

IOSUD TITU MAIORESCU UNIVERSITY
DOCTORAL SCHOOL OF LAW

**THE VATICAN FROM THE PERSPECTIVE
OF INTERNATIONAL LAW.
HISTORY AND PRESENT**

- Summary of the Doctoral Thesis -

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BUCHAREST

2025

TABLE OF CONTENTS

LIST OF ABBREVIATIONS

INTRODUCTORY NOTE

CHAPTER I - THE CURRENT STATE OF RESEARCH

1.1. Introductory Concepts

1.2. Romanian Sources on the Vatican, the Holy See, and Concordats

1.2.1. Doctrinal Analysis of Romanian Authors

1.2.2. Historical and Legal Perspectives on Concordats

1.3. International Sources on the Vatican, the Holy See, and Concordats

1.3.1. International Approaches to the Legal Status of the Vatican

1.3.2. Concordats and International Law

1.4. Analysis of Own Contribution

1.4.1. Identifying Gaps in Specialized Literature

1.4.2. Critical Points on the Analysis of the Vatican and the Holy See in International Law

CHAPTER II - IMPERIUM AND SACERDOTIUM: THE HISTORICAL EVOLUTION OF THE HOLY SEE AND ITS LEGITIMACY IN INTERNATIONAL LAW

2.1. Preliminary Aspects

2.2. The Beginnings of the Statehood of the Apostolic Roman See

2.2.1. Constantine the Great and the "Patrimony of Saint Peter"

2.2.2. The Issue of the "Donation of Constantine"

2.3. Canon Law and Its Importance in Legal History

2.3.1. Divine Law and Ecclesiastical (Canonical) Law

2.3.2. Canon Law

2.3.3. Orthodox Canon Law Code

2.3.4. Roman Catholic Canon Law Code

2.3.5. The Impact of Canon Law on Human Relations

2.3.6. The Impact of Canon Law on Family and State

2.3.7. The Impact of Canon Law on the Legitimacy and Prerogatives of the Emperor

2.3.8. The Impact of Canon Law on the Judicial System

2.3.9. Canon Law and Fundamental Human Rights

2.4. The Historical Evolution of the Catholic Church from a State-Religion to a Multi-State Religion

2.4.1. The Legal and State Personality of the Catholic Church in the Middle Ages

2.4.2. The Political, Legal, and State Evolution of the Catholic Church During the First and Second Vatican Councils

2.5. Brief Conclusions of Chapter II

CHAPTER III - THE VATICAN AND THE HOLY SEE IN THE INTERNATIONAL LEGAL ORDER: STATEHOOD, SOVEREIGNTY, AND RECOGNITION

3.1. Preliminary Aspects

3.2. Basic Concepts

3.2.1. The Supreme Pontiff

3.2.2. The Holy See

3.2.3. The Vatican State

3.2.4. The Roman Catholic Church

3.2.5. The Vatican Versus the Holy See

3.2.6. The Holy See in International Relations

3.3. The Vatican – Holy See (VHS) from the Perspective of Statehood Criteria in International Law

3.3.1. Statehood Criteria According to Romanian Public International Law Doctrine

3.3.2. The Vatican - Holy See from the Perspective of Statehood Criteria

3.3.3. The Diplomacy of the Holy See

3.3.4. International Dispute Resolution

3.3.5. Immunity

3.4. The Role of the Vatican and the Holy See in the Context of Current Events

3.4.1. The Vatican During the COVID-19 Pandemic

3.4.2. The Vatican as a Guarantor of International Humanitarian Law - The Church and Human Rights in a Pandemic and War Context

