

LEGAL AND SECURITY CHALLENGES IN THE APPLICATION OF THE APOSTOLIC CONSTITUTION *SPIRITUALI MILITUM CURAE* IN THE MACEDONIAN SECURITY SYSTEM

Abstract

This paper analyzes the institutional setting of religious service in the armed forces through the prism of the Apostolic Constitution *Spirituali militum curae* (SMC), issued by Pope John Paul II on April 21, 1986. This important document of the Roman Catholic Church regulates the aspects of spiritual care for members of the military forces of the Catholic faith through the establishment of special church structures – the so-called military ordinariates. Previously, church rules for the military chapel and military pastoral care were regulated by an older document (*Solemne semper*, document of Pope Pius XII from 23 April 1951), but conditions were changing: professionalism in the armed forces increased, society had new views on the role of the military, and new rules in the Concise Code of Canon Law – so a unified, modern legislative framework was needed: so, this constitution SMC superseded the previous rules. The central hypothesis of the research is that this model, which establishes “military ordinariates” as equivalents of dioceses, but with extraterritorial jurisdiction, represents a sui generis legal construction that creates specific challenges for national sovereignty and the secularism of the state. The paper makes a comparative analysis between the national norms of the Holy See and the positive law of the Republic of North Macedonia. Special focus is placed on the security implications – from the issue of “dual loyalty” of military personnel, through the protection of classified information, to the risk of institutional asymmetry in the multi-confessional composition of the Army of North Macedonia (ANM). The conclusion offers recommendations for a “Coordination Model” that balances NATO standards with the domestic legal order.

Keywords: *Spirituali militum curae*, *Military Ordinariate*, *Army of North Macedonia*, *Holy See*, *national security*, *military clergy*, *jurisdiction*, *dual loyalty*.

1. INTRODUCTION

Although modern liberal democracies strive for secularization and a clear separation of religious from state institutions, the security and defense sphere remains one of the few, besides education, where religion has not only a permissible but also an institutionalized presence.

According to Hansen, “chaplaincy represents the only point where international humanitarian law and canon law intersect”, which requires special attention when designing defense policies¹. Emile Durkheim defined religion in his works as a factor of social cohesion, which in a military context translates as “the spirit of the unit”. Professional engagement in the

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¹ K.G. Hansen, *Military Chaplains and International Law* (Cambridge: Cambridge University Press, 2012), 23.

security and defense system also carries existential threats, which creates the need for “spiritual fitness” as part of combat readiness². However, the way in which states regulate and arrange the presence of chaplaincy (religious) service varies. While Protestant traditions often see the chaplain as a functional specialist integrated into the staff (Staff Officer), and Orthodox traditions rely on the national character of the Church, the Roman Catholic Church (RCC) possesses one of the most developed, legally codified and centralized system of spiritual care – the system of the Military Ordinariate.

These institutions assume the status of special dioceses, which are not defined according to a territorial principle, but according to the personal affiliation of military personnel, their families and others living in military environments. So, someone who is a soldier, or is in the service, can fall under this ordinariate, regardless of physical location. These presume personal jurisdiction. The main goal is to provide continuous spiritual support, pastoral care and moral integrity to those serving in defense and security institutions. In essence, the document defines the relationship between the church jurisdiction and the state structure in a specific context – that of the armed formations.

For the North Macedonia, as a NATO member state that is in the process of completing its model of chaplaincy service in the Army, understanding this approach is of essential importance. Although the Catholic community in the North Macedonia is a minority, the universality of Catholic standards and interoperability with allied armies impose the need for an in-depth analysis of the Vatican model.

The purpose of this paper is not only a legal exegesis of the Vatican documents, but also a sociological-security analysis: Is the concept of SMC compatible with the Macedonian security system and what are the hidden risks of its uncritical application?

