

MODIFICATION OF THE REGULATIONS ON PERSONAL PRELATURES UNDER POPE FRANCIS

ZMIANA PRZEPISÓW DOTYCZĄCYCH PRAŁATUR PERSONALNYCH WPROWADZONA PRZEZ PAPIEŻA FRANCISZKA

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Abstract

Personal prelatures are Church institutions, focused on specific pastoral ministries, established by the Holy See. Their creation was made possible by the Second Vatican Council and the 1983 Code of Canon Law, and only one prelature has been established so far – Opus Dei. Pope Francis, in his Motu Proprio of 8 August 2023, modified the dispositions of the Canons 295-296 concerning the personnel of prelatures. This article considers the consequences of these changes: the gradual clarification of the positions of the personal prelature in canon law and in the structure of the Church.

Keywords: personal prelature, prelate, Opus Dei, public associations of clerics, incardination, laymen of the prelature

Abstrakt

Prałatury personalne to instytucje kościelne służące realizacji szczególnych zadań duszpasterskich, tworzone przez Stolicę Apostolską. Ich utworzenie było możliwe dzięki Soborowi Watykańskiemu II i Kodeksowi Prawa Kanonicznego z 1983 r., jednak do tej pory powstała tylko jedna prałatura – Opus Dei. Papież Franciszek w swoim motu proprio z 8 sierpnia 2023 r. zmodyfikował postanowienia kan/ 295-296 dotyczących prałatur personalnych. Artykuł stanowi analizę konsekwencji tych zmian: stopniowe wyjaśnianie pozycji prałatury personalnej w prawie kanonicznym i w strukturze Kościoła.

Słowa kluczowe: prałatura personalna, prałat, Opus Dei, publiczne stowarzyszenia duchownych, inkardynacja, świeccy prałatury

Introduction

Personal prelatures are a relatively new structure, appearing in the 1983 Code of Canon Law (Canons 294-297).¹ The 1917 Code of Canon Law did not have such a structure,² and personal prelatures were established by incorporating certain provisions of the Second Vatican Council³ into the text of CIC/83. To date, however, only one personal prelate has been created – Opus Dei. In the revision of the Code, in the 1980 Schema, the personal prelate was equated with the particular church, which was met with criticism from canonists who pointed out that personal prelatures should rather be classified as associations of the faithful. This paper examines the change that Pope Francis made in August 2023 to modify the provisions of Canons 295-296, which again directs personal prelatures closer to clerical associations of the faithful.

1. Reasons for the creation of personal prelatures in the CIC/83

A personal prelate is defined as an organizational structure for carrying out special pastoral or missionary activities, in different regions or for different groups that require special assistance [Sitarz 2019, 2196]. The need for the creation of such a structure arose from the conciliar demands for a better deployment of priests in the world in the context of special pastoral tasks, as stated in PO 10 and AG 20. At the time of the introduction of the notion of a personal prelate into the CIC/83, there was already debate among canonists about its identity and whether, in the case of a personal prelate, it was an association with a special purpose with the right of incardination, or an entity within the hierarchical structure of the Church, resembling to some extent a particular church.

¹ *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus* (25.01.1983), AAS 75 (1983), pars II, p. 1-317 [hereinafter: CIC/83].

² *Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus* (27.05.1917), AAS 9 (1917), pars II, p. 1-593 [hereinafter: CIC/19]. CIC/17 in Canon 215 § 2 knew only the notion of a territorial prelate (*praelatura nullius*), which is known in can. 368 CIC/83 and which is a particular church.

³ Sacrosanctum Concilium Oecumenicum Vaticanum II, *Decretum de presbyterorum ministerio et vita Presbyterorum ordinis* (07.12.1965), AAS 58 (1966), p. 991-1024, no. 10; *Eadem, Decretum de activitate missionali Ecclesiae Ad gentes* (07.12.1965), AAS 58 (1966), p. 947-90, no. 20.

