

Julian Mihai L. Constantinescu

CANONICAL INSTITUTION OF AUTOCEPHALY AND DIASPORA

THE RECENT CONFLICT BETWEEN THE JERUSALEM
PATRIARCHATE AND THE ROMANIAN CHURCH

Abstract: In this study, we will evaluate the canonical doctrine of the Orthodox Church from an ecclesiological-canonical and historical perspective regarding autocephaly. We will examine the constitution of local autocephalous Churches on canonical bases, the issue of proclaiming autocephaly, and the jurisdiction of autocephalous Churches over their ecclesiastical units in the diaspora. Additionally, we will emphasize the contribution of Romanian theologians and canonists to the inter-Orthodox dialogue on current canonical issues. This study builds upon my previous work, “The Principle of Ecclesiastical Autocephaly and the Problems of Inter-Orthodox Jurisdiction: An Actual Ecclesiological and Canonical Contribution” (2008), to discuss the issue of autocephaly, canonical territory, and the rights of autocephalous patriarchies and their jurisdiction over their own diaspora. These are issues of great relevance today with significant canonical implications for inter-Orthodox relations. This very issue, along with other local problems of a different nature, was at the root of the ecclesiastical conflict between the historical Greek Patriarchate of Jerusalem and the Romanian Patriarchate, a conflict that led to the breaking of communion with the Romanian patriarch and the defrocking of the Romanian Patriarchate’s representative in Jerusalem.

Keywords: *Autocephaly, Autonomy, Ethnic Theology, Jurisdiction, Inter-Orthodox Relations, Diaspora, Jerusalem Patriarchate, Romanian Church, Ecclesiastical Nationalism, Ethnophyletism*

1. The Patriarchate of Jerusalem – its current jurisdiction and legitimacy. The issue of the blessing for erecting altars

We are all surprised by the current conflict at the Holy Places of Christianity, a conflict with canonical implications in the inter-Orthodox level that was unduly initiated by the historical Patriarchate of Jerusalem, more

specifically by the current Greek hierarchy who makes up the Holy Patriarchal Synod. After a profound analysis, it is not difficult for us to understand the real stake of this conflict (the extreme vanity of the Jerusalem Greeks, encouraged by theologians from Constantinople, concerning the issue of autocephaly and Diaspora; economic interests, too), that could have been avoided following the path of brotherly dialogue, of the inter-Orthodox meetings, of the mutual correspondence and visits, all of these being well established inter-Orthodox means for keeping the canonical unity in Orthodoxy. Ignoring the canonical principles for the organization and functioning of the Church (can. 34 Apostolic), the historical tradition of Orthodoxy, but also the application of the principle of reciprocity, in the current context of the Orthodox Church, inevitable in the current situation concerning the exercise of the jurisdictional authority in the Diaspora of each autocephalous Church, the Holy Synod of the Patriarchate of Jerusalem made an unilateral decision, deciding to break the communion with the Romanian Patriarch and to defrock the representative of the Romanian Patriarchate to the Holy Places, Archimandrite Ieronim Crețu (elected bishop). The reason invoked by the Jerusalem Greeks is the erection of a center for Romanian pilgrims, by the Romanian Patriarchate, in Jericho, without ecclesiastical approval (written blessing of the Patriarch of Jerusalem). They considered that the active involvement of the representative of the Romanian Church in the erection of this center, which also includes a church, is without any canonical grounds, even non-canonical, being a lack of obedience to the local bishop. The erection of the altar without the aforementioned blessing was considered a fact that generated a schism with the Primate. The entire problematic starts from the understanding of autocephaly, Diaspora, canonical territory, the rights of autocephalous Churches over their own Diaspora and the exercise of the ecclesiastical authority, in particular of the judiciary work (the canonical giving of decisions and penalties), as a part of the pastoral or jurisdictional activity of the Church. *We will deal in the following lines with some general aspects concerning the context of this conflict, a canonical evaluation and the promotions of several suggestions*

The Patriarchate of Jerusalem is an autocephalous patriarchy, historical, that received, through the canon 36 of the Council in Trullo the fifth place in the Pentarchy of the patriarchs and the fourth place in the current

patriarchal Tetrarchy. Its canonical territory¹ was established through canonical decisions of the Ecumenical Synods (can. 7 I Ec.; 3 II Ec.; 28 IV Ec.; 36 VI Ec.). Therefore, the jurisdiction of the Patriarchate of Jerusalem is beyond any doubt in the Holy Land, being confirmed by the common canonical work of the Ecumenical Synods. The election and the enthronement of the patriarch is recognized and greeted by the sister Churches, also. It is an autocephalous Church that exerts the full educational, consecrating and governing authority in its jurisdictional territory².

The Patriarch is elected by the Holy Synod, which is made up, mainly, of the Brothers of the Holy Sepulcher of the Lord, a congregation of Greek brothers who takes care of the entire ecclesiastical administration and who influences, in a great proportion, the election of the Greek patriarch, although the ecclesial body of the Patriarchate is made up, mainly, of Orthodox Arabs, which are in a permanent conflict with the Greek hierarchy. This congregation of monks, led by the Patriarch, as a pressure group, it is not representative, being an innovation in Canon Law. This congregation, more correctly called a pseudo-monastic order, took over, in an abusive manner, the administration of the Church of the Resurrection, the Patriarchate and the entire Palestine. Therefore, the caste of these “zealous of the Holy Resurrection of Christ”, organized in the Brotherhood of the Holy Sepulcher, dedicated itself to the organization of pilgrimages, with the support of the Patriarch. This is natural, because he has been leading them since 451, since the Fourth Ecumenical Synod. The Patriarchs felt obliged to the congregation from the Holy Sepulcher, and they took very seriously their obligations as abbots. The Brotherhood of the Holy Sepulchre assumed the leading role in the ecclesiastical life of Palestine, and this congregation became a kind of monastic staff, headed by the Patriarch.

It is completely illegitimate for a Greek minority leadership to govern a historical Patriarchate mainly consisting of Arab Orthodox faithful, because there is a strong link between primacy (primate) and ethnicity. Thus, this script proclaimed autocephalies, not respected by the historical Patriarchates, must be defended and continued. In our case, we deal with the lack of respect concerning the autocephaly of the Romanian Orthodox Church by the Patriarchate of Jerusalem, through the hurried unilateral de-

¹ G. Nedungatt, „Autonomy, Autocephaly, and the Problem of Jurisdiction Today”, *Kanon* 5 (1981), 19-20.

