

## THE CONCORDAT BETWEEN THE KINGDOM OF ROMANIA AND THE HOLY SEE. DIPLOMATIC CONCESSIONS AND CANONICAL EXEMPTIONS IN THE RATIFICATION PROCESS

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**Abstract** Definitive for the unitary and organic structure of the Romanian state, the minority component imposed itself in the foreign policy strategy, as an element of articulation of diplomatic relations with the Holy See during the interwar period. The approach of the Romanian legislator in the normative field regarding ethnic and religious minorities interfered with the imperatives of the Holy See in the elaboration and, subsequently, in the ratification of the Concordat between the two states. The article proposes a brief analysis of the blocking elements that stood out in the ratification process of the Concordat between the Kingdom of Romania and the Holy See, highlighting the contradictory understanding or use of the minority component as a negotiation tool in foreign policy.

**Keywords** Concordat, minorities, ratification, sacred patrimony, education, canonical jurisdiction.

### The preliminaries of the ratification of the Concordat in the dynamics of minority rights

After the Great War, the Treaty for Minorities signed in Paris on December 9, 1919 between Romania and the Allied and Associated Powers established the fundamental rights and freedoms enjoyed by minorities living on the territory of the Kingdom of Romania. During the interwar period, these provisions of international law articulated the legal regime of the

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Romanian State in the field of minorities.<sup>1</sup> One of its first expressions concerned Romanian citizenship, a fundamental right from which other specific ones derived, such as the protection of life, individual freedom, political and civil rights, equality before the law. Freedom of religion, education and the use of mother tongue were encoded by special laws. The Law of primary and normal education of July 26, 1924 and that of secondary education of May 8, 1928 provided, in communities with a high number of minority population, the creation of state schools in which the language of education was that of the respective minority. The structure of minority education was completed by the private education law of December 19, 1925, which ensured the autonomy of religious minority schools.

The transformations of the Romanian legislative framework regarding minorities have closely followed the development of diplomatic relations between the Romanian government and the Holy See. Thus, the Romanian State has endeavoured to respond to the religious, cultural, economic or educational needs and claims of the minorities, by improving its legislative framework in this area. Nevertheless, in some cases, the various attempts to regulate issues concerning religious education or the status of religious institutions and associations have led to tense bilateral dialogue, to the point of breaking off diplomatic relations.

Such tensions appeared immediately after the signing of the Concordat in Rome, on May 10, 1927, leading to a two-year delay in the process of ratification of the treaty by the Romanian Parliament. In order to ensure the vote of the law for the ratification of the Concordat, the liberal government considered it opportune to obtain certain declarations of clarification concerning the articles which could arouse the opposition of the Romanian Orthodox clergy. During the visit to Rome in January 1927, Nicolae Titulescu, Minister for Foreign Affairs, announced the Holy See officials that the Romanian government found it necessary to clarify three points of the convention, namely the legal personality of the Catholic Church, the religious education and the language of instruction in schools belonging to religious orders and congregations.<sup>2</sup>

The interpretation requested from the Holy See regarding the legal personality of the Catholic Church had to specify that on the territory of the Romanian State the Catholic Church could only benefit from legal personality and possess property through its legally and canonically constituted organizations, mentioned in article 9 of the Concordat (parishes, archiepiscopates, monasteries, chapters, abbeys, bishoprics, metropolises, etc.). This provision

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<sup>1</sup> The Treaty on Minorities was ratified by Decree-Law no. 3699 of September 25, 1920.

Single article. "The Government is authorized to ratify and execute the Treaty of Peace, with its annexes, concluded by the Allied and Associated Powers with Austria, at Saint-Germain, September 10, 1919, and the Minorities Treaty signed at Paris, December 9, 1919" (*Monitorul Oficial*, n<sup>o</sup> 140/September 26, 1920, 4949).

<sup>2</sup> Archivio Apostolico Vaticano (AAV), fondo Nunziatura in Romania, busta 38, fasc. 183, 6-8; *Discursurile rostite de către Dl. Dr. Aurel Vlad, ministrul Cultelor și Artelor, la Senat și Cameră, cu prilejul ratificării Concordatului, în zilele de 25 și 29 Maiu 1929* (Orăștie: Tipografia Solia Dreptății, 1929), 8-11.

was in line with the Law of Cults which, in article 11, stipulated: “The organizations of historic cults are legal persons, created and represented in accordance with their system of organization, and provided for by statutes (communities, parishes, archdioceses, monasteries, chapters, metropolises, etc.)” In fact, the Romanian Kingdom recognized the quality of legal persons under public law to the constituent parts of the cults, created in accordance with their organizational statutes and represented by their legal and canonical leaders. In exchange, cults as institutions did not enjoy legal personality.<sup>3</sup> This perspective was argued by Vasile Goldiș, Minister of Cults and Arts (March 30, 1926-June 03, 1927) in charge of negotiations with Holy See, as follows:

“in the modern conception of law, the Church itself, as a spiritual fact, as a religious abstraction, cannot possess property; only the concrete organizations of the Church, founded on persons, recognized by the State and constituted according to the laws of the State, can own property, and their property cannot be of a different nature from that of the property of other legal persons, and cannot have any other legal status than that established by the common law of the country in whose territory these assets are located.”<sup>4</sup>

### **Ethnic and confessional valences of the education system**

Another aspect on which the Romanian side wanted additional clarification from the Holy See was the language of instruction in confessional schools. Following the national unification of 1918, the Romanian government developed a process of standardizing the education system of the recently incorporated provinces with that of the Old Kingdom. Within the framework of this reform, the Romanian legislator paid particular attention to the education system of ethnic and confessional minorities. In order to facilitate the access of minority populations to education in their mother tongue, regulations concerning the language of instruction have been put in place. A first law concerning the education entitled the Law on State primary education and normal-primary education of July 26, 1924, provided for education in the Romanian language in public schools. However, in the communities with a high number of minority population, the Ministry of Public Instruction was responsible for the establishment of primary schools where the language of instruction was that of the respective population, in the same proportion as in the communities with a majority Romanian population. In these schools,

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<sup>3</sup> AAV, fondo Nunziatura in Romania, busta 38, fasc. 182, 87-90, 96-97; Biblioteca Națională a României (BNR) [The Romanian National Library], Colecția Manuscrise [Manuscript Collection], Ms 38365, 5-7.

<sup>4</sup> AAV, fondo Nunziatura in Romania, busta 38, fasc. 182, 108.

however, the study of the Romanian language was mandatory in a number of hours established by regulation.<sup>5</sup> Regarding private education,<sup>6</sup> it was stipulated:

“Art. 35 The language of instruction in private schools, attended by students whose mother tongue is different from that of the State, will be established by the heads of establishments, but in these schools only students whose mother tongue is the same as the school’s language of instruction.”<sup>7</sup>

This legal framework, completed in 1928 by the Law for secondary education and in 1932 by the Law for the organization of university education, fixed the structure of the education system of the Romanian State in the interwar period. The way in which the provisions of the Concordat in the field of education were harmonized with the legislative regulations of the Romanian State constituted an important element of negotiation in order to reach the ratification of this bilateral treaty. In accordance with article 19 § 3 of the Concordat, schools of religious orders and congregations had the right to establish their language of instruction.<sup>8</sup> The Minister of Public Instruction, Constantin Angelescu, accused the antinomy between the

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<sup>5</sup> “Law on State Primary Education and Normal-Primary Education of July 26”, 1924, in *Antologia legilor învățământului din România* (Bucharest: Institutul de Științe ale Educației, 2004), 187.

<sup>6</sup> According to the “Private Education Law”, a private school was defined as “a school established, managed and maintained on private initiative to provide instruction and education to at least 10 children on average per class. At the primary education level, the number of children can be at least 20 per school” (Art. 2). Article 3 regulated the conditions for establishing private schools: “These schools can only be established by Romanian citizens: either individually, or established in cultural societies or religious communities, recognized as legal entities. Such schools cannot be established by cultural societies, monastic orders and school congregations dependent on organizations of other states. For the children of citizens of a foreign state, private schools can be established by the respective communities recognized by the state, in which, however, neither the children of Romanian citizens, nor the children of subjects of another state, but only of the citizens of that state to which the community that founded the school belongs.”

<sup>7</sup> “Law for private education of December 22, 1925,” in *Antologia legilor învățământului din România*, 223.

<sup>8</sup> Article XIX of the Concordat between Romania and the Holy See provides:

§ 1: The Catholic Church has the right to create and maintain, at its own expense, primary and secondary schools, which are dependent on the respective Bishops and under the supervision and control of the Ministry of Public Instruction.

§ 2: Under the same conditions, it can maintain the current number of normal schools.

§ 3: All schools of Religious Orders and Congregations are placed under the jurisdiction of the local Bishop; consequently, they too will enjoy the right to determine the language of instruction.

§ 4: All the schools indicated in the previous paragraphs will have the right to advertise, according to the methods provided by the laws in force.

provisions of this paragraph and those of Article 37 of the Private education law (1925), according to which private schools run by monastic orders and congregations had to have Romanian as the language of instruction. The minister feared that the application of the Concordat would have cancelled the provisions of the Private education law, giving the possibility of changing the language of instruction in the institutions where the teaching was at that time in Romanian.<sup>9</sup> Consequently, through the interpretive letter requested from the Holy See, the Romanian State sought to limit the prerogative of establishing the language of instruction in Catholic confessional schools, attended mostly by the minority population, by excluding those schools in which Romanian was already the language of instruction at the time of the conclusion of the Concordat.