Even the placement of the prelature regulations in the CIC/83 in the year of promulgation did not resolve them [Krukowski 2005, 118]. The criterion for defining a particular church, which eventually prevailed in the drafting of the CIC/83 text, was territory. In this context, the decision was taken that personal prelatures could not be equated with the particular church. The Commission for the drafting of the text of the CIC/83 therefore recommended that the provisions on prelatures be transferred to another part, but within the hierarchical structure of the Church. However, when the text of the Code was promulgated in 1983, the personal prelatures were placed in Book II, in its Part I, in the IVth title dealing with “the faithful,” and then between “sacred ministers or clerics” (IIIth title) and “associations of the faithful” (Vth title), i.e., beyond the rights and duties of the clerics and before the associations of the faithful. Already by this classification we see the gradual movement of the personal prelature from the “quasi-particular church” to the association of the faithful. Thus, a new legal form was created that stands out for its flexibility to better spread the Christian message and practice. The reason given for the creation of prelatures is the special need related to the mission of the Church in the world: ensuring an adequate distribution of clergy throughout the universal Church, carrying out specific pastoral or missionary work in different regions or for different social groups [Turek 2017, 59]. To this end, before issuing the founding decree of a particular prelature, the Apostolic See will therefore hear the opinions of the bishops’ conferences in whose territory the prelature is to operate and will assess the capacity of the prelature to meet these particular needs of the local Churches. The personal prelature, as constituted in the original CIC/83 text (Canons 294-297), is part of the hierarchical structure of the Church, distinct from the societies of the evangelical councils and from the particular churches. The personal prelature is composed of the prelate, priests, deacons of the secular clergy (*cleri saecularis*, Canon 294). The prelature may not include clerics incorporated into institutes of consecrated life or associations of apostolic life. This does not exclude the possibility of members of institutes of consecrated life collaborating in the pastoral activity of the prelature [Gutiérrez 2011, 274]. The Statute of the Prelature, which is approved by the Apostolic See, is to define the objectives of the Prelature, its composition, governance and methods of operation (Canon 95 § 1), the membership of the Prelature, the relations of the members of the Prelature to the local Ordinaries, the specifics

of the Prelature, etc. It is then the bishop of the diocese who gives his consent to the operation of the prelatore in the territory of a particular ecclesiastical parish. The personal prelatore is headed by a personal prelate, as its own Ordinary, and the type of this jurisdiction is mixed (*potestas cumulativa*) with territorial jurisdiction. The prelate of the personal prelatore and the diocesan bishop have jurisdiction over the same persons, but the area of jurisdiction is different [Krukowski 2005, 120]. The competences of the prelate are determined both by common law and by the statute of the prelatore or by the contract with the diocesan bishop (cf. Canon 297). The prelate is directly responsible to the pope and is the proper ordinarius of the persons incardinated in the prelatore. Lay persons may also belong to the prelatore in a certain way, by virtue of a contract (Canon 296) which gives them the rights and duties defined in the statute of the prelatore. Thus, lay persons do not make vows, promises, etc., in the prelatore, and their belonging to a personal prelatore does not extinguish their membership in the diocese. The contractual union of the laity with the prelatore is therefore inferior to incorporation into a religious institute or a society of apostolic life or a secular institute. For according to Canon 296, only external apostolic activity is the object of this covenant. A personal prelatore is not a particular church. It is not a *populi Dei portio* (Canon 368), which is formed on the basis of territorial-personal criteria, but is an assembly of Christians (*coetus fidelium*) formed on the basis of personal criteria, entrusted to the pastoral care of a prelate with ordinary jurisdiction of his own [Arrieta 2002, 114]. Therefore, a prelate is not a shepherd of God's people in the sense of a diocesan bishop. Not only for these reasons, but also for many other differences between the personal prelatore and the particular Church, between the prelatore and the community of consecrated life (prelatores are secular in character), between the prelatore and the association of the faithful, personal prelatores are ultimately a new structure of their own in canon law. Simply put: the personal prelatore should focus more on the possibility of making a group of clerics from churches with a surplus of clergy available to others that have a shortage. It will always depend on the statute of the particular prelatore, which will be approved by the Apostolic See for specific tasks.