When viewed through the prism of the Macedonian legal and security system, the SMC is not analyzed as a theological issue, but as a source of potential legal and institutional challenges related to secularism, security and state sovereignty. The document creates a legal challenge due to the basic assumption that spiritual care in the military should be institutionalized through the ordinariate – a model that implies a parallel religious structure within the state system. So – potential interference by foreign religious authorities³.

In the Macedonian context, where the Constitution guarantees the separation of state and religious communities, such a concept could clash with the constitutional principle of secularity and raise questions about the competence, legal status and accountability of religious institutions.

Secondly, there is a security challenge related to confidentiality, discipline and command authority in military and police structures. The SMC promotes a model in which clergy have access to military personnel in the most sensitive circumstances – which, in countries without clear regulation, could create a risk of institutional conflict, mixing of religious and official competences and even compromise of security information.

Thirdly, the document assumes a universal Catholic model that does not take into account the reality of multi-confessional and secular societies. In NORTH MACEDONIA, with its religious diversity and dominant Orthodox tradition, the application of such a concept without legal and ethical adaptation could cause religious imbalance, discrimination or perceptions of favoritism.

Finally, the analysis shows that the main challenges arise not from the idea of spiritual care per se, but from the way in which the SMC articulates the relationship between spiritual and state authority. In the security context of the North Macedonia, the document should be

² E. Durkheim, *The Elementary Forms of Religious Life*, Translated by: K. E. Fields, (New York: The Free Press, 1995), 44.

³ As is known, the Catholic Church often enters into bilateral agreements with states (called concordats) to provide an autonomous structure such as a military ordination.

read as a warning about the need for clearly defined legal boundaries, institutional transparency, and the preservation of the secular integrity of the state. The SMC can serve as an inspiring, but not mechanically applicable, model.

So, as a conclusion to the Introduction, the subject of this research is the legal-institutional model of the "Military Ordinariate" of the Holy See, correlated with the security and legal system of the North Macedonia.

The main objective of the research is to determine the degree of compatibility between the canon law of the Roman Catholic Church (which has a supranational character when approaching the regulation of relations with fellow states) and the positive law of the North Macedonia (which is based on state sovereignty and secularism).

To achieve this goal, the paper applies a qualitative approach, using the following methods:

- Content analysis method, through which a detailed analysis of relevant sources is approached, specifically the SMC and positive legal regulations of the North Macedonia, in order to determine their normative content and essential meaning.

- Comparative method: A comparison is made between two different legal systems (church and state) in order to identify points of conflict (jurisdiction, loyalty) and points of possible cooperation.

- Hypothetical-deductive method, with the help of which predictions are made about the possible security implications (risks) if the analyzed model is applied in practice.

The results of the research, which are elaborated in the following chapters, indicate a structural incompatibility of the Ordinariate model with the Macedonian constitutional order and identify specific security risks related to the unitary nature of the command.

2. COMPARATIVE OVERVIEW OF THE CATHOLIC MILITARY ORDINARIATE AND THE ORTHODOX MILITARY CHAPLAINCY

Pastoral care within the armed forces represents an important aspect of the relationship between religious institutions and the state. Throughout history, both the Catholic and the Orthodox Churches have developed specific forms of spiritual support for members of the military, recognizing the unique circumstances and moral challenges faced by soldiers during their service. Military chaplaincy therefore serves not only as a means of providing religious services, but also as a source of moral guidance, psychological support, and preservation of religious identity among military personnel.

Despite sharing the same fundamental goal of providing spiritual care to soldiers and their families, the Catholic and Orthodox Churches have established different canonical and organizational models for the implementation of military pastoral care. The RCC has developed a centralized structure known as the Military Ordinariate, which functions as a personal ecclesiastical jurisdiction equivalent to a diocese and operates independently of territorial boundaries. This system was formally regulated by the SMC, which defines the legal and pastoral framework for Catholic military chaplaincies worldwide. In contrast, the Orthodox Church traditionally organizes pastoral care for military personnel through chaplaincies that operate within the existing territorial structure of local dioceses. Rather than establishing a separate ecclesiastical jurisdiction, Orthodox military chaplaincy remains under the authority of the local bishop and is typically regulated through synodal decisions and cooperation with national state institutions.