According to the Apostolic Nuncio in Bucharest, the demands of the Romanian government were the result of the pressure exerted by the Minister of Public Instruction, very influential in the liberal government, who had been very concerned about the irredentist tendencies of the confessional schools. In order to dispel these concerns, the pontifical diplomat highlighted in the negotiations with the Romanian officials the concessions that the Holy See had never granted to another State, but which it had agreed to encode in the Concordat with the Kingdom of Romania in order to guarantee the apolitical functioning of these schools.<sup>10</sup> Thus, although the provisions of the international agreements concluded by the Romanian Kingdom were favourable to the position of the Holy See regarding the language of instruction, it agreed to make concessions to settle the dispute with the Romanian side. For instance, the Treaty between the Allied and Associated Powers and Romania concerning the protection of minorities and commercial relations, signed in Paris on December 9, 1919, guaranteed to particular confessional schools the right to establish as language of instruction that of a specific ethnic minority.<sup>11</sup> In addition, article 20 of the Concordat established in the

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<sup>9</sup> AAV, fondo Nunziatura in Romania, busta 38, fasc. 183, 22-25.

<sup>10</sup> AAV, fondo Nunziatura in Romania, busta 38, fasc. 183, 31-32.

<sup>11</sup> "Art. 9: Romanian citizens, belonging to ethnic, religious or linguistic minorities, enjoy the same treatment and the same guarantees in law and in fact as other Romanian citizens. In particular, they have the equal right to establish, manage and control, at their own expense, charitable, religious or social institutions, schools and other educational institutions, with the right to freely use their own language and to exercise his religion freely.

Art. 10: As far as public education is concerned, the Government of Romania will grant in the cities and districts where a considerable proportion of Romanian citizens who speak a language other than Romanian live, adequate facilities to ensure that instruction will be given in primary schools, in their own language, to the children of these Romanian citizens. This provision does not prevent the Government of Romania from making the teaching of the Romanian language mandatory in the mentioned schools.

In the cities and districts where a considerable proportion of Romanian citizens belonging to ethnic, religious or linguistic minorities live, these minorities are guaranteed a fair share of the benefit and

first paragraph the right of the Catholic Church to give religious instruction to Catholic students in all public and private schools in the Kingdom of Romania in their mother tongue. In order to bring the *sui iuris* congregational schools into the sphere of application of the Romanian law on private education, the Holy See had accepted a derogation from canon law. The schools were placed under the authority and dependence of the bishops as particular confessional schools, which brought them under the incidence of article 35 of the private education law and gave them the right to fix the language of instruction.

Another issue that needed clarification was the religious education. According to the provisions of the Concordat, the Romanian Kingdom granted the Catholic Church the right to provide religious education to Catholic students in public and private schools, in their mother tongue. However, if for secondary schools the regulations concerning the appointment and remuneration of teachers were clear, for primary schools they were rather deficient. Paragraph 3 of article 20 of the Concordat established that “in the primary schools of the State, attended in the majority by Catholics, religious education shall be given by a priest appointed by the bishop and, in the absence of a priest, by a Catholic layman, who may also be the schoolmaster, provided he is recognized as capable by the Ordinary.” Without specifying, as in the case of secondary schools, the common agreement between the bishop and the Ministry of Public Education regarding the appointment of the schoolmaster, nor the source of his remuneration, this paragraph introduced the possibility for schoolteachers to give religious education, once the agreement of the bishop has been obtained.

However, paragraph 4 of the same article gave the bishop the possibility of prohibiting the schoolmaster from teaching religion, if he did not consider it appropriate for reasons relating to doctrine or morality. The problem that arose was whether a schoolmaster deemed inappropriate by the bishop could continue to teach other subjects or not. Similarly, the employment of a professor of religion raised the question of his payment by the State or by the Church. In order to clarify the interpretation of these two paragraphs, the Romanian government asked the Holy See to accept the following clarification: the rights of bishops with regard to State and private schools were limited to religious education; consequently, the Catholic Church, through its bishops, had no right to demand the dismissal of a schoolmaster.<sup>12</sup>

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allocation of sums that can be allocated from public funds by the state budget, municipalities or other structures, for the purpose of education, religion or charity.

Art. 11: Romania agrees to grant, under the control of the Romanian State, the communities of Szeklers and Saxons in Transylvania, local autonomy, in terms of religious and educational matters.”

<sup>12</sup> The Minister of Foreign Affairs, Nicolae Titulescu, requested the Nuncio Dolci to transmit to the Holy See the request of the Romanian side regarding the following interpretive statements:

“[...] Relative to art. 20:

a) Regarding § 3 together with § 4, the following statement is accepted: « If the religion teacher happens to be also a general teacher, the Bishop informing the Ministry about the non-compliance of the teacher, for reasons related to the doctrine or morality, forces that teacher to stop teaching only religion. He will