2. Structure of the Prelature of Opus Dei and its place in the Church

For the time being, the only personal prelature Opus Dei (*Praelatura Sanctae Crucis et Operis Dei*) was founded in Spain in 1928 by St. Josemaría Escrivá de Balaguer (9 January 1902–26 June 1975, canonized by Pope John Paul II on 17 May 1992) as a way of personal sanctification for every Christian. The main idea of his work was that it is possible to sanctify oneself by working in the world with a Christian concept of service and work for others. First, the group was approved of 24 February 1947 as a secular institute of pontifical law (and additionally of 16 June 1950, the Statute of the Institute was approved, which was common practice at the time) [Caparros, 142], but for many years the Institute pointed out the inadequacy of this form and its own pastoral reality [Arrieta, 112]. In 1982, before the promulgation of the CIC/83, an apostolic constitution of Pope John Paul II was issued: *Ut sit*⁴ of 28 November 1982 and the declaration of the Congregation for Bishops *Praelaturae personales*⁵ established it as a personal prelature with an international character. It is a prelature made up of clerics and laity, which carries out internal and external activities to sanctify the work and prepare men and women for the apostolate in secular society [Sitarz 2019, 2200].

The regulations on this prelature, its establishment and its activities correspond to the above-mentioned regulations (or we can assume that the regulations were tailored to this prelature). The Prelature was established by the Apostolic See for specific pastoral or organisational reasons, after hearing the Bishops' Conferences in whose territory it operated (Spain, Italy, Portugal, Ireland) and its purpose was defined in the Statute also approved by the Apostolic See. It was originally subordinated to the Congregation for Bishops. The word „personal” suggests that it is defined by persons, as opposed to, say, dioceses or parishes, which are defined by geographical area. A prelature is composed exclusively of secular clergy: priests, deacons, or alumni of seminaries established by the prelature. Other lay persons are added to the apostolic activity of the prelature by contract. About

⁴ Ioannes Paulus PP. II, Constitutio apostolica Sanctae Crucis et Operis Dei Opus Dei in Praelaturam personalem ambitus internationalis erigitur *Ut sit* (28.11.1982), AAS 73 (1983), pars I, p. 423-25 [hereinafter: US].

⁵ Congregatio pro Episcopis, Declaratio de Praelatura Sanctae Crucis et Operis Dei *Praelaturae personales* (28.08.1982), AAS 75 (1983), pars I, p. 464-68.

20% of the members are *numerarii*: unmarried, celibate members who, in addition to their professional work, also devote themselves to the service of the prelate. They live in the centres of Opus Dei and the female and male branches are strictly separated. In these centres there are also so-called numerary assistants (*numeriae auxiliares*), women who take care of the operation and maintenance of the home environment in Opus Dei centres, which is their only profession. The largest group in the prelate (about 70%) are the supernumeraries – lay people living a normal family and career life, and finally the so-called associates (*aggregati*), who differ from numeraries in that professional or family commitments force them to live outside the centres of Opus Dei, are also single and celibate. In addition to these groups, there is also a group of so-called co-operators (*cooperatores*). These persons sympathize with Opus Dei, participate in its activities, support the prelate with prayers or financially. The co-operators of Opus Dei are not only Catholics, but also non-Catholics or even non-Christians and people with no religious affiliation. Associated with the Prelature is the Priestly Society of the Holy Cross, which brings together priests associated with Opus Dei. These are priests of the prelate, ordained usually by the prelate, incardinated in the prelate, but may include other priests and deacons, incardinated in various dioceses, who apply for admission to the Priestly Society of Holy Cross and are duly admitted. The Prelate of Opus Dei is also the President General of the Priestly Society of Holy Cross and the priests of the Prelature represent about 2% of the members. Most of them are numeraries who have become priests on call and who have been educated by the prelate itself. The Prelature provides spiritual, intellectual and doctrinal formation to its members and supporters. The prelate has its centre in Rome, where the prelate also lives.⁶ In the management of Opus Dei, the prelate collaborates with the Central Assizes for Women and the General Council for Men. Both councils are based in Rome. In addition to the general legislation in the CIC/83 or in the US, the Prelature is governed by its own Statutes of Opus Dei. The Statute is in fact a particularistic law of the prelate and is called as such: *Codex iuris particularis*

⁶ All the positions acquired in Opus Dei are only temporary, with one exception – that of prelate. This office is for life; the candidate for prelate must be approved by the General Congress of Opus Dei and then confirmed by the Pope. The first two prelates were appointed bishops, Fernando Ocariz, the third and current prelate is no longer a bishop as of 2017.

