

Nicolae V. Dura, Teodosie Petrescu

The Mixed Marriages According to the Orthodox Canonical Legislation

Ecumeny and Law 1, 117-129

2013

Artykuł został opracowany do udostępnienia w internecie przez Muzeum Historii Polski w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej bazhum.muzhp.pl, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

NICOLAE V. DURĂ, TEODOSIE PETRESCU

Ovidius University of Constanța, Romania

The Mixed Marriages According to the Orthodox Canonical Legislation (3rd—7th Century)

Keywords: the mixed marriages, Privilegium Paulinum, oikonomia, wedding ceremony, interconfessional weddings, interreligious weddings

Importance of Marriage for the Orthodox Christians

The *Constitutions of the Holy Apostles* — a work redacted in the 3rd and 4th centuries — refers also to the schismatics and the heresiarchs of the time who were teaching that “both marriage and giving birth to children [...] are ugly things, in order for them to make some faint-hearted people to receive their bad teaching as being worthy to be believed...”¹ But for us, the Orthodox Christians, “the wedding is legitimized — as the same Apostolic Constitutions were making more precise — and giving birth to children is honoured and pure, since for the multiplying of the human race in Adam and Eve was created the difference of sex... Any mating against nature is hated by us as something odious and brazen, indecent.”²

Consequently, only the marriage between opposite sexes, between a man and a woman, is allowed and blessed by God and by His Orthodox Church, and on no account are allowed and blessed the unions “against nature” which must be indeed looked upon as odious and brazen.

¹ *Scrierile Părinților Apostolici dimpreună cu Așezămintele și Canoanele Apostolice* (The writings of the Apostolic Fathers along with Settlements and the Apostolic Canons). Trad. PR. I. MIHĂLCESCU. Chișinău 1928, p. 153.

² *Ibidem*, pp. 155, 176—177.

For Christians, marriage is both a divine institution (Gen. I, 2; II, 23—24), and a juridical-canonical one (19th Apostolic Canon). The two aspects, divine and human,³ cannot be either ignored or separated, since a unilateral tackling or evaluation of the marriage institution and particularly of the mixed marriages creates some difficulties “both in the family life of the spouses and in society.”⁴ And this is much more so today, when the free communication and the medley of populations, of different races and ethnogeny make entering into the mixed marriages inevitable.

The Orthodox Church has been confronted with the mixed marriages issue (μίχτοι γάμοι; *matrimonia mixta*) as far back as the Apostolic epoch, when her first members, converted from Jews and pagans, were entering into legal marriages, from the Roman law point of view, with the non-Christians.

The same epoch had to solve the practical issue of “knowing what is going to happen with the conjugal relation of two non-Christians, one of whom did convert to the Christian religion.”⁵

Teaching of St. Paul the Apostle as a Foundation for Legislation

St. Paul acknowledged the truth that it often happened that only one of the spouses became a Christian. To the question asked by Corinthians as to whether or not such a mixed marriage — under the respect of the different faith of the spouses — should be annulled or should remain valid, the Apostle has given the answer which later became a standard for the Church (cf. I Cor VII, 12—16), and as a matter of fact his answer has also been paraphrased in the text of the can. 72 of the Council in Trullo, which in fact has established a principal canonical obligation, which is, as such, mandatory for the entire ecumenical Orthodox Church.

³ See “Chambesy: II-e Conference Panorthodoxe Preconciliaire (3-12 sept. 1982).” *Episkepsis*, XIII (1982), nr. 279, pp. 11—12; Tr. COSTEA: *Căsătoria din punct de vedere istoric, dogmatic și canonic* (Marriage in terms of history, dogmatic and canonical thesis). București, 1935, pp. 1—10; Cf. G. MANTUANU: *Matrimonio canonico e Matrimonio civile*. Padova 1968, pp. 146—147.

⁴ See † V. TĂRGOVIȘTEANUL: “A doua Conferință presinodală pregătitoare a Sfântului și Marelui Sinod” (The second preparatory synodal conference of the Holy and Great Synod). *Glasul Bisericii* XLII, (1933), nr. 4—5, pp. 237—238.

⁵ L. STAN: “Căsătoriile mixte și ultimele măsuri luate de Vatican în privința lor” (Mixed marriages and the Vatican last measures taken against them). *Studii Teologice* XX (1968), nr. 7—8, p. 488.

