PARADIGMS IN THE INTERNATIONAL LEGAL PERSONALITY OF THE HOLY SEE FROM THE CONGRESS OF VIENNA TO THE LATERAN PACT

ÁRPÁD MARGITTAY-MÉSZÁROS
Széchenyi István University, Győr, Hungary
drmargittay@gmail.com

Abstract

The range of subjects of international law has expanded significantly since the Middle Ages to the present day. Starting from the end of the 19th century, a number of scientific trends emerged in international jurisprudence as to who the subjects of international law are. The subject of the most complicated question in the 20th century was who, apart from states, are the individual subjects of international law and to what extent. The question of the international legal personality of the Apostolic See has generated many different paradigms in international jurisprudence. The international legal position of the Holy See had neither been a scientific nor practical question for many centuries. This is so true that despite the end of the States of the Church, at the Congress of Vienna, the international community itself considered the Holy See not only a subject of international law, but a part of it on an equal footing with civilized states. The Congress of Vienna itself proved that, from the point of view of the international legal personality of the Holy See, it is completely indifferent whether the Pope is a secular ruler in a state or not. At that time, it was already clearly proven that the international legal status of the Holy See is not coherent with whether or not there is a state under the sovereignty of the Pope. On the other hand, it is much more certain that from the point of view of international legal personality, the legal personality of a state falling under the sovereignty of the Holy See is secondary to a certain degree, since even the Congress of Vienna itself returned the territories of the later Papal States to the possession of the Holy See herself from an international legal point of view. The dilemmas that followed the Congress of Vienna were generated by the end of the Papal States in 1870. It can be said that even the Italian State itself could not create a perfect solution. It must be emphasized that the Kingdom of Italy itself treated the Holy See and the Papal States separately from an international legal point of view. The Italian nationalist unification efforts were clearly only aimed at acquiring state territory. Not only did Italy not dispute the international legal personality of the Pope and the Holy See, it caused a serious problem for the Italian State as to how the situation could be distinguished. Later on, the solution of the Roman Question was not coincidentally in the interest of Italy as well. Despite being a fully sovereign international legal entity, the Holy See lacks territorial sovereignty like the states. Therefore, the actual safeguarding of her sovereignty has occasionally presented practical problems. At the same time, until the conclusion of the Lateran Pact, jurisprudence even considered the complete denial of the international legal personality of the Holy See possible. The purpose of this study is to shed light on some theoretical and practical issues related to the international status and legal personality of the Holy See, from the Congress of Vienna to the conclusion of the Lateran Pact. In international jurisprudence, in fact, in many cases it is not possible to clearly decide to what extent individual paradigm shifts were actually in line with international jurisprudence. In many cases, the individual paradigms with regard to the international legal personality of the Holy See show several inconsistencies with actual jurisprudence.

Keywords: *Holy See, international legal personality, quasi-legal personality, declaratory recognition, constitutive recognition, paradigms, sovereignty*

INTRODUCTION

The range of subjects of international law has undergone several changes since the 19th century. A number of positions have emerged in the literature on the recognition or partial recognition of certain subjects of international law. The gradual development of international law and international political relations had an essential effect on the recognition of certain subjects of international law, both from a legal and doctrinal point of view. It is essential to emphasize that the individual scientific views were not always in line with current international jurisprudence. From the second half of the 19th century to

the present, significant paradigm shifts have occurred in international jurisprudence regarding the scope of the subjects of international law.

At the same time, it should be noted that there have always been different scientific views on certain issues in parallel with each other in this field, and we even find examples of international jurisprudence actually completely overwriting the paradigm. The question is, of course, when a given paradigm can be considered fully generally accepted in international law, especially if, in addition to differing scientific views, the actual practice of law may conflict with the paradigm in some respects. The subject of a separate problem is a case where paradigm shifts occur in international jurisprudence; however, it cannot be proven beyond a doubt that during the paradigm shifts, either the current international jurisprudence or the effective international law has undergone a substantial change in a given issue.