In the fall of 1928, the country's already difficult economic situation deteriorated even more due to drought, raising the need for an external financial loan. With the economic situation as a trigger, a ministerial crisis followed with the resignation of the president of the Council of Ministers, Vintilă Brătianu on November 3, 1928, followed six days later by that of the Minister of Foreign Affairs, Nicolae Titulescu, which led to the fall of the liberal government. The coming to power of a national-peasant government under the leadership of the Greek-Catholic Iuliu Maniu had a good resonance in Vatican circles, where it was appreciated that bilateral relations would thus become "more sincere and cordial"<sup>13</sup> than they were with Brătianu's liberal government. And the foreseen political openness was promptly confirmed. On November 11, 1928, the Apostolic Nuncio was called by the new Minister of Foreign Affairs, Gheorghe Mironescu, to set the date for the ratification of the Concordat. The President of the Council of Ministers, Iuliu Maniu, also expressed himself in favour of a rapid ratification of the treaty, which he wanted "not only as Head of Government, but also as a son of the Catholic Church."<sup>14</sup> The line of political action was also projected at the diplomatic level. As Minister Mironescu testified to the Apostolic Nuncio, the national-peasant government's intention was to send Ioan Coltor, a Greek-Catholic priest and professor at the Theological Academy in Blaj, as minister plenipotentiary to the Holy See. However, due to the opposition of Patriarch Miron Cristea, the proposal was abandoned. Relating the event to Cardinal Gasparri, the Apostolic Nuncio remarked: "If the Romanian nation had been a Catholic one, the choice of the candidate could not have been better, because he is a cultured and eloquent priest, very attached to the Holy See, worthy of the Church for his collaboration in the suppression of the famous art. 45 regarding the law of cults."<sup>15</sup>

In this context, in order to facilitate the ratification of the Concordat, the Holy See has given its approval concerning all the clarifications requested by the Romanian officials. Following the addition to the initial text of two interpretative letters, the Concordat was finally

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continue, in accordance with Romanian laws, the rest of his teaching. In this case, the Bishop can appoint another teacher of religion».

b) That in § 4, for clarification, the word «teacher» refers to the expression «of religion», and the word «teaching» to «teaching religion» [...]. Consequently, § § of art. 20 are understood as follows: § 4 «If the Bishop informs the Ministry of the religion teacher's non-conformity, for doctrinal or moral reasons, the religion teacher will be obliged to immediately stop teaching religion and his successor will be appointed, according to §§ 2 and 3 above.»

(Arhiva Ministerului Afacerilor Externe [Archive of the Ministry of Foreign Affairs], fond 71/1920-1944. Vatican, vol. 19 bis, 111-112).

<sup>13</sup> AAV, fondo Nunziatura in Romania, busta 18, fasc. 56, 428.

<sup>14</sup> AAV, fondo Nunziatura in Romania, busta 18, fasc. 56, 431-432.

<sup>15</sup> AAV, fondo Nunziatura in Romania, busta 18, fasc. 56, 432.

ratified on June 11, 1929, two years after its signature.<sup>16</sup> The mechanism of the pontifical diplomacy of unblocking the negotiations with the government of Bucharest in order to ratify the Concordat did not only pursue the interests of Catholicism in the Romanian Kingdom, but it also reflected its general strategy towards non-Catholic states. In fact, beyond a systematization of the Catholic Church at the national level, the ratification of the Concordat with the government of Bucharest could have produced a significant impact, particularly in the Balkan area. Being the first agreement to establish a general and definitive status of the Catholic cult in a country with an Orthodox majority, this treaty could serve as a model for Orthodox states in the region.<sup>17</sup> Referring to the importance of completing this long and winding process, Nuncio Dolci testified to Cardinal Secretary of State, Pietro Gasparri:

“The Concordat would be the culmination of the law of cults and an exemplary incentive for the other Orthodox States. Czechoslovakia, Yugoslavia, Albania (this one indirectly) as well as Greece are closely following these negotiations, through their Representatives. The two Foreign Ministers, Marinkovic and Beneš, spoke to me at length a short time ago when they came to Bucharest for the meeting of the Little Entente. The Minister of Germany, [Gerhard] von Mutius, also told me that the Concordat with this Orthodox nation would be a good example for his country.”<sup>18</sup>

Although perceived as a notable success of Romanian diplomacy, the openness shown by the Holy See towards the requests of the government in Bucharest also had less favourable assessments. Ion Broșu, chargé d'affaires of the Romanian legation at the Holy See, interpreted the final concessions of the pontifical diplomacy as a sign of the weak negotiating capacity of the Romanian side during the bilateral negotiations:

“The fact that the Holy See was willing to make concessions even after the signing of the Concordat clearly shows that this convention could be negotiated from the beginning under much more favorable conditions for the Romanians.”<sup>19</sup>

Once the interpretative declarations were signed by Cardinal Gasparri, the Minister of Foreign Affairs, Nicolae Titulescu, gave the assurance of the ratification of the Concordat before the Christmas holidays of 1928. However, the dissolution of parliament in November 1928 and the new parliament's prioritization of the budget and other urgent laws prevented the Concordat

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<sup>16</sup> Single article: “The government is authorized to ratify and apply the Concordat concluded with the Vatican on May 10, 1927 between Romania and the Holy See.” (“Law for the ratification of the Concordat,” in *Monitorul Oficial*, n<sup>o</sup> 126/June 12, 1929).

<sup>17</sup> AAV, fondo Nunziatura in Romania, busta 38, fasc. 183, 31-32; fasc. 184, 5-11.

<sup>18</sup> AAV, fondo Nunziatura in Romania, busta 38, fasc. 183, 38-39.