According to the Pauline teaching, the legal validity of this kind of mixed marriage is recognized, in principle, inasmuch as the marriage has been entered into before the respective spouse has been converted to the Orthodox Christian faith “and the Orthodox Church, in conformity with her spirit, cannot undo the family relations and exert coercion against the human feelings and against the free will within the moral limits...”⁶

This Pauline privilege, which is also invoked by the confessional theologies,⁷ has thus made principled the applying of the dispensation by the Orthodox Church only to the particular case in which that respective marriage was entered into before one of the spouses was Christianized since, as far as the marriage of Christians with non-Christians is taken into account, St. Paul the Apostle has completely prohibited it (cf. I Cor VII, 39; II Cor VI, 14).

Variety of Legal Provisions

The *Constitutions of the Holy Apostles* have also reasserted this teaching, making more pronounced the fact that the one who was baptized should no longer commit “the debaucheries of the villainous ones.”⁸ As a matter of fact, the conception of the early Church was that, such mixed marriages — between a Christian and a non-Christian — have indeed been considered as debaucheries of the villainous ones, thus being prohibited and condemned.

The canon law scholars of the Orthodox Church also confirm the fact that “about such mixed marriages, namely those in which an Orthodox individual could enter into marriage with individuals who do not profess the faith of the Orthodox Church, St. Paul the Apostle does not speak,”⁹ since he did not accept them.

⁶ N. MILAȘ: *Canoanele Bisericii Ortodoxe însoțite de comentarii* (Orthodox canons accompanied by a commentary). Trad. De U. KOVINICI ȘI, N. POPOVICI, vol. I, pt. 2, Arad, 1931, p. 448.

⁷ See N. V. DURĂ: “Teologia Ortodoxă și teologiile confesionale în ecumenismul contemporan” (Orthodox theology and religious theologies in contemporary ecumenism). *Ortodoxia*, XXXVIII, (1986), nr. 3, pp. 61—88; IDEM: “Hotărârile celei de-a II-a Conferințe Panortodoxe Presinodale (3-12 septembrie 1982) privind impedimentele la Căsătorie” (Decisions of the Second Pan-Orthodox Conference Presinodale (3-12 September 1982) on impediments to marriage). *Mitropolia Banatului*, XXXIV (1984), nr. 7—8, pp. 404—416.

⁸ *Scrierile Părinților Apostolici* (The writings of the Apostolic Fathers)..., p. 21.

⁹ N. MILAȘ: *Canoanele Bisericii Ortodoxe...*, p. 449.

In the context of the Pauline teaching, the marriage entered into by an Orthodox Christian with an individual who professes another religious faith, has been, consequently, tolerated by the Church just by applying the canonical principle of dispensation. But this application of dispensation involves some consequences of a canonical-pastoral nature which the Orthodox Church — through her clergy, divinely instituted (bishops, priests, deacons) — must always take into consideration.

Within the answer given to the Corinthians, the Apostle to the Gentiles has made more precise that the husband or the wife who professes Christ has the moral obligation to bring up their children born from such a mixed marriage in the faith of the Orthodox Church. This mandatory character makes obvious the fact that “the Orthodox spouse must have not only full liberty in professing his/her faith and in committing good deeds in accordance with the teaching of Christ, but he/she must have the moral influence over the entirety of family life...”¹⁰ But only the liberty of the husband and wife in professing their right (Orthodox) faith and in choosing their way of Christian living in accordance with the religious-moral law, established by our Saviour Jesus Christ, could make the children born from such a mixed marriage worthy of being “sanctified” and, *ipso facto*, of being filled with the Holy Spirit, since otherwise, as the Apostle to the Gentiles tells us, “they would be unclean” (I Cor VII, 14).

Although in the text of the canons we do not find the “mixed marriages” phrase — since it is a novel product of the canon law theory¹¹ — however, on this reality, numerous canons of the ecumenical Church of the first millennium refer to.

In conformity with the principal disposition enunciated by the text of these canons, marriage of the Orthodox with the heterodox is prohibited. Those who do not pay respect to this principal disposition are anathematized,¹² that is, excommunicated from the respective community or Church. However, the marriage of the Orthodox Christians with the heterodox has been permitted only then when the heterodox side was converting to “Orthodoxy” (canon 31 of Laodicea; canon 14 of the 4th Ecumenical Synod), that is, the heterodox was becoming subject of the

¹⁰ Ibidem, p. 448.