The American historian and philosopher of science, Thomas Samuel Kuhn, pointed out in his concept of paradigm shift in relation to scientific revolutions that it is possible to give up a previous traditional theory in favor of a completely new scientific theory that is incompatible with the previous one. In this connection, Kuhn emphasized that the representatives of science must take a professional position both in relation to the acceptable problem and in relation to the issue of legitimate problem-solving.[1] On the other hand, it is much more difficult to support from a doctrinal point of view that if the paradigm shift is appropriate in international jurisprudence from certain points of view, but at the same time, neither the previous nor the later paradigms are completely and beyond doubt compatible with international jurisprudence, then to what extent was the formation of the paradigms justified. Since many rules of international law have their origins in customary law, the question of international jurisprudence must be deliberately prioritized regarding the uninterrupted existence of the existing legal material or its possible changes.

1. The International Legal Status of the Holy See Until the End of the Papal States

The question of the international legal status of the Holy See had not been the subject of academic debate until the end of the Papal States in 1870. During the existence of the Papal States [formerly known as the States of the Church], the international legal personality of the Holy See had not been questioned. Due to the Pope's special position, he represented the Apostolic See in one person, and on the other hand, he was also a secular ruler. After French Emperor Napoleon I had annexed the States of the Church and it ceased to exist, the Great Powers invited Cardinal Ercole Consalvi, the then Secretary of State of the Holy See, to the Congress of Vienna as the representative of Pope Pius VII (1800−1823).

As Secretary of State of the Holy See, Cardinal Ercole Consalvi had held negotiations with the Great Powers long before the Congress and also participated in the negotiations between the Russian Tsar and the Prussian King in London, June 1814. In addition, Cardinal Consalvi made diplomatic efforts primarily to gain British, Austrian and French support. Cardinal Consalvi's task, representing the Pope and the Holy See in diplomatic negotiations, was to reclaim the possessions and rights of the Holy See. The Cardinal Secretary of State of the Holy See confirmed this to the Great Powers in his detailed memorandum, dated 23 June 1814.[2] Therefore, neither the Catholic nor the non-Catholic Great Powers questioned the *sui generis* international legal personality of the Pope and the Holy See.

By definition, Pope Pius VII did not fight for the restoration of the States of the Church as an international legal entity, so that he could thereby become a secular ruler there. Incidentally, this is also emphasized in the memorandum of State Secretary Cardinal Consalvi in such a way that His Holiness wishes to return her own possessions to the Holy See, since Pope Pius VII is the custodian of the Patrimony of Saint Peter, and therefore he has the duty to protect what he is sworn to.[3] In reality, Article CIII of the General Treaty of the Congress of Vienna, signed 9 June 1815, did not restore the statehood of the States of Church. This provision of the General Treaty of the Congress of Vienna consisted of a benefit for the Holy See, instead of restoring the statehood of the States of the Church. The international treaty returned to the possession of the Holy See, as an international legal entity, a significant part of the territories that had previously been parts of the States of the Church. Thus, all the States Parties to the

[1] Thomas S. Kuhn, 'The Structure of Scientific Revolutions, 2nd edn' (1970) 2 *International Encyclopedia of Unified Science* 6.
[2] Tamás Füssy OSB, VII. Pius pápasága II. rész (Szent István Társulat: Budapest, 1876) 315−324.
[3] Ibid. at 321.

international treaty naturally regarded the Holy See as an international legal entity and recognized her as such, as in the Middle Ages. Actually, the restoration of the Pontifical States itself came under the jurisdiction of the Holy See [personally the Pope] as an international legal entity. In the present case, it was much more strongly demonstrated that in the international relations of that time, the international legal status of the Pope and the Holy See existed without interruption, regardless of the existence and temporary termination of the States of the Church. Whether the Pope exercises secular power had nothing to do with the issue of the international legal personality of the Holy See [and personally the Pope].

After the final annexation of the Papal States had taken place on 20 September 1870, following the results of the *plebiscitum* held on 2 October 1870, King Victor Emanuel II of Italy declared the Papal States part of the Kingdom of Italy with a Royal Decree issued on 9 October 1870.[4] In fact, the same international legal situation arose in this case as previously in 1810 in the case of the termination of the States of the Church. The question of the end of the state did not affect the international legal personality of the Pope and the Holy See. This is also reflected in the Italian so-called Law of Guarantees. Although with an internal law, despite the end of the Papal States, the Kingdom of Italy wanted to ensure to a certain degree the freedom of the Pope and the Holy See, related to their international legal position, in the direction of other states.

