

**NATIONAL UNIVERSITY OF PUBLIC SERVICE**

**Doctoral School of Military Sciences**

A presentation of the (PhD) study

**The Structure and Legislation of the Catholic Military  
Ordinariate**

by Dr. Lóránd Ujházi

**Supervisor:**

**Dr. Lajos Négyesi**

**Lieutenant Colonel, Reader**

**Budapest**

**2013**

## **The Definition of an Academic Problem**

The goal of chaplains is to maintain soldiers' spiritual health in wartime and in peace. An integrated and universal legislation of military chaplaincy was established in the 20th century. As the Holy See had provided particular legal concessions in several countries for newly established military vicariates up until the 1950's, it became necessary for the laws to be universally standardized. The first universal legislation concerning chaplains was the order *Sollemne Semper*, issued on April 23, 1951, and followed by four other orders. In the Code of Canon Law of 1983, chaplaincy is referred to in but one canon (Canon 569, henceforth C), so it was only operative until the most recent apostolic constitution *Spirituali Militum Curae* (henceforth SMC) has taken effect.

The regulation of military chaplaincy has undergone a major development due to reasons deeper than technical changes, such as the ideological neutrality of modern state, the democratization of former socialist states, the tendency for re-assessing the importance of religious dialogues between Christian denominations and the continuous growth in modern military effectiveness and in its "destructive forces". Legislation is therefore confronted with a new and complex situation, facing not only technical, but also moral and ethical issues in relation to military chaplaincy which he sought to answer theoretically, but has not succeeded in implementing them in practice without difficulty.

## **Emerging Issues Regarding the Management of the Military Ordinariate**

The Constitution treats military ordinariates and dioceses equally under the law, and for military ordinaries to be endowed with a governmental power consistent with the power of individual dioceses headed by diocesan bishops. It is the personal principle that makes the Military Ordinary responsible for the pastoral care of whom he has been entrusted with, but it will not terminate the ordinary's jurisdiction competent on a territorial basis. This results a so-called "contesting competence" that has generated both theoretical and practical problems in the coordination of military ordinariates and in their pastoral care.

## **Security Issues Concerning Military Chaplaincies**

Every religious and ideological community present in society participates in acknowledging, or, on the contrary, questioning the legitimacy of the governmental power. The institutionalized presence of religious communities in armies is an especially sensitive

issue. In regard to the Catholic Church it is a conventional difficulty that the appointment of a military ordinary is a right reserved for the Roman Pope and the Holy See. Furthermore, the ordinary must keep a close liaison with this supreme management and fulfill his reporting obligations towards them. Although the institutionalized presence of the Catholic Church does not offer any security challenges as the strict legislative and operational framework reads, personal matters or the operational medium may generate issues that might offer one for both parties – for the state and for the church.

### **The Applicability of International Agreements**

The currency of military chaplaincy matters is given by difficulties in the harmonization of international agreements and the own regulations, and that of universal ecclesiastical regulations, respectively. However, the practical implementation of the apostolic constitution of 1986, especially because of certain countries' differing historical conventions, political settlement and military system, is not entirely problem-free. Since the constitution is a rather short document, the own regulation and international bilateral agreements of ordinariates between some countries and the Apostolic See are vital. The presentation and elaboration of the discussed matters, the examination of their practical applicability and deficiencies is of great importance from the angle of the ecclesiastic regulation as well as from the international – may as well domestic – agreements.

### **The Regulation of Military Chaplains' Education and Service**

Military chaplains having a daily liaison with the armed corps members is the greatest currency in the examination of military ordinariate.

The general regulation of military chaplains' education has never been separated from the laws that provided a framework for pastoral education. Although the military ordinary may, with the approval of the Holy See, found his own seminary, it usually fails to materialize. Besides general philosophical, theological and canon law studies military pastors should gain knowledge in other fields as well. This requirement, however, military ordinariates seek to meet in very different ways.

Applying the rules in practice in relation to serving pastors does not go without difficulties either. The presbytery of the ordinariate consists partly of a number of "incardinated" clerics, that is, persons formally and finally received by the ordinariate, and priests provided temporarily for this particular form of pastoral care, coming from other

particular churches and from institutions of consecrated life, respectively. In case of an acceptance to military ordinariate the application of canonic regulation concerning acceptance is tardy. In fact, certain civil laws – citizenship, clean record etc – may restrict temporary as well as permanent acceptance. Today's army reforms also indicate the currency of a revision of the service. The number of some countries' army and thus the need for military ordinariates changes rapidly.