The following table presents a comparative overview of the key structural and canonical characteristics of the Catholic Military Ordinariate and the traditional Orthodox military chaplaincy model. This comparison highlights the similarities and differences in their

organization, jurisdiction, relationship with the state, and pastoral mission within the armed forces.

Catholic Ordinariate vs. Orthodox Chaplaincy (comparative table)		
Characteristics	<i>Catholic Church (Spirituali militum curae)</i>	<i>Orthodox Church (Traditional model)</i>
Type of structure	Military Ordinariate (personal ecclesiastical jurisdiction)	Military Chaplaincy under local diocese
Ecclesiastical level	Equal to diocese/diocese	Part of local diocese; no status of separate jurisdiction
Jurisdiction	Personal - applies to individuals, regardless of location	Territorial – according to where the soldier serves
Relationship with the state	Often regulated by concordat (agreement)	Direct cooperation between the Church and the Ministry of Defense
Head Military Ordinary	Bishop, appointed by the Pope	Chief Chaplain or a hierarch appointed by the Holy Synod
Appointment of chaplains	By the ordinariate, in accordance with the Vatican	With the blessing of a competent hierarch; sometimes through the army leadership
Legal basis	Apostolic constitution Spirituali militum curae (1986)	Synod decisions or special decrees; tradition
Presence in the military	Missionary, often in countries with a significant Catholic contingent	Part of the state and religious identity of the nation
Target group	Catholic soldiers, their families and civilians associated with the military	All Orthodox soldiers (as well as part of their families)
Examples of countries	Croatia, Poland, Italy, USA, Philippines	Greece, Russia, Serbia, Bulgaria

The comparison between the Catholic Military Ordinariate and the Orthodox military chaplaincy model shows two distinct approaches to organizing pastoral care within the armed forces. The Catholic Church has developed a highly structured and institutionalized system through the Military Ordinariate, established by the Apostolic Constitution *Spirituali militum curae* (1986). This model functions as a personal ecclesiastical jurisdiction equivalent to a diocese and operates independently of territorial boundaries, providing pastoral care to Catholic soldiers, their families, and military personnel worldwide. It is typically headed by a bishop (Military Ordinary) appointed by the Pope and is often regulated through formal agreements between the Vatican and the state.

In contrast, the Orthodox Church traditionally organizes military pastoral care through military chaplaincies integrated within local dioceses, without creating a separate ecclesiastical jurisdiction. Authority remains territorial and is exercised through local bishops or hierarchs, with chaplains appointed with their blessing and often in cooperation with state institutions, particularly ministries of defense. This model reflects the close historical connection between Orthodoxy, national identity, and state institutions in many Orthodox countries.

Overall, while the Catholic model emphasizes centralized ecclesiastical structure and personal jurisdiction, the Orthodox approach is more decentralized and territorially based, relying on traditional church governance and close cooperation with national authorities. Both systems aim to provide spiritual support to military personnel, but they differ significantly in their canonical organization and administrative structure.

3. LEGAL ANATOMY OF *SPIRITUALI MILITUM CURAE*

Until 1986, the chaplaincy service in the RCC was regulated through a system of “military vicariates”, where the authority of the chief chaplain was delegated by the local bishops or directly by the Pope. With the introduction of the SMC, a fundamental transformation occurred in the canon-legal order. This document is not only a regulation, but it is a “constitution” for the military clergy that elevated these structures to the level of “military ordinariates”.

The key novelty of the document is defined in Article I, paragraph 1: “The military ordinariates, which can also be called military dioceses, are special ecclesiastical areas, legally equal to dioceses”⁴. This implies that the Military Ordinariate is not an administrative unit within the Ministry of Defense, but rather has the status of a ‘small church’, with all the inherent canonical attributes.