The Law, approved by King Victor Emanuel II of Italy on 13 May 1871, and then entered into force on 30 May 1871, stated that the person of the Pope is sacred and inviolable, and also recognized the Pope's right to send and receive envoys.[5] However, the Law of Guarantees did not contain any clear provision that would have resulted in the Pope's complete independence from the Italian State. For this reason, on 15 May 1871, Pope Blessed Pius IX (1846–1878) issued his Encyclical Letter entitled *Ubi Nos*, in which he rejected the Law of Guarantees, saying that it did not ensure the free exercise of the power conferred on him by God and the necessary freedom of the Church.[6] Because there was no change in the international legal personality of the Holy See, the states continued to maintain diplomatic relations according to the previous international practice. As a general rule, international law and science considered states to be the subjects of international law, but in the period following the end of the Papal States, science also accepted the previously existing international legal status of the Holy See and the Pope.

2. The Question of the International Legal Personality of the Holy See After 1870

The first international law textbook in Hungary was published in 1876, presenting the international law in force at that time. The author, István Kiss, the public ordinary legal professor of the Archiepiscopal Lyceum of Law of Eger[7] [latter Archiepiscopal Academy of Law of Eger], relied heavily on the work of prominent European jurists of that time. There was a scholarly public consensus regarding the fact that the Pope and the Catholic Church not only have legal status under state law and Canon Law in civilized states, but that the Pope and the Holy See specifically have international legal personality. In this connection, the scholars pointed out that though the Holy See was not a state, but she had an international legal status similar to them, that is, international legal personality. The Pope's primacy in rank was recognized by the Catholic sovereigns, while non-Catholic rulers were not obliged to do so, but they usually granted it.[8] But it is essential to emphasize that the international legal status of the Pope and the Holy See was not disputed even in the case of the non-granting of rank precedence. The international legal personality of the Holy See, on an equal footing with states, was also seen at that time as evidenced in diplomatic relations and the ability to conclude international treaties, just like in today's international legal practice.

During the period of World War I, the so-called Secret Pact of London is excellent for justifying the unchanged international legal position of the Holy See. Pursuant to Article 15 of the Treaty concluded

[4] Szabolcs Anzelm Szuromi O.Praem., 'A Pápai Állam alkotmányfejlődése a kezdetektől az olasz egységig' (2006) 8 *Jogtörténeti Szemle* 20–23.

[5] N° 214 Legge sulle prerogative del Sommo Pontefice e della Santa Sede, e sulle relazioni dello Stato con la Chiesa, 13 maggio 1871, Articles 1, 11.

[6] 'Epistola encyclica *Ubi Nos*' (1870) 6 *Acta Sanctae Sedis* 257–263.

[7] Collegium Juridicum, Foglarianum.

[8] István Kiss, Európai nemzetközi jog (Érsek-Lyceumi Kő- és Könyvnyomda: Eger, 1876) 98–101.

by France, Russia, Great Britain, and Italy on 26 April 1915, France, Great Britain, and Russia shall support such opposition as Italy may make to any proposal in the direction of introducing a representative of the Holy See in any peace negotiations or negotiations for the settlement of questions raised by the present war.[9] When the Treaty of London was concluded, roughly one hundred years after the Congress of Vienna, the Great Powers treated the position of the Holy See in international relations in a completely natural way, even if in this case the treaty adversely affected the Holy See.

3. Paradigm Shifts in the International Legal Personality of the Holy See

Later, from the beginning of the 20th century, many scholars in the scientific literature came to the conclusion that neither the Pope nor the Holy See can be considered subjects of international law. This was mostly based on the fact that since the end of the Papal States, the Pope had not been considered a secular monarch, and according to them, the Pope's sovereignty came solely from this former position. Therefore, they believed that, apart from the League of Nations, only states could be the subjects of international law. Oppenheim held a more moderate view than the former extreme position. Because of the Holy See's diplomatic relations with states and because other states grant the Pope similar rights like the monarchical heads of states, Oppenheim took a different scholarly approach.