¹¹ See N.V. DURĂ: “Al V-lea Congres Internațional al Societății de Drept a Bisericilor răsăritene” (The Fifth International Congress of the Law Society of Eastern Churches). *Ortodoxia*, XXXIV (1982), nr. 4, p. 619.

¹² IDEM: “Precizări privind unele noțiuni ale Dreptului canonic (depunere, caterisire, excomunicare, afurisire, și anatema) în lumina învățaturii ortodoxe. Studiu canonic” (Details of some notions of canon law (filing, defrocking, excommunication, fuckin and anathema) in the light of Orthodox teaching. Study canon), partea I, *Ortodoxia*, XXXIX (1987), nr. 2, pp. 84—135; partea a II-a *Ortodoxia* XXXIX (1987), nr. 3, pp. 105—143.

canon law of the Church by the Mystery of Baptism,¹³ thus also becoming worthy of receiving the other Mysteries of the Christian initiation, Chrismation,¹⁴ and Holy Communion.¹⁵

According to the disposition of the 63rd Apostolic Canon — in a Coptic version — a Christian may get married with a woman of another faith, but only under the condition that “the woman converts to Christianity [...]; if she refuses to do so, the husband has to depart from her. If any [of the spouses — our note] adopts the pagan or Judaic customs [...], he/she must give them up, in order for them not to be excommunicated.”¹⁶

Based on the canon 10 of Laodicea, “it is not proper to those who belong to the Church [that is, to the Orthodox Christians — our note] to mate, out of apathy [ἀδιαφόρως] their children with the heretics through the bond of marriage.”¹⁷

Opinions Given by Canon Law Scholars

In accordance with the interpretation offered by some Orthodox canon law scholars¹⁸ that respective canon prohibits the marriage of an Orthodox Christian with any individual anathematized by the Orthodox Church, or one whose heresy has been anathematized (cf. canon 1 of the 2nd Ecumenical Synod; canon 1 of St. Basil the Great; canon 45 of the *Holy Apostles*). In his commentary, the canonist is, however, much more

¹³ See N. V. DURĂ: “Dispoziții și norme canonice privind administrarea Sfântului Botez” (Canonical provisions and rules regarding the administration of Baptism). *Orthodoxia*, XXXI, (1979), nr. 3—4, pp. 593—612.

¹⁴ IDEM: “Rânduiele și norme canonice privind administrarea Mirungerii. Sfințirea Sfântului Mir pe teritoriul românesc, expresie elocventă a stării de autocefalie a Bisericii române de-a lungul secolelor” (Consecration of the Holy Myrrh on Romanian territory, eloquent expression of the status of autocephaly of the Romanian Church along centuries). *Mitropolia Moldovei și Sucevei*, LVII (1981), nr. 1—3, pp. 39—57.

¹⁵ IDEM: “Rânduiele și norme canonice privind administrarea Sfintei Euharistii” (Canonical ordinances and rules concerning the administration of the Holy Eucharist). *Glasul Bisericii*, XXXVIII (1979), nr. 7—8, pp. 791—804.

¹⁶ *Les 127 Canons des Apotres. Texte arabe*. Edit. și trad. J. PERIER, A. PERIER. Paris 1912, p. 97.

¹⁷ Apud *Sintagma dumnezeieștilor și sfințelor canoane* (Phrase divine and sacred canons) (in Greek language). Eds. de G.A. RALLY și M. POTLY (*Sintagma Ateniană*), vol. III, Atena 1853, p. 180; Cf. N. MILAȘ: *Canoanele Bisericii Ortodoxe...*, vol. II, pt. I. Arad 1934, p. 88.

¹⁸ See *Sintagma* (The Athenian phrase)..., p. 198; N. MILAȘ: *Canoanele Bisericii Ortodoxe...*, pp. 88—89.

categorical, while prohibiting — as a final judgment — the entering into marriage with a heterodox.¹⁹ Yet, the Byzantine canonist based his affirmation on the texts of canon 23 of St. John the Faster and canon 72 of the Council in Trullo.