² Fr. Liviu Stan, „The origin of autocephaly and autonomy. New Theses” (Obârșia autocefaliei și autonomiei. Teze noi – in Romanian), *Mitropolia Olteniei XIII/ 1-4* (1961), 81.

cision and through the defrocking of a cleric belonging to our Church. This way, the ecclesiastical authority of our Church was trespassed, as well as the jurisdiction right over the Diaspora and its own right of exerting the ecclesiastical authority in the territorial-administrative units of our Church. We ask a natural question: If the Romanian Patriarchate exists within and for the people who compose it, could there be a Patriarchate without country, like in the case of Jerusalem? Unfortunately, there is a tendency of seizing other ethnicities, from the part of the Greek Patriarchates, despite the apostolic principles, a fact that represents a true disaster for the Eastern Christianity.

The Greek Patriarchate of Jerusalem, although being the poorest among all the historical patriarchates, it is the most venerable, given its status of guardian of the Holy Sepulcher, and benefits from both ecclesiastical and political help. Following the loss of properties, its main income sources are the donations and the pilgrimages. The Patriarch of Jerusalem himself does not have a well-organized eparchy, the great canonist Liviu Stan actually calling him abbot (stareț) of the Holy Places, with jurisdiction over the pilgrimages. We should not forget that the Patriarchate of Jerusalem was economically supported, throughout the time, by Romanian and Russian faithful. Russia, as a great world power, also offered political and diplomatic support, receiving immediate gratitude. As an expression of this gratitude, the Russian Church was allowed to exert its jurisdiction over a number of churches in the Holy Land. But the hierarchs of the Patriarchate of Jerusalem should also be grateful to the Romanian faithful who go to the Holy Places and for the donations made by the Romanian people.

The explanation for this measure taken by the Greeks is simple. The Patriarchate of Jerusalem wants to have a monopoly over the pilgrimages in the Holy Land, because of economic reasons, the only ones that could be of interest for the Jerusalem Greeks.

But being a canonical territory of the Patriarchate of Jerusalem, no altar may be erected on it without the written blessing of the Primate; otherwise, we would deal with an ecclesiastical interference. The spiritual rights of the bishop, who has unconditioned jurisdiction over all the churches, monasteries and other establishments with ecclesiastical purpose on his canonical territory (the boundaries of his eparchy), should be beyond any doubt. Emperor Justinian regulated, through novella 67, in agreement with

the holy canons (can. 31, 34 ap.; 5, 6 Gangra; 4 IV Ec.)³ the compulsoriness for the person who wants to build a church to obtain the blessing of the local bishop. But in the case of the church in Jericho we could discuss about the blessing of the late Diodorus, Patriarch of Jerusalem, but without the written blessing. This could be obtained only through the path of brotherly dialogue, taking into the account the principle of reciprocity, the canon 34 apostolic, concerning the ethnic principle and the current context of the canonical institution of autocephaly and jurisdiction over Diaspora. The Office of the Romanian Patriarchate to the Holy Places (Jerusalem, Jordan, Jericho) is a part of the Romanian Orthodox Church, in its jurisdiction (cf. art. 6, Statute) and the representative of the Romanian Patriarchate obeys the Primate of the Romanian Orthodox Church, as an autocephalous patriarch and it is not within the jurisdiction of the Patriarchate of Jerusalem. The means through which the canonical obedience to a hierarch is expressed are the laying on of hands (cheirotony), his mentioning and the right to be judged by him (this is not our case).

Consequently, the Romanian Orthodox Church recognized the autocephaly of Jerusalem and the rights of the Patriarch and of his Synod, by addressing the request for blessing, but the Patriarch's death delayed the effort of the Romanian Patriarchate. The center from Jericho, within the jurisdiction of our Church (cf. art. 6 Statute, adopted by the Holy Synod of our Church) is the property of the Romanian Orthodox Church and cannot be transmitted to the Patriarchate of Jerusalem. The position of the Holy Synod of the Patriarchate of Jerusalem is regrettable and non-canonical, being a blow to the ecclesiastical dignity of the autocephalous Romanian Patriarchate, ignoring the frequent occasions of reciprocity (e.g. the Romanian parish in Sofia; the parish in Constantinople).

The decision of breaking the communion with the Romanian patriarch is questionable, because this kind of measure is taken only for heresy (45 ap.) and cannot be accepted at the inter-Orthodox level.

Consequently, the path of brotherly dialogue is the only way of solving this problem, which can be solved, in principle, only at the inter-Orthodox level.

2. The exercise of the judiciary power. The penalty of defrocking

³ Fr. Jivko Panev, „Quelques remarques sur l'autocéphalie”, *Contacts* 170 (1995), 125-133.

Through the administering of the Holy Sacrament of Priesthood by the competent bishop, he who is worthy and receives with responsibility the grace of the divine instituted priesthood, specific to each step of priesthood, becomes a member of the clergy, of the respective Church, acquiring canonical and civil rights. But, in the same time, he assumes obligations well defined by the Church Canon Law, and imposed by the spiritual service and the respective hierarchical rank that enjoys the authority specific to the grace state, along with the personal authority given by the personality and the qualities of each cleric. One of these obligations of the clerics is the canonical obedience (ὕπακοή κανωνική, *obedientia canonica*). Based on the hierarchical principle⁴, as an effect and a corollary of its applications, although the canonical obedience could be a canonical principle, the inferior ecclesiastical levels obey the superior levels of priesthood, within the autocephalous Church, the laymen obey the hierarchy and this one the superior Synodal organs. The canonical obedience has a biblical ground, because “Whoever listens to you listens to Me” (Luke 10:16), but canonical ground, also (can. 55 ap.; 8, 23 IV Ec.; 57 Laodicaea; 31 Cartagena), being expressed in the ecclesiastical legislations of the autocephalous Churches. Therefore, through the cheirotony each candidate assumes the obligation of canonical obedience, because between the members of the clergy⁵ there are canonical relations conditioned by the precedence of the clerics on higher hierarchical levels over the one on lower levels. Particularly, the Holy Canons refer to the obedience to the bishop, as a spiritual father of the priests. Those who trespass this regulation are punished with the deposition. The authority and the dignity of the bishop must be respected and not denigrated. Actually, all those on the higher levels of the clergy must not be denigrated by the lower level clerics or by laymen, while the State authority must not be denigrated by the clergy or by the faithful. The representative of the Romanian Patriarchate to the Holy Places obeyed the Romanian patriarch within whose jurisdiction he is. The exercise of the ecclesiastical authority (the three branches: educational, consecrating and governing), which is to be done only through the valid administration of priesthood and in strong dependence to the competent bishop, is achieved only within the boundaries of the jurisdictional competence. Thus, a bishop or the

⁴ J. L. Boojamara, „Problems concerning autocephaly: a response”, *The Greek Orthodox Theological Review*, t. XXIV (1979), no. 2-3, 195.

⁵ Dumitru I. Găină, “The Holy Apostles and the Bishops” (Sfinții Apostoli și Episcopii – in Romanian), *Studii Teologice*, XIV/ 9-10 (1962), 582-597.