According to the more moderate view, on the one hand, the Roman Catholic Church [implicitly the Holy See herself] is considered an artificial subject of international law. Oppenheim admits that in practice the Holy See is treated as if she were an international person and the Pope as her sovereign. Therefore, he believes that it is necessary to maintain the custom in international law that the Holy See has a kind of quasi-international personality, but this does not in any case mean the recognition of her international legal personality. According to Oppenheim, this fiction means that in some matters the Holy See should be considered as if she were an international person and the Pope should be considered as if he were a monarchical head of state.[10] At the same time, this is contradicted to a certain extent by the international jurisprudence that has existed since the Middle Ages, which recognized the Pope personally as the Holy See, as the supreme authority of the Church during the conclusion of international treaties. But the Spanish, French, English, and German-Roman concordats concluded by the Universal Council of Constance (1414–1418) also provided for the recognition of the Pope.[11] This international jurisprudence has been unbroken till the 20th century. In addition, Oppenheim's scientific position cannot provide a clear explanation for the problem of who created the 'artificial' legal personality of the Holy See during the long centuries of international legal practice, since this kind of approach partly suggests a kind of derivative international legal entity.

In the field of sending and receiving envoys, some of the scholars also recognized the above fiction. According to this, the envoys sent and received by the Holy See are to be considered as if they were diplomatic representatives. Although, according to Oppenheim these envoys are not actual diplomatic representatives, since they do not participate in the international relations of the states but rather represent the Roman Catholic Church and are accredited there.[12] This more moderate scientific view, however, does not explain what changes occurred regarding the international legal status of the diplomatic relations maintained even before the end of the Papal States. It should be known that even during the existence of the Papal States, diplomatic relations were maintained only by the Holy See, never by the Papal States [or the States of the Church]. In the year before the end of the Papal States, the Holy See had permanent foreign representations in ten other states, while sixteen states maintained permanent representations at the Holy See.[13] The international legal status of these representations was indisputable, and subsequent to 1870, there were no demonstrable substantial changes in their international legal status. The situation was completely different with regard to consular relations, since they had been established by the Holy See before, but in no case for her own benefit. In such cases, the

[9] 'Agreement between France, Russia, Great Britain and Italy, Signed at London April 26, 1915' in Miscellaneous No. 7 (His Majesty's Stationery Office: London, 1920) 1–8.

[10] L. Oppenheim, International Law: A Treatise, Vol. I. – Peace, 4th edn (Longmans, Green & Co.: London – New York – Toronto, 1928) 133–134, 228–229.

[11] Szabolcs Anzelm Szuromi O.Praem., 'Concordats of the Middle Ages (between 1098–1418)' in Szabolcs Anzelm Szuromi O.Praem. (ed.), Concordatary Law (Szent István Társulat: Budapest, 2008) 28–39.

[12] See Oppenheim, above n. 11 at 229.

[13] Annuario Pontificio (Tipografia della R.C.A.: Roma, 1870) 433–438.

Holy See acted only on behalf of the Papal States, so the consular representations were actually maintained for the benefit of the Papal States, and other states also sent consular representatives to the Papal States. By definition, the consular relations automatically ceased with the termination of the statehood of the Papal States.

In the case of diplomatic relations, since no international legal changes occurred with the cessation of statehood, the later scientific understanding that the Papal envoys and the envoys accredited to the Holy See are not actual diplomatic representatives, cannot be reconciled either legally or logically. In particular, Article I of the Regulation concerning the precedence of Diplomatic Agents, dated 19 March 1815, incorporated into the Final Act of the Congress of Vienna, dated 9 June 1815, under number XVII cannot be ignored.[14] According to this provision, international law classified ambassadors, Papal legates and nuncios as equals in Class I of the diplomatic hierarchy. In other words, international law recognized not only the nuncio as a first class diplomatic representative in the case of diplomatic relations maintained by the Holy See bilaterally with states. The Papal legates were also recognized by international law as first class diplomatic representatives. And appointing these envoys to any part of the world, regardless of any secular power is the inherent right and exclusive authority of the Pope [as the Holy See]. So scholars started to state that those Papal envoys are not actual diplomatic representatives, which were recognized by international law as diplomatic representatives.