The traditional church organization is territorial (parish, diocese). In contrast, the constitution introduces the existence of personal jurisdiction. The Military Ordinariate does not govern a territory, but rather a people (*portio populi Dei* – part of the people of God). Its jurisdiction includes all Catholic members of the armed forces, their families, and even civilian personnel employed by the military and students of military academies, regardless of their physical location in the world. Padgett and McCormack emphasize that this allows the chaplain “to follow the soldier anywhere, without seeking permission from the local bishop”, which is operationally more efficient, but legally more complex for the host state⁵.

Article IV of the SMC introduces the concept of cumulative jurisdiction (*cumulativa*)⁶. This means that military personnel belong simultaneously to both the Military Ordinariate and the local territorial diocese where they live. This creates legal complexity. For example, if an ANM soldier is on a mission abroad, his spiritual care (according to this model) is primarily the responsibility of his military bishop in the Homeland, and secondarily the local bishop in the zone of operations. Mamić, analyzing the Croatian example, points out that this duality often requires additional legal agreements (*concordats*) to avoid conflicts over jurisdictions for concluding marriages, baptisms or military funerals⁷.

According to the SMC (Article II), the Military Ordinary is, as a rule, a bishop (*владика*). He enjoys all the rights and obligations of a diocesan bishop. In many countries (such as Croatia, Italy, Spain), this ecclesiastical rank is accompanied by a state military rank (most often major general or lieutenant general). From the point of view of international law, this is a unique phenomenon where a person simultaneously holds the status of a high-ranking officer of a national army and a high-ranking prelate of a foreign entity (the Holy See). This duality *de facto* creates a specific form of diplomatic immunity within the military structure itself⁸.

⁴ John Paul II, *Spirituali Militum Curae: Apostolic Constitution on Spiritual Assistance to the Military* (Rome: The Holy See, 1986), <https://www.vatican.va/content/john-paul-ii/it/apost_constitutions/documents/hf_jp-ii_apc_19860421_spirituali-militum-curae.html>accessed 15 December 2025.

⁵ N. Paget and J. McCormack, *The Work of the Chaplain* (Valley Forge: Judson Press, 2006), 89.

⁶ John Paul II, *Spirituali Militum Curae*.

⁷ J. Mamić, *Dušobrižništvo u Hrvatskoj vojsci: Povijesni i teološki aspekti* (Zagreb: Glas Koncila, 2006), 115-118.

⁸ Стевица С. Карапанџин, *Верска служба у Војсци Србије* (Београд: Медија центар Одбрана, 2015), 121.

4. THE SECURITY SYSTEM OF THE NORTH MACEDONIA VERSUS THE VATICAN MODEL

To understand the implications of this model, we must set it against the positive law of the Republic of North Macedonia.

Article 19, paragraph 3 of the Constitution of the RSM clearly states: “The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, the Evangelical Methodist Church, the Jewish Community and other religious communities and groups are separated from the state...”⁹ This provision is a key limiting factor for the application of the SMC. The Ordinariate model implies institutional integration, where the state finances a church structure and grants it military ranks. The Macedonian constitutional model is a model of strict separation with elements of interaction, which is different from state models where Ordinariates already exist. In the domestic legal context, state power is separated from religious organizations, which presupposes “non-interference of state institutions in the competences of religious organizations, as well as a ban on the substantial involvement of religious organizations in matters that are within the competence of the state”¹⁰.