Operis Dei; it was promulgated together with the US on 28 November 1982 and it characterizes the specifics of the prelatore in 185 articles. The priests of the prelatore are fully subordinate to the prelate, who defines their pastoral tasks, which they carry out in close collaboration with the pastoral council of the diocese in whose territory they operate. The prelatore assumes responsibility for their economic support. Each believer in the prelatore is responsible for his own personal and family needs, for which he acquires the means through his professional work. In addition to these needs and the needs of their centre, the Opus Dei faithful and collaborators contribute to the financing of the pastoral activities of the prelatore.⁷ The relationship of the laity in Opus Dei to the priest, the bishop and the pope is to be exactly the same as that of the rest of the Catholic faithful. Like other Catholics, they are bound by the diocesan rules and follow the teaching of the bishop's guidance and participate fully in the life of the parish according to their personal abilities. This is emphasized by Arieta when he says that the lay faithful cannot belong to personal prelatures in the same theological and juridical way as to individual particular churches [Arrieta 2002, 119]. Their obligations to Opus Dei are complementary and begin in areas where the bishop's authority does not intervene (for example, spiritual development and apostolic commitments), where the faithful are completely free, and where they strive for holiness on the path they have chosen. Opus Dei establishes its centres all over the world, and its members run many other institutions and initiatives which are not necessarily part of their own prelatore and which have their connection with Opus Dei codified in their internal rules. Opus Dei operates, for example, the University of Navarre and the University of Santa Croce in Rome.⁸ According to their information about the prelatore, Opus Dei exists to assist the apostolate of its lay members in ordinary life. Even the Secretary of the Congregation for Bishops, which originally administered the personnel issues of the Prelature, said of the relationship between Opus Dei and the laity that even before the establishment of the Prelature, Opus Dei included the lay faithful throughout the world, committed to putting this ideal into practice in family life, in the world of work, and in the other realities of everyday

⁷ *Organizzazione e governo dell'Opus Dei*, <https://opusdei.org/it-it/article/organizzazione-e-governo-dellopus-dei/> [accessed: 25.12.2023].

⁸ *Pontificia Università della Santa Croce: Profilo & Missione*, <https://www.pusc.it/chi-siamo> [accessed: 25.12.2023].

life. The form of the Prelature, like that of other ecclesial circumscriptions, allows for “an organic way in which priests and laity work together” for the good of the Church and the growth of the Kingdom of God [Monterisi 2007]. Opus Dei is most prevalent in the traditionally Catholic countries of southern Europe, especially Spain and Italy, but it also has a significant presence in the countries of South and North America.

3. Modification of the regulations on personal prelatures

The Apostolic Constitution of Pope Francis *Praedicate Evangelium*⁹ on the Roman Curia and its service to the Church and the world of 19 March 2022 states in Article 117 that the Dicastery for the Clergy now has jurisdiction over all matters concerning personal prelatures. On 14 July 2022, Pope Francis issued the Apostolic Letter *Ad charisma tuendum*,¹⁰ in which he decreed that in the context of the reform of the Roman Curia, the Prelature of Opus Dei would be subordinated to the Dicastery for the Clergy, in view of the primary task which, according to the juridical norm, the clergy perform in it (cf. Canon 294). He thus replaced part of the US and made the following clarifications. The prelate submits annually to the Dicastery for the Clergy a report on the state of the prelate and the exercise of its apostolic activity (previously this obligation was imposed every 5 years and to a different dicastery). The next change will be the amendment of the Statute upon the proposal of the Prelature itself, which will be approved by the competent bodies of the Apostolic See. While fully respecting the nature of the specific charism of the Prelature of Opus Dei, the conviction that a form of governance based more on charism than on hierarchical authority is needed to protect the special gift of the Holy Spirit is to be strengthened: therefore, the prelate will not be appointed by the bishop. With this provision, the Pope moves the personal prelate once again closer to the clerical association of the faithful, and even by changing the responsible dicastery, he is already indicating that the natural partner

⁹ Franciscus PP., Costituzione Apostolica *Praedicate Evangelium* sulla Curia Romana e il suo servizio alla Chiesa e al Mondo (19.03.2022), <https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2022/03/19/0189/00404.html> [accessed: 23.12.2023].