### **Ethical Issues in Relation to the Regulation**

The history of legislation must face not only technical, but also moral and ethical issues in regard to military chaplaincy. Broad-term legal issues have, however, always had a strong influence on itemised regulation.

Today military chaplains have to rethink what attitude they should have towards notions like “brethren”, “enemy”, or “to take human life” as these are categories that cannot be regulated by positive law.

### **Targets of Observation**

#### **1, To establish an institute for military pastoral care – especially a harmonized framework for the Hungarian Military Ordinariate**

An international bilateral agreement was made between The Republic of Hungary and the Apostolic See in 1994, and its “ecclesiastic” regulation was approved in 1999 by the Holy See. Since then, regarding the Hungarian Defence Force, there have been significant legal modifications and structural changes. My goal is to elaborate a harmonized regulation and to make a proposal for revision concerning the agreement in effect.

#### **2, To elaborate an institutional framework for military ordinariates which considers the expectations coming both from the church and from the state. To prove that the framework of the institute for military pastoral care is basically defined by ecclesiastical documents; therefore, the elaboration of a standardized framework is always attached to ecclesiastical laws primarily.**

To elaborate the operation of the systems defined by universal law while considering the unique features of institutes for military pastoral care and paying particular attention to the fact that, though there are always the ideal circumstances assumed by the law, the low number of people prevents the Catholic Church from (fully) meet the demands of erecting such institution.

### **3, To elaborate the alternatives for chaplains' legal status and education**

The education of military pastors is defined by the classic seminary system.

My aim is

- to define the complementary aspects of for general theological and philosophical education and the typical models of military chaplaincy.
- to create a model of the chaplaincy strength where the clerics who have been incardinated, temporarily accepted, or accepted for auxiliary service are present in proportion to the power of the Catholic Church in a given country.
- to propose the implementation of a reserve chaplaincy service and the accentuation of the pastoral character

### **4, To reveal the potential security hazards by examining the operation of military ordinariates**

Evidently, the institutionalized presence of the Catholic Church in the armed corps or in other law enforcement organs does not offer any security challenges, but problems related to personal matters or in the operational medium may arise. The aim is to eliminate and minimize these while taking into consideration the interests of the church as well as of the state.

#### **Method of Research**

Collecting data about foreign and Hungarian military ordinariates, their history, operation, regulation and management.

Making directed reports with the defining characters of military ordinariate.

Systematizing, selecting, classifying information, then summarizing the results (abstraction, synthesis, applying hypotheses).

Drawing consequences regarding the operation, management and development of military ordinariates

#### **A Description of Analyses by Chapters**

My thesis written on the basis of my academic research involves six chapters.

In the **first chapter** I am making a summary of the legislative material about the Catholic military ordinariate. I am going to present the 20th-century legal and structural development of the institutes for military chaplaincy. I am going to prove that the operational framework of military chaplaincy is basically an activity of an ecclesiastic legislator. I am going to present the continuity that can be tracked up until the regulations of today. and I am also going to prove the church's endeavor to take into consideration – as far as the institutions for military chaplaincy are concerned – each country's specific situation and army structure.

In the **second chapter** I am demonstrating the military ordinariate's justification, its naming, legal nature, creation and termination. The pastoral character of the military ordinariate I am going to deduce from the fundamental justification of the institute and from the name used by the Catholic Church. By presenting the areas I am going to prove ecclesiastical authorities' strive for cooperation with civil authorities and with armed forces in terms of legislative and administrative measures. When implementing the institution the aim is to minimize security risk.

In the **third chapter** I am examining military ordinariate from the point of view of management. I am going to prove that the head of the military chaplaincy institute is selected and appointed alike the other diocesan bishops. At the same time, because of the special character of the ordinariate the Apostolic See grants – though in a very differing way – civil authorities of these states a say in the appointment process. Apropos of this I am going to touch on civil authorities' supervisory activities. I am also presenting the liaison of the military ordinariate with the Apostolic See and with the local ecclesiastical organisations. I am going to prove the institution's ecclesiastical character and offer a proposal for the ideal operational framework.

In the **fourth chapter** I am going to present military ordinariate on the basis of the administrative system. It is the offices – the officers as well as the expressions used – through which I am going to prove the ecclesiastical character of the institution. Through a presentation of each international bilateral agreements and regulations I am demonstrating the significance of such documents, as in some countries the administrative systems of the military ordinariate differ from one another and from the legal doctrine.