Synod of a Church cannot exert this authority within another autocephalous Church, because this work would be null, non-canonical and unrecognized. To obey the competent bishop (based on the right of jurisdiction over the Diaspora, can. 34 ap.), without canonical obedience to the local bishop, who is an alien to the Church in which you are a full member, with all the rights and obligations, and to be non-canonically accused of schism (can. 31 ap.; 5 Antioch; 10 Carthage) could be called an abuse from the part of some conceited hierarchs, without any canonical ground – an interference in the affairs of our Church.

The penalty of defrocking for schism is canonical, but it becomes non-canonical for two reasons: 1. in this particular case we cannot discuss about schism, because the schism, the split (the Romanian word *dezbinare* comes from the Latin *disglut(i)nare* and it refers to the state create through misunderstanding, conflict, discord, schism – in Latin *schisma*, -atis, schismaticus, a, um; *dissidium*-ii; *discissio*; in Greek *σχίζω* – to separate) occurs within the same Church, when the cleric separates himself from his bishop (11 Carthage; 6 Gangra), through a lack of obedience to the competent ecclesiastical, disciplinary and administrative authority; 2. a canonical penalty cannot be pronounced in the case of a member of another autocephalous Church and without an investigation, according to the canonical procedure. As a matter of principle, a bishop may defrock only clerics from his eparchy, who have the right to appeal to the metropolitan or to the metropolitan synod (can. 5 I Ec.; 6 Antioch; 14 Sardica). The defrocking can be approved by the patriarch, as a final decision, if it is a canonically pronounced and administered penalty. This kind of penalty is without any value for the mother Church of the cleric, and for the other Orthodox Churches, too.

About defrocking we could say that is the penalty imposed by the ecclesiastical authority to the clerics who are part of the divinely instituted hierarchy (bishop, priest and deacon), if they are found guilty of serious violations of the ecclesiastical regulations established by the religious-ethical, canonical, disciplinary and social rules, which regulate the model behavior of the Church members. Through the defrocking, the cleric is totally forbidden to exert the ecclesiastical authority any more, in its three branches (educational, consecrating and governing), being transferred into the category of laymen and losing the clerical name and dignity.

According to the canonical doctrine of our Church, the ecclesiastical judiciary organs, individual and collegial or Synodal, which are competent

to pronounce the penalty of defrocking, are the local bishop (can. 5 I Ec.; 6 Antioch; 14 Serdica) and the metropolitan (can. 14, 15 Antioch; 12, 20, 100 Carthage).

In conclusion: From our presentation we can observe the lack of jurisdictional competence of the Holy Synod of the Patriarchate of Jerusalem and of the patriarch to pronounce such a canonical penalty, not recognized by our Church. Because it is not possible to talk about a patriarchal stavropegial institution, allowed only within the territorial boundaries of the respective patriarch, the path of dialogue is the only solution to this ecclesiastical crisis. The path of ecclesiastical diplomacy is able to lead to the canonical recognition of Jericho, the same way that the Russians managed to obtain a number of churches and monasteries.

The issue of the Holy Places must be approached at the inter-Orthodox level... "As the international situation of Jerusalem is not entirely solved even nowadays, the issue of the Holy Places, linked to the first problem, was not solved, too. These two problems continue to concern both the religious organizations and the political interested ones"...

3. The institution of autocephaly. A historical-canonical view

In the latest decades, in the bosom of ecumenical Orthodoxy were carried numerous discussions on the institution of autocephaly, as form of organization of the orthodox ecclesiastical territorial units⁶, as well as the procedure of their constitution and this despite the canonical regulations and the traditional practice of the Church. Although there were – and still are – numerous dissension regarding the institution of autocephaly and the ecclesiastical jurisdictions, all canonists accept that the interpretation of the canons that concern the principle of autocephaly and the other princi-

⁶ Iulian Mihai L. Constantinescu, *op. cit.*, 220-243; Nowadays, in the Roman-Catholic Church there are no ecclesiastical territorial units organized as autocephalies, the principle of autocephaly being used in the Western Church until the Schism from 1054. We may say that forms of autocephaly exist nowadays too in the Roman-Catholic Church, but without being referred as autocephalies. A restraint autonomy is attributed to the different settlements or associations, irrespective of their rite, Latin or Byzantine. The existent situation in Catholicism does not justify the critic position towards the autocephaly principle in the Orthodox Church. See here Fr. X. Wernz, *Ius Decretalium*, 1st vol., 2nd edition, Rome, 1905, 110-112; P. Bastien, "Autonomie", in: *Dictionnaire de Droit Canonique*, 1st vol., Paris, 1935, col. 1482-1490.

ples in tight connection it can be realized only in the light of the historical data, data which must also be related to the orthodox canonical doctrine⁷.

As the Romanian orthodox canonist Fr. Liviu Stan⁸ noted, the new theses⁹ issued at the half of the 20th century, besides their provocative character in Orthodoxy, ignored the dogmatic and canonical principles of the Orthodox Church, through these contesting the very canonicity of the proclamation acts of autocephaly by the ancient patriarchates. These theses, unfortunately embraced nowadays too in the Greek orthodox world, were supporting the exclusive competence of authority of the ecumenical synod to proclaim the autocephaly of the ecclesiastical territorial units, all the post-Synodal (i.e. after 787) autocephalies having a simple provisional character, these autocephalies being canonical incomplete, with the exception of the historical Patriarchates. Supporting the idea of canonical incompleteness of the post-Synodal autocephalies and the necessity of presenting them for examination to a future Ecumenical Synod, it is questioned not only the concept of canonicity but also the canonicity in the inter-orthodox relations, after the era of ecumenical synods. These non-canonical theses, out of the orthodox ecclesiology and out of the entire canonical doctrine of our Church, had an echo in Orthodoxy and still have, questioning the ecumenical unity of the Orthodox Church, the “one, holy, catholic and apostolic”. These positions of Prof. Trembelas were launched before the debut of the inter-orthodox Commissions and Pan-orthodox and Pre-Synodal Conferences for the preparation of the Holy and Great Synod of the Orthodox Church, exactly to open the way of a heated dialogue on the problem of autocephaly, truly a problem with canonical implications in the inter-orthodox relations, still unsolved despite the fundamental decisions taken in the inter-orthodox meetings from the Orthodox Center of the Ecumenical Patriarchate from Chambésy /Genève (Switzerland).

Other theologians, ignoring the orthodox canonical regulations, non-accepting the existence of particular Churches, support the idea of remaking the unity of Orthodoxy through the recognition by the local Churches of the complete jurisdictional rights of a “supreme seat”, i.e. the

⁷ J. H. Erickson, „The Orthodox Canonical Tradition”, *St. Vladimir's Theological Quarterly* 3 (1983), 167.

⁸ Fr. Liviu Stan, *op. cit.*, 81.

⁹ The Greek theologian Prof. Panaghiotis Trembelas presented these theses in an article from the *Θεολογία* journal (1957).