3.4.3. The Vatican and Humanitarian Diplomacy in the 21st Century

3.5. Brief Conclusions of Chapter III

CHAPTER IV - CONCORDATS AND THE HOLY SEE: LEGAL NATURE, IMPLICATIONS, AND CONTROVERSIES

4.1. Preliminary Aspects

4.1.1. The Context and Relevance of Concordats in International Law

4.1.2. The Role of the Holy See and the Vatican in International Politics

4.1.3. Research Objectives and Methodology

4.2. Definition and Evolution of Concordats

4.2.1. What is a Concordat? Definition and Essential Characteristics

4.2.2. The Historical Evolution of Concordats, from the First Treaties to the Present

4.2.3. Concordats as Acts of Public International Law

4.2.4. The Distinction Between the Holy See and the Vatican in Signing These Agreements

4.2.5. The Bilateral Nature and Role of Signatory States

4.3. The Role of the Holy See and the Vatican in Signing Concordats

4.3.1. Legal Differences Between the Holy See and the Vatican

4.3.2. The Representation of the Holy See in International Relations

4.3.3. Significant Examples of Concordats

4.3.4. Comparative Study of Common Clauses and Specific Elements of Each Agreement

4.4. The Impact of Concordats on Domestic and International Law

4.4.1. The Effects of Concordats on Signatory States

4.4.2. Current Criticisms and Debates on Concordats

4.4.3. The Issue of Sovereignty and Church-State Relations

4.5. The Authority of Concordats in Domestic and International Jurisdictions

4.6. Brief Conclusions of Chapter IV

CHAPTER V - DIPLOMATIC RELATIONS BETWEEN ROMANIA AND THE HOLY SEE AND THE 1927 CONCORDAT: A CASE STUDY

5.1. Introductory Aspects

5.2. The Holy See's Relations with Romanian Territories Before 1918

5.2.1. The Confessional Context of Romanian Territories Before the Great Union

5.2.2. The Relations Between the Holy See and Romanian States Before 1918

- 5.2.3. Early Attempts to Initiate Negotiations for a Concordat with the Holy See
- 5.2.4. The Holy See and the 1918 Union
- 5.3. Negotiations for the 1927 Concordat and Its Legal Implications
 - 5.3.1. The Catholic Church in Greater Romania: Reorganization and Challenges
 - 5.3.2. Catholic Interests in Transylvania After the Great Union – The Conflict Between the Holy See and Hungarian Bishops
 - 5.3.3. The Concordat Treaty: The Negotiation Process
 - 5.3.4. The 1927 Concordat Between Romania and the Vatican State and Its Consequences
 - 5.3.5. Disputes Over the Concordat: Onisifor Ghibu's Position and Orthodox Intellectuals' Reactions
 - 5.3.6. The Concordat and Romanian Legislation on Religious Denominations
 - 5.3.7. Tensions and Different Interpretations of the Concordat
 - 5.3.8. The Unilateral Repeal of the Concordat in 1948
- 5.4. Diplomatic Relations Between Romania and the Holy See From the Repeal of the Concordat to the Present
 - 5.4.1. Romania and the Holy See During the Communist Period
 - 5.4.2. Renewal of Romania-Vatican Diplomatic Relations After 1989
 - 5.4.3. The Role of the Holy See in Supporting Romania's NATO and EU Accession
 - 5.4.4. Papal Visits and Their Impact on Bilateral Relations
- 5.5. Brief Conclusions

CONCLUSIONS

BIBLIOGRAPHY

ANNEXES

Introductory Note

The Vatican and the Holy See represent a highly complex topic in international law due to their unique status, which does not fit within the classical frameworks of statehood. While most states build their international legitimacy on territorial sovereignty, the Vatican and the Holy See justify their legal existence through a combination of spiritual authority, historical continuity, and diplomatic recognition. This raises essential questions about the foundations of international recognition for entities that do not meet traditional statehood criteria.

The necessity of this research arises from the Vatican's importance as an international actor and its influence on international law, particularly through the mechanism of concordats—bilateral agreements that regulate relations between the Catholic Church and sovereign states. The study aims to explain how the Holy See has maintained its status as a subject of international law by analyzing the historical, legal, and diplomatic foundations of this reality.

The methodology employed combines historical analysis, a comparative examination of concordats, and a doctrinal interpretation of the Vatican's legal status. Additionally, the research includes a case study on the diplomatic relations between Romania and the Holy See, with a special focus on the 1927 Concordat. This approach highlights the Holy See's role in the international system and clarifies the legal exception it represents.

Thus, the study contributes to a better understanding of the Vatican as a subject of international law and analyzes how it continues to be an influential actor in contemporary global politics. Through a detailed exploration of its history and an evaluation of the legal implications of its status, the research provides a clarification of the mechanisms through which the Vatican maintains its legitimacy and relevance on the international stage.

Chapter I: The Current State of Research

The study of the Vatican and the Holy See from the perspective of international law requires an approach based on the analysis of existing research and relevant legal and historical sources. This first chapter provides a synthesis of the main doctrinal works that have addressed the subject, both in Romanian and international literature, identifying converging points and controversial aspects.

A clear distinction between the Vatican as a state entity and the Holy See as a religious and diplomatic entity recognized internationally is crucial. Over time, the Holy See has been

treated differently by scholars of international law: some have considered it a classical subject of international law, while others have viewed it as a *sui generis* entity that transcends conventional legal norms. This chapter presents these debates and analyzes how different theoretical approaches contribute to understanding its current status.

In Romanian legal literature, there are significant but limited contributions concerning the Vatican and its concordats. Studies by authors such as Raluca Miga Beșteliu, Bogdan Aureescu, and Adrian Năstase address the Vatican as a distinct subject of international law, emphasizing the special nature of concordats as diplomatic instruments. At the same time, historical analyses by Ion Cârja, Ovidiu Bozgan, and Ciprian Ghișa highlight the Vatican's impact on the Romanian context, particularly through the 1927 Concordat. These studies offer a broad perspective on Romania-Vatican relations but require further exploration of the legal dimension.

Internationally, key works such as those by Mark Shaw and J.R. Crawford examine the Vatican from the perspective of public international law, comparing it to other internationally recognized non-state entities, such as the Sovereign Military Order of Malta. A central aspect of these works is the analysis of statehood criteria in international law and how the Vatican and the Holy See do or do not fit these criteria.