<sup>19</sup> BNR, Colecția Manuscrise, Ms 38365, 7.



from being ratified within the promised time frame. In March 1929, the new Minister of Foreign Affairs, Gheorghe Mironescu, requested the postponement of the ratification for the month of May 1929, deputy Ioan Coltor being confidentially sent to the Vatican to obtain this concession from the Sovereign Pontiff. The Romanian request was also supported by the Apostolic Nuncio in Bucharest, who intervened in this regard alongside the Cardinal Secretary of State of the Holy See. However, considering the repeated postponements of the Romanian government to ratify the Concordat, the Nuncio considered it necessary to impose an ultimatum: if the ratification was not carried out within the indicated period, the Holy See would recall its diplomatic representative to Bucharest.<sup>20</sup> In these terms, the draft law on the ratification of the Concordat was finally submitted to the Romanian Senate on May 14, 1929, obtaining 93 votes for and 9 against, while in the Chamber of Deputies it was approved with 197 votes from a total of 198.

### **Delimitation of dioceses and the significance of sacred patrimony**

Once the Concordat was ratified, the responsibility for exchanging the instruments of ratification fell to the new Romanian minister at the Holy See, Caius Brediceanu. A new stage of negotiations was about to begin. According to the additional article of the convention, “within two months of ratification, a Commission will be constituted, consisting of a delegate of the Holy See and another of the [Romanian] Government, which will proceed, with the assistance of a delegate of the Episcopate, to the delimitation of ecclesiastical constituencies as well as the verification of the goods which, according to Article XIII, will form the Sacred Patrimony.” Enjoying legal personality, the inter-diocesan sacred patrimony was to be constituted with the Romanian annuity titles that belonged to the prebends of bishops, canons, parish priests and theological seminaries, with the aim of financing dioceses, theological seminaries, canons and people in the service of parishes. If those revenues were insufficient, the state had to supplement them, in accordance with the legislative provisions regarding clergy fees.<sup>21</sup> However, the appointment of a representative of the Romanian government in the Commission was made only in October 1929. From the perspective of the Holy See, the delay was compensated by the election of a person who could have resonated with the pontifical agenda: Alexandru Borza, Greek-Catholic priest in the Archeparchy of Blaj, general secretary at the Ministry of Cults and Public Instruction, who enjoyed the sympathy of the president of the Council of Ministers, Iuliu Maniu.<sup>22</sup> The delegate of the Holy See in the Executive Commission of the Concordat was appointed Monsignor Angelo Maria Dolci, apostolic nuncio in Romania. As for the Catholic Episcopate, it considered that its

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<sup>20</sup> AAV, fondo Nunziatura in Romania, busta 39, fasc. 185, 3-5.

<sup>21</sup> “The Concordat between Romania and the Holy See,” Art. 13, in *Monitorul Oficial*, n° 126/June 12, 1929, 4482-4483.

<sup>22</sup> AAV, fondo Nunziatura in Romania, busta 39, fasc. 185, 105.

representative should have been a bishop from Transylvania, well acquainted with the issues related to the sacred patrimony and able to represent the interests of the dioceses in this regard. At the proposal of Archbishop Alexandru Cisar, Monsignor Valeriu Traian Frentiu, Bishop of Oradea, was unanimously elected as delegate of the Episcopate.<sup>23</sup>

During the commission meetings, the debates focused on the delimitation of the dioceses and the situation of the sacred heritage, namely the component of the diocese of Alba-Iulia, the meaning of the term “prebend” of art. III §1 of the Concordat and the *aeque principaliter* union of the two dioceses of Satu-Mare and Oradea. Regarding the first point, the government wanted, for political reasons, to transfer certain parishes from the jurisdiction of the Latin rite diocese of Alba-Iulia to the jurisdiction of the Archdiocese of Bucharest. The issue was resolved in the sense desired by the Holy See, the Commission finally agreeing on the intangibility of this diocese. Another important point on the Commission’s agenda was the acceptance of the term “sacred patrimony”. The expropriation rents were made up of the rental income of individuals and legal entities. The former was used for the prebends provided for in Article 13 § 2 of the Concordat, namely the maintenance of bishops, bishoprics, theological seminaries, canons and persons in the service of parishes. The second ones, except those from the seminaries, were not included in the sacred patrimony and were used for material expenses and various forms of assistance provided by the cult. Since the incomes of individuals and seminaries were quite small, an important role was played by financial assistance from the state to supplement the needs of the cult. The challenge for the Catholic representatives was to maintain this formula, which made it possible to obtain greater funding from the state, as provided for in art. 13 § 2 of the Concordat: “If the income, referred to in § 1, does not reach the amount agreed according to article X, the state will compensate it, in accordance with the laws in force regarding clergy fees”. By including the larger revenues from other legal entities in the sacred patrimony, a large part of the pecuniary needs of the cult would have been covered, reducing the need for support from the state. The Romanian government wanted to expand the meaning of the term “prebend” in such a way that the sacred patrimony would include, without distinction, all income from titles derived from the expropriation of ecclesiastical properties. After long debates, the Commission decided on the meaning of the term in its canonical sense, by including the revenues intended for the maintenance of bishops, canons, parish priests and theological seminaries. The sacred patrimony component was therefore regulated in the sense desired by the Holy See, the entities that already benefited from legal personality, such as the General Catholic Religion Fund and the General Catholic Education Fund, preserving their patrimonial and legal status.