The denial of the international legal personality of the Holy See received two additional extreme supports in the scientific understanding. One of these, according to Oppenheim, is that the Holy See cannot participate in international conferences and cannot claim the right to vote, but at the same time, he admits that states can invite the Pope's legate to international conferences and even grant him the right to vote. On the other hand, according to his point of view, the Holy See cannot conclude international treaties, and concordats are also seen as simple treaties between states and the Roman Catholic Church. At the same time, Oppenheim rightly points out that even during the existence of the Papal States, the state itself did not conclude concordats, or that the Pope did not conclude them as the sovereign of the state. As a result, it is believed that at that time the Holy See and the Pope acted as representatives of the Roman Catholic Church when concluding the concordats.[15] To some extent, this argument suggests that he probably does not consider concordats before 1870 to be international treaties either. In this case, the primary problem that arises is that the Pope [but not as a secular ruler] and the Holy See concluded international treaties in matters concerning the Papal States as well, so the former argument is not suitable to support the fact that the international legal character of the concordats or other international treaties is refuted. Oppenheim does not mention other international treaties, he only mentions concordats in general. First of all, it should be noted that, in general, any bilateral international treaty concluded by the Holy See and a state is also called a concordat by some scholars. However, the real meaning of the concordat is actually much narrower than this, it only denotes bilateral international treaties in which the relationship between the state and the Church is fully regulated by the Holy See and the state concerned.[16] In other cases, the Apostolic See concludes other types of international treaties.

4. The Actual International Jurisprudence

It is clear from the above that at the beginning of the 20th century, international jurisprudence clearly wanted to provide international legal personality only to states, then to the League of Nations. At the same time, due to her specific situation, the role of the Holy See in international relations had to be scientifically explained somehow. The Church's own law also partially contradicts the scientific views, as it gave international treaties full priority over any rule of Canon Law. Canon 3 of the first uniform Code of Canon Law, the *Codex Iuris Canonici* of 1917, stated that the canons of the *Codex* do not in any way invalidate the agreements made by the Holy See with various nations and do nothing with them. These agreements will remain in force in their previous form, despite the provisions to the contrary in

[14] Act No. XVII. Regulation concerning the precedence of Diplomatic Agents, in Translation of the General Treaty, signed in Congress, at Vienna, June 9, 1815; with the Acts Thereunto Annexed (R. G. Clarke: London, 1816) 147−148.
[15] Above n. 11 at 229.
[16] Péter Erdő, 'Il Concordato in Europa' in Szabolcs Anzelm Szuromi O.Praem. (ed.), Concordatary Law (Szent István Társulat: Budapest, 2008) 19.

the Code.[17] The Canon Law itself also recognized the international treaties, concluded by the Holy See, as treaties specifically under the scope of international law.

In the course of the unbroken development of international law, it is hardly conceivable that an almost eight-hundred-year-old jurisprudence regarding international treaty-making procedures would have changed or could have been changed along the lines of scientific ideas. As it was mentioned before, concordats are only one type of international treaties concluded by the Holy See. The Holy See also concludes numerous international treaties under other names, and their international legal nature is equally indisputable. In addition, concerning both the concordats and all other international treaties, the practice regarding the international treaty-making process was consistently followed by the states and the Holy See. The states did not question the international contractual nature of concordats or other treaties in international jurisprudence. For example, at the request of Spain, on 27 March 1981, the Spanish Concordat of 1851 was filed and recorded in the United Nations Treaty Series under registration number 827,[18] even though this concordat had not been in force for a long time.

The concordat [and any other international treaty by any other name] is concluded between two sovereign powers, one secular and the other ecclesiastical.[19] However, the fact that one of the sovereign powers is not secular, so the international treaty is not concluded between two states, does not change the international legal nature of the treaty or its status. With regard to multilateral treaties, it is quite obvious that even science could not dispute that legally we are talking about international treaties, because beside the Holy See there are at least two or more States Parties as well. Presumably in this case, Oppenheim and the scholars with a similar, more moderate view considered that the Holy See becomes a party to the multilateral international treaty as a quasi-legal entity.

At the same time, in this case, the fiction theory set up in the case of bilateral treaties, according to which they are not actual international treaties, does not fully hold its place. As it is known, in the case of an international treaty, the number of parties is generally irrelevant. Thus, if the Holy See can be a party to a multilateral international treaty, then in the case of bilateral treaties concluded by her, the international legal character of these treaties cannot be properly denied either legally or logically. In this case, an additional problem arises. Those scholars who completely denied the international legal personality of the Holy See and the Pope, by definition, easily denied the international legal nature of bilateral treaties. However, these representatives of science cannot answer the question of what quality the Holy See became a party to a multilateral international treaty. After all, in this case, the legal scholars did not and could not doubt the legitimacy of the multilateral international treaties concluded by the states with her.