¹⁰ Franciscus PP., Lettera apostolica *Ad Charisma Tuendum* (14.07.2022) [hereinafter: ACT], https://www.vatican.va/content/francesco/it/motu_proprio/documents/20220714-motu-proprio-ad-charisma-tuendum.html [accessed: 23.12.2023].

for communication with the prelature is not the Dicastery for Bishops (as would be the case if it were a structure similar to the particular Church), but the Dicastery for the Clergy (as is the case with the clerical association). After this letter from the Pope, the Prelature of Opus Dei revised its statutes. On August 8, 2023, Pope Francis issued the motu proprio *Le Prelature personali*¹¹ modifying the relevant provisions of the CIC/83 on prelatures and placing the personal prelature (in fact, Opus Dei as the only existing personal prelature) on a par with other public clerical associations of the faithful of pontifical law (with the possibility of incardination of clerics). The Pope also clarified how the power (*potestas*) of the prelate is understood and how the apostolic activity of the prelature is participated in by the laity. The changes affect only two canons on prelatures in the CIC/83: Canons 295 and 296; two other Canons remain unchanged: 294 and 297. Canon 295 § 1 concerns the statutes and the prelate, and now reads as follows: The personal prelature, which is likened to a public clerical association of pontifical right with the power to incardinate clerics, is governed by statutes approved or issued by the Apostolic See; it is headed by a prelate, as superior endowed with the powers of an ordinary, who is empowered to establish a national or international seminary and also to incardinate students and to lead them to receive the sacrament of ordination by virtue of their service in the prelature (LPP, art. 1). In Canon 295 § 2, which concerns the prelate's responsibility for the formation and provision of incardinated clerics of the prelature, it now reads as follows: As superior endowed with the powers of an Ordinary, the Prelate is obliged to provide both for the spiritual formation of those who have received the sacrament of ordination by virtue of the aforementioned title and for their adequate provision (LPP, art. 2). To Canon 296, which concerns the participation of the laity in the apostolic activity of the personal prelature, a reference to Canon 107 is added, so that the above canon reads as follows: While preserving the provisions of Canon 107, the laity may, on the basis of agreements concluded with the prelature, engage in the apostolate of the personal prelature; the statutes shall appropriately determine the manner of this organic co-operation and the principal duties and rights connected therewith

¹¹ Franciscus PP., Lettera apostolica *Le prelatore personali* motu proprio data noc la quale vengono modificati can. 295-296 relativi alle prelatore personali (08.08.2023) [hereinafter: LLP], https://www.vatican.va/content/francesco/it/motu_proprio/documents/20230808-motu-proprio-prelature-personali.html [accessed:23.12.2023].

(LPP, art. 3). The laity, therefore, retain their domicile in the parish and diocese to which they belong, because also according to Canon 294, priests and deacons of the secular clergy are necessary members of the personal prelature. The laity involved in the activities of the prelature by contract are subject to the prelate only in matters and areas covered by the agreement with the prelature; in other matters they are subject to the jurisdiction of the diocesan bishop in the same way as other lay faithful. The Italian jurist Geraldina Boni also lists other interesting formalities used by the current Pope, for which he is also often criticized precisely because of the lack of opportunity for discussion among canonists on specific issues and changes. The first concerns the promulgation of the *Motu proprio*, which was done by publication in “L’Osservatore Romano” rather than in “Acta Apostolicae Sedis,” which is certainly a possible method in itself, though different from that envisaged by the CIC/83. The second concerns the decision to enter into force immediately, without any *vacatio legis*. This urgency is justified by the fact that the revised canons in fact affect the only existing personal prelature, namely the prelature of Opus Dei, which is currently in the process of amending its statute following the ACT [Boni 2023]. Boni also argues that it is not easy to understand the reasons for the assimilation of two such disparate entities as a personal prelature and an association of the faithful, since the assignment to a clerical association may imply that the prelature is made up only of clerics: but if this were the case, it is impossible to understand what the label personal refers to. The professor admits a gradualness in the attribution to clerical associations, but this in turn makes problematic the approach to the place of the laity who collaborate with the prelature by agreement (Canon 256). He would rather expect a synodal confrontation before the promulgation of norms capable of ensuring their conformity to justice and respect for the charism of the only existing prelature.