The Commission was also tasked with solving an important aspect regarding the delimitation of the canonical territory, namely the *aeque principaliter* union of the Latin rite dioceses of Satu-Mare and Oradea. According to the provisions of the Concordat, the Catholic Church was organized in the Kingdom of Romania in accordance with its three rites: Latin, Byzantine and Armenian. The Latin rite was included in the ecclesiastical province of Bucharest,

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<sup>23</sup> AAV, fondo Nunziatura in Romania, busta 39, fasc. 186, 5-6.

whose metropolis was located in the capital of the Kingdom, and which was composed of four suffragans: Alba Iulia, Timișoara, Satu-Mare and Oradea, united *aeque principaliter*, and Iasi, to which Bucovina was joined. In addition, the territory of the Old Kingdom was removed from the jurisdiction of the Sacred Congregation for the Propagation of the Faith and passed under common law. The canonical territory of the Greek Rite was defined by the ecclesiastical province of Alba Iulia and Făgăraș, whose metropolis was in Blaj. Its organizational structure aimed at the existence of four suffragans, respectively Oradea Mare, Lugoj, Gherla<sup>24</sup> and a fourth diocese was to be created in the North. For the new diocese, which would also include the Greek-Ruthenians, the Concordat provided for the establishment of an episcopal see by common agreement between the Romanian government and the Holy See. Finally, for the Armenian rite, which had a spiritual leader based in Gherla, no change in the hierarchy or the constituencies of the ecclesiastical provinces and dioceses was allowed without the prior consent of the Romanian government.<sup>25</sup>

The difficulty of establishing this organization of the Catholic canonical territory was given by the acceptance of the juridical-canonical principle of the union *aeque principaliter* provided by the Concordat for the dioceses of Satu Mare and Oradea Mare. Meaning “equally important”, the Latin expression *aeque principaliter* designates in canon law a union of several dioceses whereby each one is guaranteed to maintain its legal personality, name, cathedral and chapter itself. Specific to this form of canonical union is the existence of a common bishop who holds the titles corresponding to the dioceses.<sup>26</sup> The 1917 Code of Canon Law distinguished three types of union: *extinctiva* (extinctive), which involved the disappearance of one of the dioceses; *aeque principalis*, when the united benefices remained as they were, without one being subject to the other; *minus principalis*, if one of the two dioceses lost part of its rights.<sup>27</sup> Furthermore, regarding the union *aeque principalis*, canon 1420 § 2 added: “In principally equal [unions], even though a benefice preserves its nature, rights, and duties, in view of the completed union, one title must be conferred on each cleric of the united benefices.” Therefore, the canonical meaning of the expression used in the text of the Concordat was the preservation of the legal status of the two dioceses, but with only one

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<sup>24</sup> For the diocese of Gherla, the Concordat provided for the transfer of the episcopal see by mutual agreement between the Romanian government and the Holy See (art. 2-A.3).

<sup>25</sup> Reduced parochial modifications required for “the good of souls” were, however, permitted (art. 2-C).

<sup>26</sup> It should not be confused with the union *in persona episcopi*, which represents a form of common government of the two dioceses which are not united in themselves.

<sup>27</sup> According to canon 1419 of the 1917 Code of Canon Law, “The union of benefices is:

1. Extinctive, when either from the suppression of two or more benefices a single new benefice is effected, or if one or several others are united so that [they] cease to be;
2. Principally equal, when united benefices remain such that neither is subjected to the other;
3. Minor principal, that is, when by subjugation or accession the benefices remain, but one or several are subjected to a principal as accessories.”

titular bishop. Since the diocese of Oradea had an Apostolic Administrator, representing a provisional authority, and the diocese of Satu Mare had permanent authority in the person of Bishop Boromița, the Holy See considered it natural to pass the administration of the former under the jurisdiction of the latter.<sup>28</sup>