But it is essential to state that in the case of an international treaty, even at that time, it was unthinkable for someone without international legal personality to be a party to the treaty. Scientific views different from the international legal framework and actual international legal practice began to develop decades later, long after the end of the Papal States. Therefore, it is worth mentioning the case of the first Geneva Convention in the field of humanitarian law[20] as a practical example. The Geneva Convention, dated 22 August 1864, had originally been signed by twelve states, but later fifty-seven were parties to the international treaty. The Holy See acceded to the Convention on 9 May 1868.[21] By definition, regardless of the termination of the Papal States, the international treaty still bound the Holy See as a party, as a subject of international law. It is very important to emphasize that the Holy See acceded to the Geneva Convention in her own right and was a party to the international treaty all along,

[17] 'Codex Iuris Canoninci' (1917) 9 Pars II *Acta Apostolicae Sedis* 11–456.

[18] 'Concordat Concluded between His Holiness and Her Catholic Majesty, Signed at Madrid on 16 March 1851' 1221 UNTS 287.

[19] Szabolcs Anzelm Szuromi O.Praem., Medieval Canon Law: Sources and Theory (Szent István Társulat: Budapest, 2009) 180.

[20] Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. Geneva, 22 August 1864.

[21] International Humanitarian Law Databases – ICRC, Treaties, States Parties and Commentaries, Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. Geneva, 22 August 1864, States parties and signatories, https://ihl-databases.icrc.org/en/ihl-treaties/gc-1864/state-parties?activeTab=historical#footnote-1 (Last accessed on 03.03.2024).

and these international legal facts had nothing to do with whether the Papal States existed or not either at the time of the accession or afterwards.

CONCLUSION

In Article 2 of the Lateran Pact, concluded on 11 February 1929, Italy recognized and confirmed the sovereignty of the Holy See in the field of international law in accordance with her traditions.[22] This provision actually went much further than the Law of Guarantees, which did not explicitly declare this, although it had followed from several provisions of the Law and the previous jurisprudence that the international sovereignty of the Holy See herself had been recognized by the Kingdom if Italy until then as well. And the continuous practice of the Holy See and other states in maintaining and establishing diplomatic relations undoubtedly meant a *de iure* and final, irrevocable recognition of sovereignty.

There was also a view that before the end of the Papal States, the Holy See had been subject to international law, but this international legal personality could have been traced back to the fact that the Pope had exercised sovereignty over the States of the Church, the latter Papal States. Following the signature of the Lateran Pacts, the Hungarian jurist László Buza stated properly that, despite the cessation of statehood of the Pontifical States in 1870, the *sui generis* international legal personality of the Holy See remained. However, according to his view, since the Holy See was not a state, she could not claim the general recognition of international legal personality. He believed that the international legal personality of the Holy See was based on the constitutive recognition of individual states, i.e., she could not claim declaratory recognition like civilized states.[23] This scientific approach, on the other hand, cannot logically explain that basic fact in international law: how it was possible in this case that the sovereignty over the States of the Church and the Papal States was always exercised by the Holy See as the subject of international law. Because this international legal fact is also confirmed by Article CIII of the General Treaty of the Congress of Vienna of 1815 mentioned earlier. In other words, the sovereignty over the former States of the Church and the latter Papal States was exercised by the Holy See herself from an international legal point of view, since the international treaty, instead of restoring statehood, gave back certain territories to the possession of the Holy See from the previously existing States of the Church.

Otherwise, from an international legal point of view, Article 3 of the Lateran Pact contained a similar regulation, as Italy recognized the exclusive sovereignty and jurisdiction of the Holy See as an international legal entity over the Vatican City State. It is important to reiterate that the Congress of Vienna did not restore the statehood of the former-existing States of the Church from an international legal point of view. In this case, since the General Treaty of the Congress of Vienna returned to the possession of the Holy See as an international legal entity, a significant part of those territories that had previously been parts of the States of the Church, we must consider that the international legal personality of the Holy See is declaratory. It is difficult to reconcile that any state under the sovereignty of the Holy See could have claimed declaratory recognition of international legal personality, while the international legal personality of the Holy See exercising sovereignty depends on constitutive recognition by other states. This is also true for the declaratory recognition of the international legal personality of both the Pontifical States and the Vatican City State.