Ecumenical Patriarchy of Constantinople¹⁰. All these non-canonical theses legitimately claim the clarification of inter-orthodox jurisdictional relations, the precise distinction between autocephaly and autonomy, as well as the procedure of recognition and proclamation of the autocephaly of local Churches, independently constituted from the administrative-jurisdictional point of view, on a Synodal-hierarchical basis.

In the last years, the orthodox theological writing tackled the problem of the autocephalies that marked the history of the Orthodox Church in the 19th and 20th century, giving birth to numerous discussions at an inter-orthodox level. The notion of “autocephaly” was understood in different ways¹¹, either as an independence of the local Churches in the bosom of ecumenical Orthodoxy, independence by which it is given a complete expression of the non-altered unity of the Church¹², or as a quasi-political term by which the emancipated Churches have in their lead an administrative and spiritual authority, and the frontiers of Churches are the same as the ones of states. Thus, canonist T. Pharmakides maintained in 1820 that the Church is not free but in its internal work regarding the dogmas and the cult, while the administration of a “national” Church and its relations with other Churches are of the exclusive competence of the civil power¹³.

“Autocephaly”¹⁴ represents a reality in the life and organization of the Church, being present from the very beginning of the ecclesiastical setup, acquiring new shapes in time, together with the settlement of the territorial structure and with the working of the Church on a Synodal-hierarchical basis. Although present in the life of the Church – the rights of the autocephalous local Churches being mentioned in the text of numerous canons of the

¹⁰ Archdeacon Ioan N. Floca, *Orthodox Canon Law. Ecclesiastical legislation and administration* (Drept canonic ortodox. Legislație și administrație bisericească – in Romanian) 2nd vol., Eeimbob, Bucharest, 1990, 320.

¹¹ Fr. Jivko Panev, *op. cit.*, 125-133.

¹² Cf. S. Troitsky, „Autocéphalie ecclésiastique”, *Messenger de l'exarchat du patriarcat russe en Europe occidentale* 11 (1952).

¹³ Apud Spyridon Galanis, „Comment fut déclarée l'autocéphalie de l'Église grecque”, *Contacts* 133, 37-47 and no. 134, 128-148.

¹⁴ The term of autocephaly appears for the first time in a list of hierarchical ecclesiastical units that were under the jurisdiction of the Constantinopolitan seat, list named “Notitia Episcopatum” and attributed, most probably, to Saint Epiphanius of Cyprus (311-403), although some scholars maintain its provenance from the 7th century. Thus, the word autocephaly continues to appear in the lists of the seats from the canonical territory of the historical patriarchates, although they were modified in time.

Ecumenical and local Synods – the term of autocephaly does not appear in any canon. Truly, one canon, previous to the era of Ecumenical and local Synods canons, included the two words which the term of autocephaly was born from (αὐτός and κεφαλή), that is the 34th Apostolic canon. In consequence, the term αὐτοκέφαλος (αὐτοκέφαλον – used in biology) acquires a new meaning, unknown by the profane speaking, which the social sciences used the term αυτονομία for, understood as the personal independence, the social independence or the sovereignty under juridical aspect. Thus, in the most authentic meaning, the autocephaly does not concern “the obedience of one bishop to another, or of a province to a bishop, but it is applied to a group of churches in a province which is capable to guarantee its own integrity and existence”¹⁵, the independence of local churches that lived in unity, without any primacy, being showed by the New Testament.

In consequence, we specify here that the right of each Church to independence or autocephaly was consecrated by ecclesiastical practice transformed in time into a juridical regulation, then in a custom with law power that was mentioned in the text of the different canons. This right to autocephaly of the local Churches “consists in the freedom ensured by law, on count of every ecclesiastical unit that can exist through itself, to organize and govern itself into an independent manner to other ecclesiastical units found in the same situation, that is in equal situation in respect of rights even though in respect of territorial extension of the title or of the honorific hierarchy that one would found itself on a superior rank”¹⁶.

Despite these, as far back as from the apostolic age until the 2nd – 3rd centuries, the local Churches were ruled in an autocephalous manner by the bishops¹⁷, subsequently the leadership of ecclesiastical units passing to

¹⁵ J. L. Boojamara, „Problems concerning autocephaly: a response”, 195.

¹⁶ Pr. L. Stan, “The support of the independency combat of the Romanian people through the combat of the Church for autocephaly” (Sprijinirea luptei de independență a poporului român prin lupta Bisericii pentru autocefalie – in Romanian), *Orthodoxia* XX/ 4 (1968), 611.

¹⁷ See details at L. Stan, “About autocephaly” (Despre autocefalie – in Romanian), *Orthodoxia* 3 (1956), 374-375; I. Moisescu, *The ecclesiastical hierarchy in the apostolic era* (Ierarhia bisericească în epoca apostolică –in Romanian), Bucharest, 1955, 52-56; Fr. Nicolae V. Dura, “Forms and status of manifestation of the autcephaly of the Romanian Orthodox Church through the centuries. Historical and canonical testimonies” (Forme și stări de manifestare a autocefaliei Bisericii Ortodoxe Române de-a lungul secolelor. Mărturii istorice și canonice), *Centenarul autocefaliei Bisericii Ortodoxe Române 1885-1985*, Eibm-bor, Bucharest, 1987, 280-287; Bishop P. L. L’Huillier, „Problems concerning autocephaly”

the local, provincial synods (34th, 37th apost. can.), by introducing the metropolitan system (4th century) the metropolitan synods being constituted by the bishops in the province, headed by the metropolitan (4th, 5th, 6th, 7th cans. I ec.)¹⁸. Thus, although the term of autocephaly does not appear in canons, not being used in the first centuries, the autocephaly manifested itself through time in different manners¹⁹.

The Holy Apostles, being conscious of their unique and unrepeatable authority received from Savior Jesus Christ, enjoying universal jurisdiction by virtue of the extraordinary apostolic grace, preached the Gospel of our Savior Jesus Christ as far as the ends of the world (Mt 28:19), outreaching the boundaries of a single community, founding numerous local Churches which they endowed with an autocephalous government through the ordination of bishop in their lead. These local communities, headed by bishops, administrated themselves independently one from another, although all the bishops governed the whole Church in communion, without enjoying universal jurisdiction, but only a local one, hence limited to the boundaries of their diocese²⁰. The bishop, being ordained for the local community, becomes a testimony of the faith of his local community, being integrated in the Episcopal college and therefore he becomes the testimony of the entire apostolic teaching and tradition²¹, as the theologian W. Beinert affirms. The ordination of the bishop does not mean dependency or subordination of the one who ordains, but placing the Episcopal seat at disposal towards the service of the local Church which the bishop was ordained for²².

ly”, in: *The Greek Orthodox Theological Review*, vol. XXIV/2-3 (1979), 167; J. Gaudemet, „L’Eglise dans l’Empire romain au IV-ème siècle”, in: *Histoire du Droit et des Institutions de l’Eglise en Occident*, t. III, Paris, 1958, 474.