4. The orientation of the Opus Dei prelature at present

What impact do the above changes have on the activities of the Opus Dei Prelature? Of course, the changes have an impact mainly on lay members or supporters of the prelature, because their status has been questioned. It seems, therefore, that the Pope’s recent actions will force Opus Dei to rethink its entire structure. Already after the publication of the 2022

document, the association announced that it was working on a new Statute, but the details were not made public. In the letter [Ocáriz Braña 2023] issued immediately after the *motu proprio* of Pope Francis, the prelate of Opus Dei, Fernando Ocáriz, declared that he fully accepts the decision of Pope Francis because it is in line with the charism of Opus Dei, which he hopes to be able to develop more and more thanks to the Pope's instructions and the commitment of all the members of Opus Dei. He stressed again that the laity are the *raison d'être* of Opus Dei: as ordinary Christians in the midst of the world, seeking God through their professional work and ordinary life. The fact that they are faithful of their dioceses, like any other Catholic, is explicitly stated. In the case of the Prelature, they are also members of this supernatural family by virtue of their specific vocation. Since the prelate has been placed under the Dicastery for the Clergy, we understand it as another clerical association of the faithful with the right of incardination now, and we regard the prelate as an "moderator" with the powers of an Ordinary. In applying the changes to the only personal prelate that still exists, which is Opus Dei, one cannot ignore its social reality, which consists of some 90,000 lay faithful scattered over five continents, assisted by 2,000 priests, and its mission, which consists precisely in spreading holiness in the world [ibid.]. It should also not be forgotten that to protect this charism, St. John Paul II had, as Pope Francis recalls in his ACT, to build a personal prelate of Opus Dei, "organically structured, i.e. of priests and lay faithful, men and women, with their own prelate at their head," because "the belonging of the lay faithful both to their own particular Church and to the prelate in which they are incorporated means that the particular mission of the prelate flows into the evangelizing commitment of each particular Church, as the Second Vatican Council foresaw when it called for the creation of personal prelatures."¹² The Italian theologian Giancarlo Rocca also comments on some aspects of these changes, such as the unclear position of the laity, who were a strong part of Opus Dei and who, in his opinion, can no longer be considered members. It seems, therefore, that with the new intervention of Pope Francis, Opus Dei is forced to rethink its entire structure. He also states that if Opus

¹² Giovanni Paolo II, *Discorso ai partecipanti all'incontro sulla nuovo millennio ineunte promosso dalla Prelatura dell'Opus Dei* (17.03.2001), https://www.vatican.va/content/john-paul-ii/it/speeches/2001/march/documents/hf_jp-ii_spe_20010317_opus-dei.html [accessed: 31.12.2023].

Dei had remained a secular institute (or become a society of apostolic life), the present problems would not exist [Rocca 2023]. We can ask ourselves whether, if a new personal prelature is created, it will be created without lay members or whether personal prelatures as specific groups will remain in the legal order of the Catholic Church at all.

Conclusion

The previous position of personal prelatures in the CIC/83 has not been sufficiently justified [Arrieta 2002, 116]. The change that the Pope, with his *motu proprio*, has made to the text of the CIC/83 seems to point the prelature in a certain direction: from a specific structure subordinate to the prelate-bishop to an association of the faithful of a more clerical type. There is no longer any doubt that this is not an entity similar to a particular church; the prelate does not share the canonical status of diocesan bishops. The Pope's measure of August 2023 highlights certain specific elements which, although familiar to the text of the Code, now express more precisely the nature of personal prelatures. The position of the prelate and clerical members is better clarified, but the position of the laity is not entirely clear. The subordination to the Dicastery for the Clergy better emphasizes the associative nature of the clerical association with its own incardinated presbyterium. As we have already stated, the question remains as to what the position of the laity in the Opus Dei prelature will be or whether in the future personal prelatures may arise only on the basis of the presbyterate, as the amended text of the Code would suggest. The solution to be adopted by the Opus Dei prelature after it has revised its statutes will also be essential.

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