The Constitution of the Republic of North Macedonia sets out the framework for the relationship between the state and religious organizations, as well as guarantees of freedom of religion. Specifically, Art. 19, paragraphs 1 and 2, provides for the free manifestation of religious belief: “Freedom of religion is guaranteed. Free and public, individual or in community with others, expression of faith is guaranteed.”¹¹ Based on this constitutional provision, the Law on the Legal Status of a Church, Religious Community and Religious Group further specifies some possibilities related to the practice of faith. Namely, Art. 20 of this Law is perhaps the only one that most precisely mentions the possibility of religious interaction in the security and defense system: “persons who are placed in hospitals, children's homes and homes for the elderly, army and police institutions and premises, prisons and similar institutions may express their faith and, at their own request, be visited by clergy for the purpose of performing a religious rite and other forms of manifestation of religion or faith in accordance with the house rules of the institution in which they are placed.”¹² In addition, the legislator has also approached an expanded determination of the exercise of the right to express religion, providing the possibility for persons from paragraph (1) of Article 20 to be visited by a religious official for the purpose of performing a religious rite, and, in turn, the institutions listed in the same paragraph are obliged, within the framework of their legal and spatial possibilities, to set aside a room in which a religious rite will be performed¹³. In this regard, a positive support for the possibility of religious practice in the space of security and defense institutions is the provision of paragraph 2 of Article 18 of the same Law, which states: “Religious worship may be performed and practiced in other premises and public places”¹⁴, taking into account facilities other than religious ones, which are mentioned in paragraph 1 of this Article. This legal possibility is probably set due to the absence of similar provisions in laws directly related to security and defense – for example, neither the Law on Defense nor the Law on Service in the Army offer opportunities for practicing religion within the institutions.

⁹ *Устав на Република Македонија, со амандманите на Уставот I - XXXII*, (Скопје: ЈП Службен весник на РМ, 2011), 19.

¹⁰ Т. Каракамишева и А. Спасеновски, *Право и религија* (Скопје: Конрад Аденауер, 2020), 154.

¹¹ *Устав на Република Македонија*, 18.

¹² „Закон за правната положба на цква, верска заедница и религиозна група“, *Службен весник на РМ*, 113/20.09.2007, 3.

¹³ *Ibid.*

¹⁴ *Ibid.*

However, although they exist, these provisions refer to the personal exercise of the right to religion and freedom of expression of religion. Neither the Constitution nor the legal regulations provide for the institutionalization of religion within the framework of the defense and security system. Hence, there is no possibility of interaction between Macedonian legislation and the canon law of the RCC in the area of the organization of the military ordinariate according to the Apostolic Constitution SMC.

Additionally, as a point of conflict or incompatibility between the canon law of the RCC and the positive law of the RSM, the competence in terms of issuing orders is also represented. Namely, according to Macedonian laws, the officer is accountable to the Minister of Defense or the Chief of the General Staff, and according to the SMC, the chaplain is accountable for his activities to the Military Ordinary, who in turn is accountable to the Congregation of Bishops, i.e., to the Congregation for the Evangelization of Peoples¹⁵. In this regard, the US Army standard emphasizes that this issue must be clearly regulated in order to ensure full interoperability in multinational operations¹⁶.

5. SECURITY IMPLICATIONS AND CHALLENGES

The implementation or indirect impact of elements of the SMC in the Macedonian system generates three groups of serious security challenges:

The central security dilemma regarding the chaplaincy service is the problem of dual loyalty that raises the question of whom the chaplain serves, God or the commander? According to the SMC, the priest is incardinated (legally bound) to the Ordinariate. His “general” is the bishop. The assumption is that in a situation of conflict, canon law is stronger for him than military orders. In a hypothetical scenario where the RSM participates in a mission that the Holy See morally condemns, the chaplain operating under the SMC would find himself in a situation of conflict of interest. In this regard, there is the challenge that “loyalty to the universal church can undermine national loyalty in critical moments”¹⁷.

Military ordinariates are obliged to report regularly to Rome, that is, as the papal provision states, “every five years, the Military Ordinary shall submit a report to the Apostolic See on the state of the Military Ordinariate, in the prescribed form.” The Military Ordinary is also obliged, according to the regulations, to make an “ad limina” visit. According to the Law on Classified Information of the RSM, the exchange of data with foreign entities is subject to strict security certificates and agreements¹⁸. If the chaplain is part of the SMC hierarchy, he is part of a transnational network. This raises the question of the security vetting of clergy – does their loyalty to the Vatican pose a security risk in the context of counterintelligence?