¹⁸ Cf. Gheorghe I. Soare, *The Metropolitanate in the Orthodox Canon Law* (Mitropolia în Dreptul Canonic Ortodox – in Romanian), Bucharest, 1939, 17.

¹⁹ Fr. Liviu Stan, *op. cit.*, 85.

²⁰ Dumitru I. Găină, *op. cit.*, 582-597.

²¹ W. Beinert, „The Church of Christ as a local Church in the first five centuries”, *Wort und Wahrheit* 3 (1976), 11.

²² *Ibidem*; In the head of Episcopal synods from the 2nd and the 3rd centuries there was a primate, called “protos”, which expresses in a symbolic manner the autocephaly of the local Church in whose head he was. (34th apost. can.). Thus, these ecclesiastical units led by synods in whose head there was a “protos”, recognized as the head, become, as the great Romanian orthodox canonist Prof. Liviu Stan shows, standard autocephalous units. To this autocephalous ecclesiastical setup it is given an expression, it is canonically settled, in the text of the 34th apostolic canon, which includes the principle of autocephaly, too, being, in the 5th century, interpreted through the 8th canon of the 3rd ecumenical Synod

The next step of the ecclesiastical setup meant the apparition, in the 4th century, of the autocephalous metropolises (4th, 5th, 6th, 7th cans. I ec.; II ec.), after that of the exarchates (4th century) and patriarchates (4th – 5th century) as autocephalous units (6th, 7th cans. I ec.; 2nd, 3rd cans. II ec.; 9th, 17th, 28th cans. IV ec.), the last ones including several exarchates. This kind of evolution of the setup and administrative working of the ecclesiastical territorial units was marked by changes regarding the canonical statute of these local communities. The bishoprics, which were initially autocephalous, kept only the autonomy of one of another, together forming the autocephalous metropolises, which later were going to become autonomous, too, in the bosom of exarchates and the in the patriarchates (9th, 12th, 17th, 28th cans. IV ec.; 8th, 35th cans. VI ec.; 3rd, 6th cans. VII ec.). However, like some exarchates or diocese, some metropolises kept their autocephaly, too, either as metropolises or as archbishoprics²³; we could mention here the metropole of Tomis²⁴ or the Archbishopric of Cyprus, which has remained autocephalous until nowadays (8th can. III ec.; 39th can. VI ec.). Other ecclesiastical semi-autocephalous units, called autocephalous archbishoprics, became more and more numerous since 4th-5th centuries.

Therefore, the 34th apostolic canon (the beginning of the 4th century) includes the canonical principles of organization and working of the Church, two of them being the ethnic principle and the autocephaly. Through the application of these principles it was possible to keep the orthodox canonical unity, this ecclesiastical unity receiving its expression even since the

(Ephesus, 431) and rediscovered in the canonical resolutions of the 4th ecumenical Synod (Chalcedon, 451).

²³ *Ibidem*, 88.

²⁴ The Tomis seat was also „prima sedis episcopalis” from our country, until the 14th century his hierarch being the Head of the Church of all Romanians. It is recalled by Sozomen in the 4th century, showing that the hierarch of Tomis defended its independence of the other seats, having all the rights of a metropolitan, without having though suffrage bishops. Fr. Nicolae V. Dură affirms: “The Church from Scythia Minor, organized as a metropole from the First Ecumenical Synod era (cf. 4th, 5th, 6th and 7th canons) it was *ab antiquo* autocephalous... That is why it is improper and erroneous to affirm that the Church from Scythia Minor would have been under the jurisdiction of the Patriarchy of Constantinople, as some Romanian and foreign historians and theologians still affirm”, see Nicolae V. Dura, *Scythia Minor (Dobruđja) and its apostolic Church. The archiepiscopal and metropolitan seat of Tomis (4th-14th century)* („Scythia Minor” (Dobrogea) și Biserica ei apostolică. Scaunul arhiepiscopal și mitropolitan al Tomisului (sec. IV-XIV) – în Românian), EDP, Bucharest, 2006, 14.

apostolic era²⁵. Thus, the autocephaly of local Churches, formed in the ethnic framework, is mentioned by the 34th apostolic canon, as we affirmed, its dispositions being taken over by other canons too, these ones showing the criteria for the establishment of the identity of a Church: place, nationality, ethnicity and rite²⁶.

The constitution of local autocephalous Churches in the ethnic framework is based on some grounds that can be natural, historical, doctrinal, dogmatic and canonical, as it is specified in Ioan N. Floca's work, *Orthodox Canon Law. Ecclesiastical legislation and administration*²⁷ (Drept canonic ortodox. Legislație și administrație bisericească – in Romanian). The Romanian canonist appreciates that the natural grounds consist in the necessity to model the ecclesiastical units according to the same natural laws that are used by all human communities, for their leading and organization. We find the historical ground for the constitution of the autocephalies in the ecclesiastical history and tradition, the whole ecclesiastical regulation being settled as customary law and then found in the text of the canons, precisely on the long practice basis. The dogmatic grounds have their source in the harmony between the organizational regulations of the ecclesiastical units and the truths of faith, mentioning here the two canonical principles with dogmatic and juridical background, the Synodal principle and the hierarchical one. The canonical grounds are included in the canons that mention the constitution of autocephalous Churches in the apostolic era (34th, 35th, 37th apost. can.), in the era of the ecumenical synods (7th can. I ec.; 2nd, 8th can. III ec.; 9th, 12th, 17th, 28th can. IV ec.; 8th, 36th, 38th can VI ec.) and of the local synods (9th, 14th can. Ant; 3rd, 6th Sard.; 13th, 18th Cart.), all these canons giving expression to the autocephaly principle, developing and settling it in the legality plan. Besides these grounds there can be added some political grounds, i.e. the presence of national or multinational states, constituted by administrative units, to all these adding the political interest of different states to strengthen the organization of their

²⁵ Nicolae V. Dură, "The Church of Alexandria and its hierarchs canonical-pastoral activity until the synod from Chalcedon (451) (Biserica Alexandriei și activitatea canonic-pastorală a ierarhilor ei până la sinodul de la Calcedon (451) – in Romanian), *Studii Teologice* XXXIII/ 1-2 (1981), 5-25.

²⁶ Idem, "Forms and status of manifestation of the autocephaly of the Romanian Orthodox Church through the centuries. Historical and canonical testimonies", p. 284; G. Nedungatt, „Autonomy, Autocephaly, and the Problem of Jurisdiction Today”, 19-20.

²⁷ See 2nd vol., Eibmbor, Bucharest, 1990, 321.

own national Church through autocephaly and the interest to tear it out of the foreign jurisdiction²⁸.