Based on the canon 23 of St. John the Faster (d. 595), “if an Orthodox gets married with a heretical woman, the wedding is to be without value, and the illegitimate marriage should be dissolved; and if they insist in remaining married, they must be anathematized.”²⁰ As a consequence, for St. John the Faster, the marriage with a heterodox is totally prohibited.

In accordance with the Apostolic order, those who did not renounce such a marriage were to be excommunicated by the Church. Those who “do not repent — as prescribed by the Apostolic Constitutions — you have to anathematize, separating them from the faithful, and make a public announcement about their removal from the Church of God, and command the faithful to completely stay away from them, and not to become companions with them either in word, or prayers, since they are adversaries and ill-willed to the Church, by spoiling the fold, by dishonouring the inheritance, and they call themselves wise while being totally wicked...”²¹

Following this Apostolic order, “The By-Laws for cases of bans and anathemas” of the year 1922²² — which is still in force in our Church — provides that “in cases of deviation of any of the Orthodox Christian believers or clergy [...] in spite of having been used all the means, the ill thing was not removed, the Holy Council should be informed, by the Bishop of the Eparchy, in order for it to decide. The Holy Council, after deciding on the case brought to its attention, and finding no means for bringing back and straightening those who have deviated, will be empowered to give authorization for banning and anathematizing, with the exception to receive back in the assembly of the faithful the anathematized one who has fully repented” (Arts. II—III).

The Fathers of the Council in Trullo (Constantinople, 691—692), have totally prohibited the entering into marriage of an Orthodox Christian with a heterodox. On the ground of the canon 72, “an Orthodox man is not forgiven if he enters into marriage with a heretical woman (αἱρετικὴ γυναῖκι), neither the Orthodox woman is forgiven to get married to a heretical man (αἱρετικῷ ἀνδρὶ), but if someone is proved to have done something like this, the marriage is considered null and void, and the illegitimate wedding must

¹⁹ *Sintagma* (The Athenian phrase)..., p. 181.

²⁰ N. MILAȘ: *Canoanele Bisericii Ortodoxe ...*, vol. II, pt. 2. Arad 1936, p. 216.

²¹ *Scrierile Părinților Apostolici* (The writings of the Apostolic Fathers)..., p. 163.

²² Ch. C. COSTESCU: *Colecțiunea de legiuiri bisericești* (Collection of laws, regulations), vol. III. București 1931, pp. 422—423.

be dissolved; [...] and if someone will break this decision of ours — the Holy Fathers of the Council in Trullo conclude — let him be anathematized.”²³

Consequently, in accordance with the teaching of our Church, a marriage entered into between an Orthodox Christian and an individual of another faith is null and void, since it is an outrageous wedding, which does not transmit the grace of the Mystery of Matrimony and does not bear canonical effects either. Based on the principal disposition enjoined by the Holy Fathers of the 6th Ecumenical Synod in its second session (691—692)²⁴ those who infringe upon “the decided rules” are excommunicated (anathematized), that is, they are excluded from the Orthodox ecclesiastical community (cf. canon 72).

In accordance with the opinion of some Roman-Catholic canonists, “the canon 72 of the Council in Trullo — which for the first time was declaring that the religious marriage entered into between Orthodox and heretics is invalid — was not applied in the East, and much less in the West. As such, claim the canonists, the mixed marriages have been considered valid, even legitimate, if they were entered into under some conditions. The mixed religion has constituted an impediment only for the Orthodox side, which had to ask for a dispensation from the side of ecclesiastical authority.”²⁵

In his commentary on the canon 72, Balsamon asserted that the Fathers of the Council in Trullo have also paid respect to the provisions of the civil law (ὁ πολιτικός νόμος)²⁶ of their time, which was prohibiting the marriage between Orthodox and heterodox. Without doubt, the Fathers of the Council in Trullo have taken into consideration the provisions of the State legislation of that time which also perpetuated the previous legislation created with the same concern by the Byzantine imperial authority. Therefore, the provision of the canon 72 of the Council in Trullo was applied at least in the East, since it was later expressed and enforced by the Byzantine imperial legislation.

²³ N. MILAȘ: *Canoanele Bisericii Ortodoxe...*, vol. I, pt. 2. Arad 1931, p. 446; Cf. *Sintagma Ateniană* (The Athenian phrase), vol. II, p. 471.