Therefore, from the pontifical point of view, in reference to a union *aeque principalis*, the term “territory” could have no other meaning than that of “diocese”. Instead, the meaning that the Romanian government attached to the union formula was the merger of the two dioceses by suppressing the one from Oradea with its cathedral and canon, considering that it was not the jurisdiction, but the territory of the diocese of Oradea that was to pass under the authority of the bishop of Satu Mare.<sup>29</sup> For this purpose, the president of the Council of Ministers, Iuliu Maniu, insisted on fixing the residence of the bishop of the two dioceses in Satu Mare, even if the bishop could decide to stay, as an official residence, half of the year in Oradea and the other half in Satu Mare. However, the statements addressed by the former Romanian minister to the Holy See, Dimitrie Penescu, to the president of the Council of Ministers, as well as one of his reports from July 1925, offered a congruent approach to the pontifical one regarding the formula of the union *aeque principalis* and the meaning of the term “territory”. According to Minister Penescu’s statements, during the discussions with the officials of the Holy See, the Romanian representatives had explicitly recognized the right of the bishop of the two dioceses to remain *ad libitum*,<sup>30</sup> both in Satu-Mare and in Oradea. Therefore, the juridical-canonical formula provided by the text of the Concordat and its additional paragraph had been confirmed by the official reports of the Romanian diplomacy during the process of bilateral negotiations,<sup>31</sup> their subsequent changes in interpretation having political reasons. The interest of the Bucharest government was the suppression of the diocese of Oradea, considered “a hotbed of irredentism” and, in order to achieve this objective, it showed favour to the union formula requested by the Holy See. However, in support of the Romanian government’s thesis, the Concordat’s technical adviser, Mr. Pâclișan, stated that the paragraph that followed, namely “By ratifying this Concordat, the Apostolic Administration ends, and the territory of the Diocese of Oradea Mare passes under the jurisdiction of the current Bishop of Satu Mare,” had been added precisely to neutralize the union *aeque principalis*. Thus, for the Romanian officials, the term “territory” acquired a different meaning from that of “diocese” given by the Holy See. Referring to the interests pursued by the Romanian state, Pâclișan testified:

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<sup>28</sup> AAV, fondo Nunziatura in Romania, busta 39, fasc. 186, 11-12.

<sup>29</sup> AAV, fondo Nunziatura in Romania, bust 39, fasc. 186, 15.

<sup>30</sup> At one’s choice.

<sup>31</sup> AAV, fondo Nunziatura in Romania, busta 39, fasc. 186, 18-20.

“The negotiator from the Holy See, who had just left the Sovereign audience, told the Governmental Commission that the Holy Father only accepted the formula of union *aeque principalis* and no other. Then (...) the above-mentioned formula was accepted, but only to hide the suppression of Oradea-Mare from the Hungarians.”<sup>32</sup>

The approach of the Romanian government was contested by the Apostolic Nuncio, which emphasized the inconsistency of the supposed moderation policy of Hungarian irredentism by reconfiguring the canonical territory. While pursuing the suppression of the Latin rite Catholic bishopric of Oradea, the government authorized the creation of two Protestant bishoprics for the Calvinist Hungarians precisely in Oradea and for the Lutherans in Arad. Therefore, the Holy See saw in the Bucharest government’s position towards the issue of dioceses an act of hostility towards the Catholic Church, and not an attempt to moderate possible Hungarian revisionist threats. However, the internal political context and the international commitments of the Romanian Kingdom could have explained the apparent policy of double standards noticed by the Holy See. The Romanian government was engaged at that time in a continuous effort to counter irredentist manifestations through various instruments and methods. The peace treaties that followed the Great War imposed a harmonization of the new situation of the borders of the Romanian state with the territorial constituencies of the recognized religious cults. The creation of a Calvinist episcopate in Oradea Mare with jurisdiction over the entire territory beyond the Western Carpathians (Banat, Arad, Bihor, Satu Mare and Maramureș) aimed to respond to this imperative. The new structure of the Reformed Church in Romania also had the advantage of removing the Hungarian believers who lived in the Romanian Kingdom from the jurisdiction of the bishops in Hungary by placing them in an episcopate located on the national territory. For the same purpose, a Lutheran episcopate was created in Arad for the Hungarian-speaking believers.<sup>33</sup> The efforts to prevent Hungarian revisionist actions were also reflected in measures such as the creation of a Latin Catholic clergy of Romanian nationality or the obligation for the leaders and officials of the cults to take the oath of loyalty to the King and obedience to the Constitution and the laws of the state.<sup>34</sup>

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<sup>32</sup> AAV, fondo Nunziatura in Romania, busta 39, fasc. 186, 12.

<sup>33</sup> AAV, fondo Nunziatura in Romania, busta 39, fasc. 186, 103-104; Secretariatul de Stat pentru Culte, *Statul și cultele religioase* (București: Editura Litera, 2018), 147, 150.

<sup>34</sup> Article 27 of the Law for the general regime of cults from 1928 provided:

“The heads of cults (metropolitans, bishops, superintendents, etc.), elected or appointed in accordance with their organizational status, will be recognized and put into office only after the approval of His Majesty the King, given on the recommendation of the Ministry of Cults and after he has taken an oath of loyalty to the Sovereign and obedience to the Constitution and the laws of the land. The formula of the oath is as follows: Before God, I swear allegiance to His Majesty the King of Romania and his descendants; I swear to respect and make my subordinates respect the

The intention of the Romanian government to reduce the number of Latin rite Catholic dioceses by dissolving the diocese of Oradea into that of Satu Mare can be included in this wider approach.