To obtain the autocephaly, the autocephalous Churches can interfere, having in the same time the right not to recognize some autocephalies, more than that they can interfere to withdraw the autocephaly, if there are not fulfilled all the conditions. The proclamation of autocephaly by the mother-Church means, in fact, the execution of this act in the name of the Ecumenical Church, by exercising the authority that the whole Church possesses solidarity²⁹. The consequence of proclaiming the autocephaly is the obtaining of rights by the Church recognized as autocephalous³⁰.

But, concerning the principle of autocephaly it is worth mentioning the importance of correct knowing and understanding of the notion of “canonical territory”, this being in tight relation to the autocephalous Church and to their jurisdiction and of a real importance in the inter-orthodox and inter-Christian relations. This term was not used in history, but is recent, although it refers to ecclesiological realities present even since the apostolic era.

The notion of canonical territory is marked by an evolution in time, even since the first three centuries asserting itself the principle “a city – a bishop – a Church”, which implies the exercise of the ecclesiastical authority by a bishop into a well-settled territory³¹. Thus, the apostolic Canons forbid the trespassing of the ecclesiastical boundaries by bishops and clergy, being combated the practice of bishops and priests who left their dioceses and went to officiate services in other ecclesiastical units (14th apost. can.). The same manner, the bishops are not allowed to ordain outside their diocese (35th apost. can.) and they cannot receive in Eucharistic communion people excommunicated in other dioceses (12th can.) or cancel the ecclesiastical sanctions pronounced by other bishops in their own jurisdiction boundaries (16th, 32nd can.).

²⁸ *Ibidem*.

²⁹ Archdeacon Ioan N. Floca, *op. cit.*, 333.

³⁰ See details at Liviu Stan, „On Autocephaly” (Despre autocefalie – in Romanian), *Orthodoxia* VIII/ 3 (1956), 391-395; Idem, „The autocephaly and the autonomy in Orthodoxy” (Autocefalia și autonomia în Ortodoxie – in Romanian), *Mitropolia Olteniei* XIII/ 5-6 (1961).

³¹ Hilarion Alfeyev, „La notion du territoire canonique dans la tradition orthodoxe” (*Conférence au symposium international de droit canonique à l'Académie théologique catholique de Budapest, 7.II.2005*), in: http://fr.hilarion.orthodoxia.org/6_12, 07.09.2008.

We may say that the notion of canonical territory at the level of the Episcopalian Churches appeared in the times of the Holy Apostles and developed in the ecclesiastical practice from the 2nd and the 3rd centuries and later, through the apparition of new forms of ecclesiastical organization.

We will mention below some actual aspects regarding the canonical territories of the autocephalous Churches and the application of this notion to the jurisdictions.

4. *The ethnic principle³² – a divine and canonical fundament of the autocephaly and of the jurisdictional right over the own “Diaspora”*

The nation is part of the creation plan, bearing the seal of eternity and perpetuating itself only through faith and belief in God’s help. As the Romanian canonist Prof. Iorgu Ivan affirms, the family constitutes the ground of every nation and the language of every nation is a distinctive sign and a means of externalizing the religiosity, being a divine regulation that every nation to have its own language³³. Not to respect the specificity of each nation, of its language and traditions is truly a trespassing of the divine regulation. All these are easier to understand by considering the divine Revelation of the Old and the New Testament.

The divine authority of the principles established by the Holy Apostles in organizing and governing the Church cannot be put in doubt. These principles were settled in the text of the canons, relevant in this sense being the 34th apostolic canon, which, besides other organizing and working principles of the Church (e.g. the hierarchical principle, the Synodal principle, the principle of autonomy, the principle of autocephaly, the territorial principle), in-

³² The ethnic link is a canonical principle of organization of the Church, as Lord Jesus Christ founded the Church for all people, endowing it with principles of organization and working. The principles of ecclesiastical organization and leading, together with the spiritual means at the disposal of the Church for the fulfillment of its existential purpose, were going to ensure, in time, the unity of the Church, with all the diversity of nations and languages of those who were becoming subjects of law in the Church, through the administration of the Holy Sacrament of Baptism.

³³ Iulian Mihai L. Constantinescu, *op. cit.*, 220-243; Iorgu Ivan, “The Ethnos – nation – divine ground and canonical fundamental principle of the ecclesiastical autocephaly” (Etnosul – neamul -, temei divin și principiu fundamental canonic al autocefaliei bisericești – in Romanian), in: *The Centenary of the autocephaly of the Romanian Orthodox Church 1885 – 1985* (Centenarul autocefaliei Bisericii Ortodoxe Române 1885-1985 – in Romanian), Eibmbor, Bucharest, 1987, 186.

cludes the ethnic principle, too, understood as “the organization of a nation’s Church with bishops and priests from that nation, forced to preach the right teaching and to celebrate the entire cult – the Holy Sacraments and Hierurgies – in that nation’s language, respecting its traditions and customs that do not come in conflict with the orthodox doctrine and morals”³⁴.

Considering the development of the ecclesiastical organization and its adaptation to the administrative organization of the state, we note that the Fathers of the Ecumenical synods affirmed the equality and independence of the greater autocephalous ecclesiastical units, without enjoying jurisdictional rights one towards another. In the same time, they strengthened the indispensability of the ethnic element in organizing an autocephalous Church, as a divine regulation. The ethnic principle was invoked by Churches to obtain their independence of foreign jurisdictions – the case of Georgian or Russian Church; the Ecumenical Patriarchy itself quoted the text of the 34th apostolic canon at the recognition of the autocephaly of the Russian Church (1448). In this context, the term “*ἔθνος*” was correctly interpreted by the Ecumenical Patriarchy, in sense of “nation”. Later, this term was misinterpreted by the Greek historians and canonists, exactly to justify their illegitimate pretensions of the Ecumenical Patriarchy on the jurisdiction of the entire Diaspora³⁵. Thus, the term “*etnos*” was reduced to the sense of diocese, like the 9th canon from Antioch, continuing this way the misinterpretation of the 28th canon of the IV Ecumenical Synod from Chalcedon.

Despite these, the ethnic link is a ground of the right and obligation of every autocephalous Church to organize and guide the religious life of its own Diasporas, in order to keep the ancient orthodox faith, as well as in order benefit in Diaspora from the spiritual content shared by the Church with its sons in the respective national state.

Even since the beginnings of Christianity the Diaspora kept a tight relation with the bishop in whose community they had received the baptism, this way having the complete sentiment of being in permanent spiritual communion with the members of the community they had left and with the en-

³⁴ *Ibid.*, 193.