²⁴ The matter is about the second session of the 6th Ecumenical Synod, assembled at Constantinople in 691—692, which has given us 102 canons (see N.V. DURĂ: “The Ecumenical Council in Trullo (691—692). The Canonical Tradition’s Evidences from East and West.” *Kanonika* (1995), nr. 6, pp. 229—262; I.V. DURĂ: “Câteva precizări privind data și denumirile celei de a doua sesiuni a celui de-al VI-lea Sinod ecumenic (Quinisext sau Trulan)”) (Some clarifications on the date and names of the second session of the 6th Ecumenical Council (Trulan or Quinisext)). *Biserica Ortodoxă Română* (1992), nr. 1—3, pp. 158—162.

²⁵ P. TOCANEL: “I Matrimoni misti dopo il Concilio Vaticano II negli schemi delle commissioni pontificie.” *Kanon* (Yearbook of the Society for the Oriental Churches), vol. VI, p. 119.

²⁶ See *Sintagma Ateniană* (The Athenian phrase), vol. II, p. 472.

The 31st canon of Laodicea (343—348)²⁷ provides that a mixed marriage between an Orthodox Christian and a heterodox individual could be tolerated only in the case in which the individual of other faith would solemnly promise (ἔιγε ἐπαγγέλοιτο) that he/she will accept and profess the Orthodox faith.²⁸ Therefore, with this meaning must be understood the word ἀδιαφώρας (out of apathy) from the text of the canon 10 of Laodicea Synod, which expressly prohibits “those who belong to the Church to allow out of apathy their sons to get married with the heretics through the bond of marriage.”²⁹

On the ground of the two canons of the Synod from Laodicea (343—348), we may, therefore, conclude that, in principle, such a mixed marriage — between an Orthodox and a heterodox — is prohibited, but, by applying the canonical principle of dispensation, it could be entered into with the exception that the individual of a different faith solemnly promises to become an Orthodox Christian. Of course, such a marriage does not bear juridical-canonical effects until the materializing of the solemn promise made by the heterodox side.

Children in Mixed Marriages

In giving expression to this reality of the early Church, the Fathers of the 4th Ecumenical Council (Chalcedon, 451) by the canon 14, have prohibited even “the readers and the cantors to get married with a heterodox wife. And those who have had children from such a marriage, if they have baptized their children with a heretical baptism, they must bring them in communion with the Catholic [Orthodox — our note] Church, and if they did not baptize them, they cannot baptize them with a heretical rite, and cannot marry them through wedding with a heretic, or a Jew, or a pagan, with the exception that the individual which gets married with the Orthodox promise to convert to the Orthodox faith.”³⁰

Based on this canon, the children born within these prohibited marriages, in case that they have been baptized in the heretical rite, must accordingly be brought to Orthodoxy, since the heterodox baptism and

²⁷ In the text of the canon there is the provision: “It is not proper to enter into marriage with any heretics, or to give the sons or the daughters to heretics, but especially take them if they would promise to become Christians” (apud N. MILAȘ: *Canoanele Bisericii Ortodoxe...*, vol. II, pt. 1, p. 105).

²⁸ See *Comentariile lui Zonara și Balsamon* (Comments of Zonara and Balsamon). In: *Sintagma Ateniană* (The Athenian phrase), vol. III, pp. 198—199.

²⁹ N. MILAȘ: *Canoanele Bisericii Ortodoxe...*, vol. II, pt. 1, p. 88.

³⁰ *Ibidem*, vol. I, pt. 2, pp. 225—226.

wedding do not bestow on them the grace of God's Mysteries,³¹ and, *ipso facto*, the consequences which are inherent to this.

But by the canon 14, the Fathers of the 4th Ecumenical Council have established a principal canonical disposition, on the basis of which an Orthodox can marry a heterodox only in the case when an individual would promises "to embrace the Orthodox faith."³²