Given the so-called double standard policy of the Romanian government, the Apostolic Nunciature considered the breaking of diplomatic relations as inevitable. Moreover, the attitude of the president of the Council of Ministers, Iuliu Maniu, proved to be different from what the Holy See expected from a Greek Catholic, considered “the spiritual son of the Catholic Church.”<sup>35</sup> But, for Maniu, favouring Catholic interests could have been politically unfavourable, attracting the hostility of the Romanian Orthodox Church. At the same time, as president of the ruling National Peasant Party, Maniu was afraid of possible attacks by the Liberal Party. Therefore, regarding the territorial constituencies of the dioceses, he opted for limiting the elements that could harm the security and interests of the Romanian state, without intervening in favour of the Catholic Church. During a meeting with Ioan Coltor in January 1930, Maniu recognized the importance he attached to this issue:

“The Hungarians, he adds, do not practice Catholicism, but carry an unjust anti-Catholic and anti-Romanian policy to the border. This is why the previous governments made efforts, reducing the dioceses of Oradea and Satu-Mare to one, with the aim of eliminating a source of subversion against the State. Maniu therefore tried to obtain from the negotiations with the Holy See the result most favorable to the strategic interests of the Romanian state, in the logic of the anti-revisionist policy.”<sup>36</sup>

Since the Holy See was not willing to accept any proposal that could have undermined the juridical-canonical value of the *aeque principalis* formula, Maniu threatened not to sign the minutes of the Executive Commission. For the Holy See, such a concession was problematic because it gave the opportunity to a new government to reconsider sensitive subjects already regulated, such as the delimitation of the canonical territory of the dioceses in Transylvania or the meaning of the term “prebend” in relation to the sacred patrimony. In order to avoid such a situation, the Nuncio wanted to transfer the issue to the diplomatic field, a measure that

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constitution and laws of the land; I swear not to undertake any measure that could harm public order or the integrity of the Romanian state; So help me God!

The officials of the cults, at the beginning of the service, will submit, in front of their competent authority, the oath of allegiance to His Majesty the King and obedience to the Constitution and the laws of the country, in the presence of a representative of the government [...]” (*Monitorul Oficial*, n° 89/April 22, 1928, 1st Part, 3607-3012).

<sup>35</sup> AAV, fondo Nunziatura in Romania, busta 39, fasc. 186, 98.

<sup>36</sup> AAV, fondo Nunziatura in Romania, busta 39, fasc. 186, 92-102.

would have allowed him to negotiate directly with the Minister of Foreign Affairs, Gheorghe Mironescu, who seemed to share his vision in this case.<sup>37</sup>

The situation was finally settled on 5 June 1930 by Pius XI's bull *Sollemni Conventione*. Through its provisions, the document clarified the issues that remained unresolved following the signing of the Concordat between the Holy See and the Kingdom of Romania. The episcopal seat of the Cluj-Gherla diocese was transferred from Gherla to Cluj, the Transfiguration Church being elevated to the rank of a cathedral church. Bukovina was removed from the jurisdiction of the Archbishops of Lviv, being annexed to the Diocese of Iași, which simultaneously became a suffragan of the Archdiocese of Bucharest. Regarding the formula for the union of the dioceses of Satu Mare and Oradea, the document eliminated the difficulties caused by the terminological ambiguity of the word "territory" by replacing it with the term "diocese".<sup>38</sup>

### Concluding remarks

As part of the effort to define the unitary national construct of the Kingdom of Romania after the Great War, an extensive process of centralization of the organic components of the state entity was initiated. A vital and at the same time sensitive element in this endeavour proved to be the minority component. That is why the Romanian legislator made efforts to articulate a flexible (adequate) normative framework for minorities, in accordance with international regulations. Externally, based on the establishment of diplomatic relations with the Holy See, the conclusion of a Concordat was pursued in order to regulate the status of the Catholic minority in the Kingdom of Romania. In this approach with double articulation, the national legal regulations regarding minorities intersected, often in a conflicting manner, the interests and requests addressed to the Romanian state at the diplomatic level, within the negotiations for the Concordat.

Thereby, after the signing of the agreement, its ratification was delayed by two years due to some elements that put the requests of the Catholic minority in dissonance with the strategic interests of the Romanian state. The Romanian government considered it necessary to clarify some points of the convention, namely the legal personality of the Catholic Church, the provisions regarding religious education and the language of instruction in schools belonging to religious orders and congregations as well as the structure of the canonical territory. On the one hand, the Catholic Church was perceived by Romanian society as an external actor, claiming jurisdiction over certain Romanian subjects. On the other hand, the integration of new provinces into the Romanian state had restructured its confessional component, the number of Catholics of three rites (Latin, Greek, Armenian) becoming significant. Among them, the Latin rite Catholics, mostly of Hungarian ethnicity, were

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<sup>37</sup> AAV, fondo Nunziatura in Romania, busta 39, fasc. 186, 21-24.

<sup>38</sup> *Acta Apostolicae Sedis*, XX (1930), no. 9, 381-386.

perceived as potential factors of internal instability through their affiliation with the revisionist rhetoric of the Budapest government.

Therefore, the issues on which the negotiation focused after the signing of the Concordat were addressed by the Romanian side in line with its security imperatives, under the influence of the emerging revisionism manifested by the neighbouring states. The analysis of the disputable elements in the ratification of the Concordat and the follow-up of the Romanian position towards their clarification reflect the degree of flexibility that the Romanian legislator chose to apply regarding the rights of minorities in the process of defining the national state construct.