³⁵ See here Archim. Grigorios D. Papatomas, *Essais de Droit canonique orthodoxe*, Firenze, Università degli Studi di Firenze/Facoltà di Scienze Politiche “Cesare Alfieri” (coll. Seminario di Storia delle istituzioni religiose e relazioni tra Stato e Chiesa-Reprint Series, no. 38), 2005, IV, 77-114; Vlassios Phidas, *Droit canon. Une perspective orthodoxe*, Centre Orthodoxe du Patriarcat Œcuménique, Chambésy-Genève, 1998.

tire Church. This fact is expressed by the 2nd canon from the II Ecumenical Synod, which establish that all the Diasporas outside the Roman Empire to be governed by the bishops who had the respective area under their jurisdiction, before being occupied by the barbarians. A century later, the Fathers of the fourth Ecumenical Synod from Chalcedon (451), through the 28th canon, a controversial one³⁶, unaccepted by the Roman-Catholic Church and long debated in the ecumenical Orthodoxy, recognized the jurisdiction of the Constantinopolitan seat over the dioceses of Asia, Pontus and Thrace. This sort of exception, adopted because of political reasons, could be considered, as Prof. Iorgu Ivan affirms, as a confirmation of the old custom at which referred the 6th can. I ec. and the 2nd can. II ec., canons that respected the principle of canonical territoriality, that each bishop of the diocese to exert his jurisdiction only in the boundaries of his own diocese³⁷.

The heads of the autocephalous Churches enjoyed equal power, non-existing the confusion between the jurisdictional rights and the honorific primacy. This fact is highlighted by the great canonist of the 13th century, Joannes Zonaras who, interpreting the 17th can. IV ec. maintained that the Patriarch of Constantinople is a judge only in the boundaries of his own jurisdiction. In consequence, the metropolitans found under the jurisdiction of the other historical Patriarchies are not under his authority. In fact, even the Constantinopolitan seat recognized in the Tomus of autocephaly, on the ground of the 34th apostolic canon³⁸, that the Churches organized in an ethnic framework, Churches that had been by then under the jurisdiction of Constantinople, now are independent and with their own administration, due to attainment of the autocephaly. In consequence, the Patriarchy of Constantinople itself, with all its privileges recognized by the ecumenical synods (3rd can. II ec., 28th can IV ec.)³⁹, maintained that all Churches recognized as autocephalous are equal in the Orthodoxy, without being able to exercise their jurisdiction over another autocephalous Church, irrespective of their

³⁶ Ioan N. Floca, *Canons of the Orthodox Church. Notes and comments* (Canoanele Bisericii Ortodoxe. Note și comentarii), 3rd edition amended Sibiu, 2005, 102.

³⁷ Iorgu Ivan, *op. cit.*, 197.

³⁸ Nicolae Dură, "Forms and status of manifestation of the autocephaly of the Romanian Orthodox Church through the centuries. Historical and canonical testimonies", 287.

³⁹ J. H. Erickson, „Autocephaly in Orthodox Canonical Literature to the Thirteenth Century”, *St. Vladimir's Theological Quarterly*, XV/1-2 (1971), 29; Also see Marcel Ciucur, "The right to grant autocephaly in the Orthodox Church" (Dreptul de acordare a autocefaliei în Biserica Ortodoxă – in Romanian), *Studii Teologice*, XXIX/5-8 (1977), 536-541.

seniority or the number of believers⁴⁰. Any pretension of an autocephalous Church to have jurisdiction over other autocephalous Churches or over their Diasporas was against the teaching of the Holy Bible and the canons of the Orthodox Church. The 34th apostolic canon expresses in a positive manner the importance of the ethnic principle as a fundament of the ecclesiastical organization and of the exercise of jurisdiction over the own Diaspora⁴¹. Every Orthodox Church has its own shape “only because of the national character proper to the orthodox people who that Church belongs to”⁴². Even so, the autocephalous Orthodox Churches, although are organized in a precise manner into a ethnical and geographical framework⁴³, we may say that “there are neither abdications nor falls from the Christian universality, but the natural and canonical expression of the agreement between these two face of some organic realities: the plurality, after creation, of nations and unity by grace of the Christian Church”⁴⁴.

Despite these realities from the life of the Church, in time, the Patriarchy of Constantinople and the theologians who supported the Constantinopolitan seat, putting in doubt the ethnic principle in organizing and working of the autocephalous Churches, accused these autocephalous Churches of ethnophyletism, these aversion culminating with the synod in Constantinople from 1872, where it was combated the phyletism as a heresy against the teaching of faith, against the canons of the Holy Fathers, considering those who admitted the ethnical principle as “out of the Church and schismatic”⁴⁵. The phyletism is regarded by these theologians, supporters of the Constantinopolitan seat, as a nationalist principle applied in the ecclesiastical area, ignoring in the same time the word of our Savior,

⁴⁰ Iorgu Ivan, *op. cit.*, 198.

⁴¹ I. D. Ivan, “The age and forms of the relations of the Romanian Orthodox Church with the other Orthodox sister-Churches” (Vechimea și formele raporturilor Bisericii Ortodoxe Române cu celelalte Biserici Ortodoxe – in Romanian), *Glasul Bisericii*, XL/10-12 (1980), 794.

⁴² Cf. A. D. Kiriakos, “The system of Autocephalous Orthodox Churches” (Sistemul Biseriilor Ortodoxe Autocefale – in Romanian), translated from Greek by D. Demetrescu, *Biserica Ortodoxă Română*, XXV/5 (1901-1902), 382.

⁴³ V. Șesan, *The right of devolution of the patriarch and metropolitan* (Dreptul de devoluțiune al patriarhului și al mitropolitului – in Romanian), Cernăuți, 1937, 13.

⁴⁴ I. Gh. Savin, “Christianity and nationalism” (Creștinism și naționalism – in Romanian), *Fântâna darurilor*, X/9 (1938), 417-418.

⁴⁵ Hiéromoine Pierre, „Notes d’Ecclésiologie Orthodoxe. Le Patriarche Oecuménique et les Eglises Orthodoxes Autocéphales”, *Irenikon* X/6 (1933), 445.

addressed to His disciples before His Ascension: “All authority in heaven and on earth has been given to Me. Therefore go and teach all the nations” (Mt 28:18-19), all the nations being called in the virtue of their particularities to participate at the life in God⁴⁶.

The Greek canonist, Fr. Prof. Grigorios Papathomas maintain that those who support the ethnic principles make a confusion between Church and Nation⁴⁷, assimilating the Church to the Nation, non being accepted the jurisdiction over an ethnic group and in conclusion more jurisdictions, but an universal jurisdiction, the one of the Ecumenical Patriarchy. We respond here to the Greek theologian through the words of an authoritarian voice of the Orthodoxy from the 20th century, the greatest orthodox dogmatist of his time, Fr. Prof. Dumitru Staniloae: “The Orthodoxy is universal in the sense that is sent to preach Christ to “all the nations” (Mt 28:19). But precisely through this sending to nations and not to individuals without any ethnic qualification it is shown that it is not irrespective of the particularity of the nations, but it affirms and support them in this particularity... By this, the orthodoxy inside every people is attaching in a particular way with its love to de nation in the middle of what is working, helping it in its life aspirations and making a synthesis between them and the aspirations to salvation that it keep awake in the soul of those who form it”⁴⁸.