Application of the Pauline Principle

In conformity with the canonical order of the ecumenical Orthodox Church concerning the criteria for contracting marriages with the heterodox — which have been established on the ground of "Pauline principle" (cf. I Cor VII, 12—16) — in the case in which two heterodox marry each other, and after getting married one of them embraces the Orthodox faith and the other one remains a heterodox, their marriage should not be dissolved (μή χωριζέσθε), if the spouses agree to further live on together.³³ As a matter of fact, in this sense also the Fathers of the Synod in Trullo made the pronouncement — who have confirmed both the canonical order and the ecclesiastical practice up until then, concerning the mixed marriages, by the text of the canon 72: "But if some, while finding themselves still in unfaith, and not being counted in the fold of Orthodox as yet, have been united by legitimate marriage, and then, one of them, by choosing the good, has come to the light of truth, and the other one keeps the bond of wandering, by not choosing to look at the divine rays, but the unfaithful wife consents to live with the faithful husband, or vice versa, the unfaithful one with the faithful one, let them not be disunited..."³⁴

In order for them to justify and argue this attitude, the Fathers of the Synod in Trullo have invoked the so-called Pauline privilege (I Cor VII, 14), in accordance with which "the unbelieving husband is sanctified by the wife, and the unbelieving wife is sanctified by the husband; otherwise

³¹ See *Comentariul lui Aristen* (Comment of Aristen), in *Sintagma Ateniană* (The Athenian phrase), vol. II, p. 254; N.V. DURĂ: *Dispoziții și norme canonice privind administrarea Sfintei Taine a Botezului* (Canonical provisions and rules regarding the administration of Baptism), in *Ortodoxia*, XXXI (1979), nr. 3—4, pp. 593—612.

³² Apud *Sintagma Ateniană* (The Athenian phrase), vol. II, p. 251.

³³ For one's building up, see the texts of the canons: 14 of the 4th Ecumenical Council, 72 of the Council in Trullo, 10 of Laodicea, and 23 of St. John the Faster.

³⁴ Apud N. MILAȘ: *Canoanele Bisericii Ortodoxe...*, vol. I, pt. 2, pp. 446—447.

your children would be unclean, but now they are holy.³⁵ But if the unbelieving husband departs, let him depart,” says St. Paul the Apostle, since under such circumstances they are not “under bondage in such cases” (I Cor VII, 14—15).

For the Apostle to the Gentiles, the free consensus of the heterodox spouse, while not being forced by anyone, to live together with the spouse who became a Christian, constituted a peremptory proof that the conversion of the other spouse “was the expression of the free will and of a sincere desire; but at the same time, this circumstance could also serve as a proper means and as an urge for the other spouse to receive the right faith...”³⁶

Conclusions

In conclusion, from the text of Orthodox canonical legislation — corroborated with by the doctrine and Orthodox canonical practice — result the following orders:³⁷

1. The mixed marriages of the Orthodox Christians with individuals of other faith, particularly with the pagans and the heretics (heterodox) are strictly prohibited by the Church.
2. The mixed marriage is valid only when out of a marriage entered into outside the Orthodox Church, therefore within a community of non-Christian religious faith or a heretical one, one of the spouses receives the Orthodox faith after marriage, and the other one, who remains in his/her previous faith, chooses to stay married with the spouse who embraced the Orthodox faith.
3. The children born from such mixed marriages must be baptized and brought up within the Orthodox Christian faith.
4. If the spouse of pagan or heterodox faith does not wish to stay in the marriage with the spouse who became an Orthodox Christian, then the marriage is dissolved and the Orthodox spouse is allowed to enter into another marriage with an Orthodox individual.
5. An Orthodox individual is allowed to enter into marriage with a heterodox individual, only if the last one promises to receive the Orthodox faith and makes good on his/her promise on the spot.

³⁵ Ibidem.

³⁶ Ibidem, p. 448.

³⁷ Ibidem, p. 450.

NICOLAE V. DURĂ, TEODOSIE PETRESCU

Małżeństwa mieszane według prawa kanonicznego Kościoła prawosławnego (II—VII wiek n.e.)

Streszczenie

W świetle świadectw kanonicznych i ostatnich uchwał Kościoła prawosławnego, ogólne reguły dotyczące małżeństw mieszanych przedstawiają się następująco:

1. Małżeństwa międzywyznaniowe oraz z wyznawcami innych religii są zabronione.
2. Po zastosowaniu zasady *oikonomia*, małżeństwa mieszane mogą być tolerowane. Wówczas jednak ceremonia ślubna musi odbyć się w Kościele prawosławnym i być przeprowadzona przez prawosławnego duchownego.
3. Możliwości i formy zastosowania zasady *oikonomia* zależą od praktycznych potrzeb poszczególnych Kościołów prawosławnych, które mają prawo decydowania w konkretnych sprawach.
4. Dzieci pochodzące z małżeństwa mieszanych muszą być ochrzczone w Kościele prawosławnym.
5. Zgodnie z Przywilejem Pawłowym (1 Kor 7, 12—16), małżeństwo mieszane dopuszczone jest tylko w wypadku, gdy zostało zawarte przed nawróceniem jednego z małżonków na chrześcijaństwo.
6. Na podstawie kanonu 10 Synodu w Laodycei oraz kanonu 23 św. Jana Postnika małżeństwo osoby wyznania prawosławnego z osobą innej wiary jest zabronione.
7. Kanon 31 Synodu w Laodycei oraz 14. kanon IV Soboru Powszechnego zezwalają na małżeństwo między osobą wyznania prawosławnego i osobą innej wiary, pod warunkiem, że osoba odmiennego wyznania uroczyście przyrzeknie – podczas zawierania małżeństwa — że nawróci się na prawosławie.
8. Kanon 72 Synodu Trullańskiego (691—692), który usystematyzował ówczesną praktykę kanoniczną w kwestii małżeństw mieszanych, stanowczo zabraniał owych małżeństw pod groźbą ekskomuniki. Uznając je za nieważne, ten sam kanon nadawał Przywilejowi Pawłowemu moc powszechnie obowiązującego prawa, w takim sensie, że małżonek, który nawrócił się na chrześcijaństwo – po zawarciu małżeństwa „nie powinien rezygnować z własnej religii/oddzielnie od drugiego małżonka”.

Niedawno Rumuński Kościół Prawosławny zasugerował „ustanowienie nieustającego synodu czterestu kościołów autokefalicznych w celu większej spójności ich doktrynalnych i dyscyplinarnych uchwał”. Bez wątpienia taki nieustający synod wszechprawosławny mógłby pomóc zmierzyć się z wieloma trudnymi zagadnieniami stojącymi obecnie przed Kościołem prawosławnym, m.in. ważnym problemem małżeństw mieszanych, którego rozwiązanie zostało odroczone przez Wielki i Święty Sobór Wszechprawosławny. Niestety, ta realistyczna i pożyteczna decyzja naszego Kościoła nie została jeszcze wprowadzona w życie, zatem przyszły Wielki i Święty Sobór nie rozwiąże wielości problemów, które stoją dziś przed kościołem prawosławnym.

Słowa kluczowe: małżeństwo mieszane, Przywilej Pawłowy, *oikonomia*, prawosławie, różnica religii, różnica wyznania

NICOLAE V. DURĂ, TEODOSIE PETRESCU

Les mariages mixtes conformes au droit canonique de l'Église orthodoxe (IIIe—VIIe siècle apr. J.-C.)

Résumé

A la lumière des certificats canoniques et des dernières résolutions de l'Église orthodoxe, les règlements généraux concernant les mariages mixtes sont les suivants :

1. Les mariages interconfessionnels et interreligieux sont interdits.
2. Dans le cas où ils sont acceptables, c'est-à-dire l'oikonomie est appliquée, la cérémonie du mariage doit avoir lieu dans l'église orthodoxe et exercée par un prêtre orthodoxe.
3. L'application des possibilités et des formes d'oikonomie dépend des besoins pratiques des Églises orthodoxes locales, qui ont le droit de décider sur les questions spécifiques.
4. Les enfants nés du mariage interreligieux doivent être baptisés dans l'Église orthodoxe.
5. Selon le Privilège paulin (1 Cor 7, 12—16), le mariage interreligieux est acceptable uniquement dans la situation où il a été contracté avant la conversion au christianisme de l'un des époux.
6. Sur la base du canon 10. du concile de Laodicée du Lycos et du canon 23. du Saint Jean IV le Jeuneur, le mariage d'une personne orthodoxe avec une personne de religion différente est interdit.
7. Le canon 31. du concile de Laodicée du Lycos et le canon 14. du concile oecuménique, permettent le mariage entre une personne orthodoxe avec une personne de religion différente sous la condition que cette dernière promette solennellement pendant la cérémonie du mariage de se convertir à l'orthodoxie.
8. Le canon 72 du concile in Trullo (691—692), qui a systématisé la pratique canonique concernant le mariage interreligieux, a fermement interdit ces mariages sous peine d'excommunication. En les jugeant nuls et de nul effet, le même canon a mis en vigueur le Privilège paulin dans le sens que l'époux converti au christianisme après la conclusion du mariage « ne devrait pas résigner sa propre religion / se séparer de l'autre époux ».