The state that signs an agreement to establish the Ordinariate is obliged to provide a specific separate infrastructure for its functioning, that is, premises, inventory, official vehicles and support staff, which will represent a significant additional amount in the army budget. On the other hand, the state is obliged, in addition to candidates for chaplains, to promote the Military Vicar to the rank of general¹⁹. The attempt to mirror this model on other confessions may cause institutional asymmetry, because, for example, the Islamic community does not have a structure that corresponds to the Ordinariate. If the state were to grant general ranks to Orthodox and Catholic priests (following the Vatican example), but not to imams, this could

¹⁵ Член VI и XI – John Paul II (1986). *Spirituali Militum Curae*.

¹⁶ Scott Allen, ed., *Religious support during LSCO* (Center for Army Lessons Learned), <<https://api.army.mil/e2/c/downloads/2024/08/19/d9671128/24-854-religious-support-in-large-scale-combat-operations-aug-24.pdf>>, accessed 10 December 2025 г.

¹⁷ K. G. Hansen, *Military Chaplains*, 142.

¹⁸ „Законот за класифицирани информации“, *Службен весник на РМ*, 275/27.12.2019, 42-58.

¹⁹ Стевица С. Карапанџин, *Верска служба*, 120-121.

be interpreted as discrimination. In this regard, the position that the professionalism of the officer cadre must not be undermined by external ideological influences is particularly important for multiethnic armies such as the ANM²⁰. Perhaps the most interesting challenge is the fact that the SMC agreement is signed on behalf of the Vatican by the competent apostolic nuncio (the Vatican ambassador to a specific country), which implies that this document has international status, which, according to the legal regulations of the RSM, will need to be ratified by the Parliament.

6. CONCLUSION AND RECOMMENDATIONS FOR THE DEVELOPMENT OF THE MACEDONIAN MODEL

The analysis of the SMC shows that this document is a masterpiece of canon law, which successfully adapts the Church to the specific conditions of military life. It ensures pastoral efficiency and independence of the priest from political pressures. However, for the Republic of North Macedonia, the direct and full application of this model (through the formation of a Military Ordinariate) is inappropriate and potentially risky due to:

- Violation of the secular character: the creation of a state church structure with budget financing is contrary to Article 19 of the Constitution.
- Threatening the unitary nature of the command: the introduction of an external center of power.
- Multi-confessional imbalance: the inability to apply the model equally to all religious communities.

The research in the paper came to the conclusion that the following recommendations should be made for the development of the chaplaincy service, taking into account the specificities of the Roman Catholic model arising from the Apostolic Constitution *Spirituali militum curae*.

1. Adoption of the "Coordinative Model": this refers to the logical need, in accordance with the legal and multiethnic aspects, to form a "Sector for Religious Affairs" within the General Staff/Military Service, which will be a purely administrative body. In this way, the establishment of the Ordinariate and the signing of an international agreement will be avoided.

2. Application of the "licensing" model, which stems from the US regulation "Regulation 600-63", according to which relations with religious communities are established on the principle of licensing²¹. The religious community guarantees the professionalism in the teaching and service of the chaplain, but the state assigns the rank and position based on military needs.

3. Strict control of information: The rules of service should clearly define that the chaplain does not have the right to share information of an operational nature with his home religious community.

The final conclusion is that only through such a balanced approach will the Republic of North Macedonia be able to satisfy the spiritual needs of its soldiers, respecting human rights, without compromising its security architecture and state sovereignty.

²⁰ S. P. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations* (Cambridge: Harvard University Press, 1957), 71.

²¹ Department of the Army, *Army Regulation 600-63: Army Health Promotion* (Washington, DC, 2014), 18.

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