In the **fifth chapter** I am demonstrating the pastoral features of military ordinariates through the daily liaison pastors keep with soldiers or with members of the armed corps. I am

going to prove the significance of bilateral agreements and regulations through chaplains' legal status in the countries. I am going to touch two large fields: chaplains' education and the priesthood of military ordinariates according to their ecclesiastical and civil legal status. I am going to prove that chaplains' adequate education, knowledge of civil legislation and structures are considerably conducive to diminishing security hazards. Furthermore, as military chaplains are in daily liaison with soldiers and represent a trusted forum their national security controlling, the supervision of their liaison system, and the elimination of blackmailability is of state as well as of ecclesiastical interest.

In the **sixth chapter** I am presenting the range of people whose pastoral care the military ordinariate has been entrusted with. I am examining the particular situation explanatory for the existence of the military ordinariate occurs when and to what extent, and whom else than soldiers it can be extended to. I am going to prove that, in this respect, how significant the differences are among the military ordinariates of some countries. From international examples and from the situation that has emerged in Hungary since the Hungarian-Vatican agreement of 1994 I am going to offer a proposal for a possible extension of the jurisdiction of the military ordinariate.

#### A Summary of Consequences

##### ***In regard to the pastoral, ecclesiastical character:***

The Catholic military ordinariate, a pastoral institute based on a personal principle that has a contesting competence with territorial dioceses was established in 1986 by the emanation of SMC. It is responsible for the soldiers' pastoral care, and whose leader is the ordinary whose rank equals with that of a diocesan bishop, and who usually has the episcopal rank of the holy order. The pastoral features of the institution are proven by the fact that universal laws are emanated by an ecclesiastical legislature, and the general framework that defines the construction, operation, management, institutional structure of the institution and the education of its priests are also explained in ecclesiastical laws. The reason for the establishment of the institution was to provide pastoral care on the basis of the principles of the Second Vatican Council for people with peculiar life circumstances. The appointment of its head, its liaison with the Holy See as well as the education of pastors the assignment of their tasks confirms the ecclesiastical feature. Moreover, there are areas where this

ecclesiastical character and the pastoral mission can be made even more expressive – the matter of rank, organizing separate programs for the families and for participants in missions.

### ***In regard to the significance of a partial regulation***

To the military ordinariate as an ecclesiastical institution the general ecclesiastical laws – the Code of Canon Law, papal documents and documents of the Holy See – apply. Expressly the operation of the military ordinariate is defined in the framework, in SMC. The legislator was clearly aware of the differing political settlement and military construction of each country. Therefore, the bilateral agreement between the given country and the Apostolic See regarding military ordinariates is crucial and may not be disregarded when examining and regulating a pastoral institution. As bilateral agreements and regulations considerably vary in volume as well as in issues discussed, there is no other institution of the Catholic Church so flexible as the military ordinariate which differs so greatly in question like the incardination of clerics, their partial acceptance, the judicial system and management of the institution. At the same time, studying international examples is a good opportunity also for the Hungarian Military Ordinariate to adapt its framework to the changes happening since 1994.

### ***In regard to security hazards***

The Catholic military ordinariate acts within a legal frame that no military chaplaincy institute of other denominations have. This is a guarantee for knowability and for transparency also to the state. In bilateral agreements and regulations issues also significant for the state may be further specified, such as appointing the head of the military ordinariate, the way of controlling the chaplains, handling file cabinets etc. These are elements of guarantee that farther minimize security hazards. Security issues regarding persons are most bound to happen. There might be moral factors among soldiers which are taught differently by the Catholic Church, or illegitimate forms of behavior – hostages, treatment of civilians – that represent a potential threat to security if a third party is also informed about them. In such cases the ordinary is personally responsible for the protection of relevant information.

### **New Scientific Results**

1, In regard to the Hungarian Military Ordinariate, also considering international examples I have made a proposal for the creation of a standardized, harmonized legislation, I have proven the necessity of the revision of the present regulation.



2, Having taken into account the expectations of both the state and the church I have elaborated an institutional framework with the application of which the effectiveness of military ordinariate can be considerably enhanced. Apropos of this I have proven that the operation of military ordinariates is basically defined by ecclesiastical documents.

3, Having examined the experiences of international practice and having analyzed relevant experts' views on the issue I have made several proposals for the pastors' preparation and legal status.

