierarchy has answered differently in cases seemingly alike. For example, in 1844 the Catholic Melkites who asked to enter the Orthodox Church were not rebaptized, while 14 years before they had been (cf. RAI, *L'économie* (nt. 20), 363). The Anglican Palmer, in the mid-XIXth century, wanting to become Orthodox, found with astonishment that the Greek Church asked him to be rebaptized, while the Russian Church admitted him without rebaptism. In some particular epochs, the Moscow patriarchate did not recognize mixed marriages between Catholics and Orthodox, but shortly afterwards recognized even the Catholic blessing of these mixed marriages, and later on made another backward step.

⁵⁵ Cf. RAI, *L'économie* (nt. 20), 363, 365–366 e nota 22; THOMSON, *Economy* (nt. 7), 384, 386, 390.

⁵⁶ Ivantson-Platonov, Khrapovitsky, cf. THOMSON, *Economy* (nt. 7), 385 e 388.

circumstances of the ecumenical relationships enable the Orthodox hierarchy to judge the attitude of the heterodox at times as open and cordial, at times as suspicious, if not aggressive. Therefore, in the first case the hierarchy retains it possible to apply *oikonomia* because there is good faith, while in the second case they refuse to do so.⁵⁷

Various writers have tried to integrate the Orthodox and the Catholic criteria regarding the recognition of the sacraments received outside their respective boundaries [v. gr., Duchatelez, Congar, etc.]; others, instead, have preferred to mark the differences [Örsy].⁵⁸

The Catholic Church, however, where the recognition of sacraments existing outside her visible limits and the mode of receiving Christians baptized or ordained *in sacris* in other confessions is concerned, does not use the criterion of the Orthodox Church. She recognizes the practical consequences of the objective theological realities.

In another area of the ecumenical relationships, the Byzantine Orthodox hierarchs generally agree in denying the possibility of eucharistic *communicatio in sacris* with the non-Orthodox Christians.⁵⁹ Nevertheless it has been permitted in some rare cases: «Eucharistic communion between Orthodox and non-Orthodox – says Archondonis –, which is sought after by some, although the schism still exists, is not possible to be accepted in the Orthodox Church, not even by *Oikonomia*, except in these cases when the lack in some area of a priest of his own Church obligates a Christian to have recourse to the priest of another Church in order to meet his urgent religious needs».⁶⁰

In the Catholic Church a similar practice is in vigor, and maybe it could be somehow qualified as *oikonomia*, since the general rule (*akribeia*) is the impossibility of such *communicatio in sacris* (cfr. CIC Can. 844 §1, CCEO Can. 671 §1). Nevertheless, also in this case such a practice goes back to an objective recognition of the validity of the sacrament in the Orthodox Churches.

As Ivan Žužek says: «The directives on the *communicatio in sacris* or on the admission of Orthodox clerics into the Catholic Church are not provisional directives, dictated by *oikonomia* in a kind of a mitigation of certain unreformable norms, but, on the contrary, they are norms founded on the recognition of the validity of the sacraments in the Orthodox Churches».⁶¹ «It simply deals

57 «Dans les circonstances il faut souligner qu'une telle application vaste et variée de l'économie, de la part de l'Église Orthodoxe, était due à un changement dans l'estimation que faisaient les Orthodoxes des sentiments et actions de l'autre art, de sorte que la non application de l'économie et le retour aux exigences plus strictes de l'acribie furent d'une nécessité vitale pour l'Église Orthodoxe, selon les menaces des différents temps et lieux» (CIP, *L'économie* [nt. 22], 381).

58 ERICKSON, *Sacramental "economy"* (nt. 1), 661; L. ÖRSY, *In search of the Meaning of Oikonomia: Report at a convention*, in *Theological Studies* 43 (1983) 318.

59 Cf. STAN, *Economy* (nt. 53), 215.

60 ARCHONDONIS, *The Problem* (nt. 13), 48.

61 I. ŽUŽEK, *L'économie* (nt. 1), 79.

with taking note of the truth and acting accordingly. In all frankness – žužek continues –, it seems to me that such service to the truth, of which we are convinced, is the supreme *oikonomia*».⁶²

CONCLUSION

We must conclude, therefore, that the Oriental Code did not want to make any explicit reference to *oikonomia*, even if – as we have said – this decision ultimately derives from the conviction of the *PCCICOR* that in Canon Law all the necessary means to live this criterion of government already exist. Perhaps one wanted to avoid the risk of removing the limits to the discretionary power of Pastors.

We need, however, to highlight that, actually, the Latin Code concludes with a sentence containing a rule for action that – I think – reflects true *oikonomia*: the Shepherd always has to act «servata aequitate canonica et prae oculis habita salute animarum, quae in Ecclesia suprema semper lex esse debet» (*CIC* can. 1752).

⁶² Ibid., 78.