We mention here that the importance and the necessity of spiritual dependency of the orthodox communities in Diaspora of the mother-Churches and of their original countries was underlined even by the Ecumenical Patriarchy, in the epistles sent in 1908 to the Holy Synod of the Greek Church, as well as in the Synodal Tomus no. 2388 from 1908, through which the Ecumenical Patriarchy was going to cede to the Greek Church all the authority for the protection of the entire Greek Diaspora, with the purpose of befriend-

⁴⁶ Ilie Moldovan, “Ethnicity and ecclesiastical autonomy. Theological and moral considerations with the occasion of the Romanian Orthodox Church centenary anniversary” (Etnicitate și autonomie bisericească. Considerații de ordin teologic-moral cu ocazia aniversării autocefaliei Bisericii Ortodoxe Române – in Romanian), *The Centenary of the autocephaly of the Romanian Orthodox Church 1885 – 1985* (Centenarul autocefaliei Bisericii Ortodoxe Române 1885-1985 – in Romanian), Bucharest, 1987, 241.

⁴⁷ Archim. Grigorios D. Papathomas, „Face au concept d’“Église nationale”, la réponse canonique orthodoxe: *l’Église autocéphale*”; in: http://orthodoxe.free.fr/files/carances_ecclesiologiques.pdf (05.09.2008).

⁴⁸ Dumitru Stăniloae, *Nation and Christianity* (Națiune și Creștinism – in Romanian), ed. Elion, Bucharest, 2004, 273.

ing and protecting the interests of Hellenism in the world⁴⁹. This Synodal Tomus is in the spirit of the 34th apostolic canon, being invoked the ethnical principle, all the arguments of the Ecumenical Patriarchy being used by the other autocephalous Churches as a ground for their right of jurisdiction over their own Diasporas. We could say that with the same purpose – the defending of the interests of Hellenism – a decade later, in 1922, the Patriarchy of Constantinople was retaking into its jurisdiction the whole Greek orthodox Diaspora, working nowadays, too, in tight cooperation with the Greek Church and with the Greek state to promote the values, traditions and interests of Hellenism on all the continents⁵⁰.

The actual situation of the orthodox Diaspora is due to the misinterpretation of the canons that concern the jurisdiction over the Diaspora in the Greek world, especially of the 28th canon from the Fourth Ecumenical Synod from Chalcedon, which is the only canon that refers to the Diaspora of the Constantinopolitan Church, mentioning that the archbishop of Constantinople may ordain the bishops from the barbarian lands, i.e. the Churches from Pont, Asia, Thrace, Churches that included more metropolises⁵¹. The text of the canon shows expressly the jurisdiction of the Constantinopolitan seat over the three dioceses, as well as over their barbarian lands, that is over their Diasporas. We cannot see this as an attribution of jurisdictional rights over the entire Diaspora. These jurisdictions attributed to the Constantinopolitan seat is explained by the fact that, being in the capital of the Empire, it had a small diocesan jurisdiction, considering it necessary to increase the jurisdictional territory, corresponding to its dignity of patriarchal seat of the imperial capital. By attributing the right to ordain the bishop from Diaspora, in fact is conferred the entire jurisdictional power, being “the act through which is ensured the apostolic

⁴⁹ See here Damaskinos Papandreou, Metropolitan of Switzerland, *Church, Society, World* (Biserică, Societate, Lume – in Romanian), Trinitas, Iași, 1998.

⁵⁰ Iorgu Ivan, *op. cit.*, 201.

⁵¹ Liviu Stan, “The Orthodoxy and the Diaspora. The actual situation and the canonical position of the orthodox Diaspora” (Ortodoxia și Diaspora. Situația actuală și poziția canonică a diasporei ortodoxe – in Romanian), *Ortodoxia*, XV/ 1 (1963), 26-27; also see † Justinian, Patriarch of Romania, “The actual validity of the 28th canon of the Fourth Ecumenical Synod from Chalcedon” (Valabilitatea actuală a canonului 28 al Sinodului IV ecumenic de la Calcedon – in Romanian), *Ortodoxia*, III/2-3 (1951), 173-187; Archbishop Peter L’Huillier, *The canon law at I-IV Ecumenical Synods* (Dreptul bisericesc la sinoadele ecumenice I-IV – in Romanian), romanian translation by Alexandru I. Stan, Gnosis, Bucharest, 2000.

succession in each ecclesiastical unit, succession that conditions the entire delivering work⁵².

We don't want to extend here the commentaries to the 28th canon of the Fourth Ecumenical Synod from Chalcedon (451), but we underline the central idea through the words of the great Romanian canonist, Prof. Liviu Stan: "In consequence, there is out of question the idea that the dispositions of the 28th canon of the Fourth Ecumenical Synod would confer the Constantinopolitan seat a universal jurisdiction over Diaspora, but, contrariwise, they ascertain and consecrate the right of every autocephalous Church to exert its jurisdiction over its own Diaspora⁵³.

As it can be well seen in the Report presented by the inter-orthodox preparatory Commission from Chambésy in 7-13 November 1993, the Romanian Orthodox Church, invoking the 34th, 35th and 37th apostolic canons, as well as the 2nd canon of the Third Ecumenical Synod and the 12th canon of the Fourth Ecumenical Synod, maintained the presence in history of the autocephalous Churches, constituted on the ethnic principle basis, before and after the era of ecumenical synods, other Churches being autocephalous after the decision of the ecumenical synods. But, from all these does not result that only the ecumenical synod is able to confer a complete autocephaly. Complete autocephalies may exist even without the express approval of an ecumenical synod, the ecclesiastical autocephalous units being able to constitute themselves either spontaneously, or through autocephaly proclamation acts issued by certain existent autocephalous Churches. Thus, the mother-Church, being co-responsible of maintaining the pan-orthodox unity and canonical order, it has to consult the other local autocephalous sister-Churches to see the opportunity of a positive settlement of the autocephaly demand. After a consensus is reached, the mother-Church recognizes formally the autocephaly of its daughter-Church, either through a Synodal decision, or through a Synodal Tomus. In case of disagreement between the autocephalous Church and the one that asks for autocephaly, it can be made an appeal to a pan-orthodox decision⁵⁴.

⁵² *Ibidem*, 28.

⁵³ *Ibidem*; Also see Athénagoras Peckstadt, „L'autorité dans l'Eglise: une approche orthodoxe”, *Irénikon*, t. LXXV/1 (2002), 35-52.

⁵⁴ Damaskinos Papandreou, *The Holy and Great Synod of Orthodox: Thematic and preparatory works* (Sfântul și Marele Sinod al Ortodoxiei: Tematică și lucrări pregătitoare – in Romanian), Trinitas, Iași, 1998, 158-159.