4, Having examined the operational order of military ordinariates I have demonstrated the possible security risks, and I have composed a set of resolutions to minimize or eliminate them.

### **Acknowledgements**

On the basis of the statements in my PhD thesis I am proposing the following:

Certain ethical issues I have mentioned apropos of military ordinariate and military chaplaincy activities. A thorough elaboration of these issues – justifiable war, dual dependence, the freedom of conscience, military order – might be subject of further investigation.

The improvement of the educational system represents a separate area of research. Today the military ordinariates of each country meet the the legislator's request, that is, that military chaplains should also meet special criteria, in different ways. Although some countries have educational institutes for pastors it is not typical. Thus, for the knowledge beyond general theological, philosophical and canonic studies it would be worth to elaborate alternatives at least on a national level.

Another area of research is the creation of a balance in the presbytery where incardinated priests and clerics serving temporarily are in equilibrium. Considering the current strength of the Hungarian Catholic Church the application of the already operating deaconal and auxiliary pastoral service within the frames of the military ordinariate may serve as another area of research. Apropos of today's military reforms the further specification of reserve chaplaincy service integrated in military pastoral care is an area also suitable for research.

The examination of judicial legal service from the soldiers' point of view is of great significance. These cases – as we could see it – carry typical features. Their analysis is considerably conducive to the promotion of the pastoral care and, therefore, the judicial legal service of the armed forces.

An important area of research might be the creation of the framework for armed corps other than the army. This is, unfortunately, justified by the tragical happenings also known by the public opinion. Although the model presented by me cannot be applied in the cases of other armed corps, it might be a good starting point in the establishment of an own pastoral institution.

I offer the material of my thesis for

the professionals of the Ministry of Defence and of the National Defence of Hungary who are responsible for the management and improvement of the military chaplaincy

the University of National Civil Service, Faculty of Military Sciences and Officer Training; Pázmány Péter Catholic University Institute of Postgradual Canonic Education; Faculties of Catholic Theology as additional training material.

the Hungarian Military Ordinariate, The Hungarian Catholic Episcopal Conference and Apostolic Nuntiature as resource material for a possible re-regulation of the corrent system

## **Biography**

### My publications relevant for the research

Ujházi Lóránd

A szerzetesek szerepének megítélése a katonai lelkipásztorkodás – katonai ordinariátus – területén, a szerzetesi eszme és a hatályos egyházfegyelem fényében

*HONVÉDSÉGI SZEMLE* 141:(2) pp. 34-37. (2013)

Journal/Technical/Scientific

Ujházi Lóránd

A katonai ordinariátus "alárendeltjei" és lelkipásztori gondozására bízott személyek

*SEREG SZEMLE: A MAGYAR HONVÉDSÉG ÖSSZHADERŐNEMI PARANCSNOKSÁG*

*FOLYÓIRATA* 9:(1) pp. 77-94. (2013)

Journal/Technical/Scientific

Ujházi Lóránd

Developments and modifications in the legislation of catholic military chaplaincy

*ACADEMIC AND APPLIED RESEARCH IN MILITARY SCIENCE* 11:(2) pp. 295-313. (2012)

Journal/Technical/Scientific

Ujházi Lóránd

Az egyházi titkos levéltárak nemzetbiztonsági kérdései

*PÉCSI HATÁRŐR TUDOMÁNYOS KÖZLEMÉNYEK* 13: pp. 147-154. (2012)  
Journal/Technical/Scientific

Ujházi Lóránd

A katonai ordinariátus hatályos egyházjogi szabályozása

In: Orosz András Lóránt, Ujházi Lóránd (szerk.)

Egyházi intézmények jogi szabályozása

Budapest: L'Harmattan - Sapientia Szerzetesi Hittudományi Főiskola, 2012. pp. 73-93.

(Sapientia Iuris; 4.)

(ISBN:978 963 236 529 9)

Book/Technical/Scientific

Ujházi Lóránd

Vatikáni Információgyűjtés, információfeldolgozás és tárolás püspökkinevezés esetén

*SZAKMAI SZEMLE (KATONAI BIZTONSÁGI HIVATAL)* 7:(3) pp. 122-146. (2011)

Journal/Technical/Scientific

Ujházi Lóránd

A katolikus tábori lelkeszségek jogi szabályozása

*JOGELMÉLETI SZEMLE* 11:(1) Paper 12. (2011)

Journal/Technical/Scientific