Dernièrement l'Église orthodoxe roumaine a suggéré d'« établir le concile permanent de quatorze églises autocéphales dans le but de garder une cohérence plus grande de leurs résolutions doctrinales et disciplinaires ». Sans doute un concile permanent panorthodoxe pourrait affronter de nombreux problèmes difficiles, qui surviennent actuellement à l'Église orthodoxe, entre autres le problème grave des mariages interreligieux, dont la résolution a été prorogée par le Saint et grand Concile de l'Église orthodoxe. Malheureusement cette décision réaliste et utile de notre Église n'est pas encore mise en valeur, et, par conséquent, le futur Saint et grand Concile ne résoudra pas la multiplicité de problèmes qui se posent à l'Église orthodoxe.

Mots-clés: mariages interconfessionnels, Privilège paulin, oikonomie, cérémonie du mariage interconfessionnel, mariage interreligieux

NICOLAE V. DURĂ, TEODOSIE PETRESCU

I matrimoni misti secondo la legislazione canonica ortodossa

Sommario

Considerando le testimonianze canoniche e le ultime disposizioni della Chiesa ortodossa possiamo constatare quanto segue:

1. Il matrimonio interconfessionale o interreligioso non è consentito.
2. Nel caso in cui esso sia tollerato, data l'applicazione dell'oikonomia, la cerimonia del matrimonio deve essere celebrata nella Chiesa ortodossa dal sacerdote ortodosso.
3. Le possibilità e le modalità di applicazione dell'oikonomia dipendono dalle necessità pratiche di ogni Chiesa ortodossa locale, la quale ha il diritto di giudicare un determinato caso in maniera individuale.
4. I figli nati da tale matrimonio devono essere battezzati ed educati nella fede ortodossa.
5. Secondo il *Privilegium Paulinum* (I Cor. VII, 12—16) il matrimonio misto è consentito solo nel caso in cui sia stato celebrato prima che uno dei due coniugi non battezzati abbia ricevuto il battesimo.
6. Secondo le disposizioni del canone 10 di Laodicea e del canone 23 di San Giovanni IV il Digiunatore, è vietato il matrimonio di un cristiano ortodosso con una persona di un'altra fede.
7. I canoni 31 di Laodicea e 14 del IV concilio ecumenico consentono il matrimonio tra un cristiano ortodosso e una persona eterodossa a condizione che il/la coniuge giuri solennemente — nel contrarre il matrimonio — di convertirsi all'Ortodossia.
8. Il canone 72 del Concilio Trullano (691—692) — che ha reso omogenea la prassi canonica riguardante i matrimoni misti — proibisce severamente di contrarre simili matrimoni sotto minaccia di scomunica. Considerandoli nulli, lo stesso canone attribuisce al *Privilegium Paulinum* il potere di una legge universalmente vincolante, nel senso che il coniuge diventato cristiano — dopo aver contratto il rispettivo matrimonio — “non dovrebbe abbandonare la sua fede/separarsi dall'altro coniuge”.

Non molto tempo fa la Chiesa ortodossa rumena ha suggerito “l'istituzione di un sinodo permanente delle quattordici Chiese autocefale con lo scopo di garantire una maggiore coerenza delle disposizioni dottrinali e disciplinari”. Senza dubbio un simile permanente sinodo panortodosso potrebbe risolvere numerosi problemi che la Chiesa ortodossa deve affrontare, tra cui, in primo luogo, il problema dei matrimoni misti la cui soluzione definitiva durante il Grande e Santo Sinodo è stata rimandata ad altro tempo. Purtroppo questa proposta realistica e salutare della nostra Chiesa non è stata ancora messa in pratica e le problematiche discusse durante il Grande e Santo Sinodo non potranno mai avvicinarsi e risolvere la moltitudine dei problemi che l'Ortodossia di oggi deve affrontare.

Parole chiave: matrimonio interconfessionale, *Privilegium Paulinum*, oikonomia, nozze interconfessionali, nozze interreligiose