In summary, it can therefore be said that neither the development of international jurisprudence, nor the various scientific approaches were able to present a result that could have substantially refuted the international legal personality of the Holy See, which has been existing for more than one and a half millennium, or could have moved her international legal personality in the direction of a constitutive recognition in a theoretical approach. In international law, there was no demonstrable substantial change regarding the international legal personality of the Holy See that would have justified the scientific paradigm shifts, and the paradigm shifts did not fully stand their ground in any case.

[22] 'Trattato fra la Santa Sede e l'Italia' (1929) 21 *Acta Apostolicae Sedis. Inter Sanctam Sedem et Italiae Regnum Conventiones* 209–272.

[23] László Buza, 'A Szentszék nemzetközi jogi helyzete a Lateráni Egyezmény szerint' 1929 (20) *Magyar Jogászegyleti Értekezések* 231–232.

REFERENCES

[1] Act No. XVII. Regulation concerning the precedence of Diplomatic Agents, in Translation of the General Treaty, signed in Congress, at Vienna, June 9, 1815; with the Acts Thereunto Annexed (R. G. Clarke: London, 1816) 147–148

[2] 'Agreement between France, Russia, Great Britain and Italy, Signed at London April 26, 1915' in Miscellaneous No. 7 (His Majesty's Stationery Office: London, 1920) 1–8

[3] Annuario Pontificio (Tipografia della R.C.A.: Roma, 1870)

[4] Buza, László, 'A Szentszék nemzetközi jogi helyzete a Lateráni Egyezmény szerint' 1929 (20) *Magyar Jogászegyleti Értekezések* 219–242

[5] 'Codex Iuris Canoninci' (1917) 9 Pars II *Acta Apostolicae Sedis* 11–456

[6] 'Concordat Concluded between His Holiness and Her Catholic Majesty, Signed at Madrid on 16 March 1851' 1221 UNTS 287

[7] Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. Geneva, 22 August 1864

[8] 'Epoistola encyclica *Ubi Nos*' (1870) 6 *Acta Sanctae Sedis* 257–263

[9] Erdő, Péter, 'Il Concordato in Europa' in Szuromi, Szabolcs Anzelm O.Praem. (ed.), Concordatary Law (Szent István Társulat: Budapest, 2008) 41–63

[10] Füssy, Tamás OSB, VII. Pius pápasága II. rész (Szent István Társulat: Budapest, 1876)

[11] 'General Treaty, signed in Congress, at Vienna, June 9, 1815' in The Parliamentary Debates: Comprising the period from the First Day of February to the Sixth Day of March 1816 (T.C. Hansard: London,1816) 72–113

[12] International Humanitarian Law Databases – ICRC, Treaties, States Parties and Commentaries, Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. Geneva, 22 August 1864, States parties and signatories, https://ihl-databases.icrc.org/en/ihl-treaties/gc-1864/state-parties?activeTab=historical#footnote-1 (Last accessed on 03.03.2024)

[13] Kiss, István, Európai nemzetközi jog (Érsek-Lyceumi Kő- és Könyvnyomda: Eger, 1876)

[14] Kuhn, Thomas S., 'The Structure of Scientific Revolutions, 2nd edn' (1970) 2 *International Encyclopedia of Unified Science* 1–210

[15] N° 214 Legge sulle prerogative del Sommo Pontefice e della Santa Sede, e sulle relazioni dello Stato con la Chiesa, 13 maggio 1871

[16] Oppenheim, L., International Law: A Treatise, Vol. I. – Peace, 4th edn (Longmans, Green & Co.: London – New York – Toronto, 1928)

[17] Szuromi, Szabolcs Anzelm O.Praem., 'A Pápai Állam alkotmányfejlődése a kezdetektől az olasz egységig' (2006) 8 *Jogtörténeti Szemle* 20–23

[18] Szuromi, Szabolcs Anzelm O.Praem., 'Concordats of the Middle Ages (between 1098–1418)' in Szuromi, Szabolcs Anzelm O.Praem. (ed.), Concordatary Law (Szent István Társulat: Budapest, 2008) 27–40

[19] Szuromi, Szabolcs Anzelm O.Praem., Medieval Canon Law: Sources and Theory (Szent István Társulat: Budapest, 2009)

[20] 'Trattato fra la Santa Sede e l'Italia' (1929) 21 *Acta Apostolicae Sedis. Inter Sanctam Sedem et Italiae Regnum Conventiones* 209–272