The chapter concludes by highlighting the original contribution of this research, identifying existing gaps in the literature, and justifying the need for an in-depth analysis of the legal status of the Vatican and the Holy See. This study aims to clarify the mechanisms through which this entity has maintained international recognition over the centuries and to provide an updated perspective on its diplomatic and legal implications.â

Chapter II: Imperium and Sacerdotium – The Historical Evolution of the Holy See and Its Legitimacy in International Law

This chapter examines the historical trajectory of the Holy See, highlighting how it has maintained its legitimacy in international law over the centuries. From its early ties to Roman authority and the first popes to its medieval and modern development, the Holy See has consolidated its position through a combination of religious influence, diplomatic power, and legal adaptability.

The first subchapter explores the beginnings of the Apostolic See's statehood, focusing on Constantine the Great and the "Patrimony of Saint Peter." This section delves into the role of the Roman emperor in legitimizing the Church and establishing the first forms of papal

territorial authority. Special attention is given to the issue of the “Donation of Constantine,” a document that played a central role in justifying the papacy’s claims over specific territories and solidifying the Vatican’s distinct legal status.

The chapter then shifts to an analysis of canon law and its influence on legal history. It examines the major developmental stages of canon law in both Orthodox and Roman Catholic traditions, emphasizing its impact on the relationship between church and state. Canon law served as a crucial instrument in defining the Catholic Church’s position in the medieval world, establishing rules that not only governed the spiritual life of believers but also shaped the legal and political structures of Christian states.

Another subchapter details the historical evolution of the Catholic Church from a state-religion to a religion with multiple affiliated states. It explores the legal and political transformations that occurred during the First and Second Vatican Councils, when the Holy See redefined its relationship with modern states and adopted a more active diplomatic role in international affairs. Through these reforms, the Vatican strengthened its status as a distinct subject of international law, capable of concluding treaties and acting as a mediator in global conflicts.

In conclusion, the chapter demonstrates that the Holy See has maintained its international legitimacy through a combination of spiritual authority, historical continuity, and diplomatic recognition. Its evolution reflects an ability to adapt to political and legal changes throughout history, explaining its unique status in the contemporary international legal order.

Chapter III: The Vatican and the Holy See in the International Legal Order: Statehood, Sovereignty, and Recognition

This chapter examines the legal foundations of the Vatican and the Holy See in international law, focusing on the concepts of statehood, sovereignty, and international recognition. The Holy See and the Vatican City State are distinct entities, each with a specific legal and diplomatic role. While the Vatican is recognized as a sovereign state, the Holy See exercises spiritual and diplomatic representation in international relations.

A key aspect analyzed is the criteria for statehood in international law and how the Vatican partially meets or transcends them. According to classical doctrine, a state must have a defined territory, a stable population, and a government capable of exercising sovereignty.

Although the Vatican has a small territory and its own administration, it lacks a national population in the traditional sense, raising questions about its statehood status.

Another subchapter addresses the legal distinction between the Vatican and the Holy See. While the Vatican provides the material support for the functioning of the Catholic Church, the Holy See is the entity recognized as a subject of international law, with the capacity to conclude treaties, participate in international organizations, and mediate conflicts. This legal duality is essential for understanding the Vatican's unique position in the international legal landscape.

The chapter also examines the Holy See's diplomacy and how it has maintained international relations through an extensive network of apostolic nunciatures and high-level diplomatic engagements. A compelling example is the Vatican's role in mediating international conflicts and promoting humanitarian law. Additionally, the discussion explores the Holy See's immunity and the legal exceptions it enjoys within the international community.

A significant segment is dedicated to analyzing how the Vatican has responded to recent global events, such as the COVID-19 pandemic and the war in Ukraine. Through its diplomatic and humanitarian initiatives, the Holy See has demonstrated that, despite lacking military or economic power, it wields significant influence on the global stage, playing a crucial role in promoting peace and international cooperation.

In conclusion, Chapter III highlights that the Vatican and the Holy See represent an exceptional case in international law, combining elements of statehood with diplomatic and religious influence that transcend traditional sovereignty. This reality makes the Vatican a unique actor in international politics, with a legal status that continues to be a subject of doctrinal debate.

Chapter IV: The Concordats and the Holy See: Legal Nature, Implications, and Controversies

Chapter IV examines the legal status of concordats and their impact on the international relations of the Holy See. Concordats are special bilateral treaties concluded between the Holy See and sovereign states, aimed at regulating the status of the Catholic Church in various national jurisdictions. In this sense, they represent a unique form of religious diplomacy, through which the Vatican ensures its influence on the national policies of partner states.

The first subchapter addresses the **definition and evolution of concordats**, highlighting that they have been used since the Middle Ages to establish cooperative relationships between states and the Catholic Church. Over time, they have evolved from local agreements to international treaties with significant legal effects. Special attention is given to the **legal framework** in which these agreements operate and their impact on national legislations.

A central aspect of the chapter is the **legal distinction between the Vatican and the Holy See in signing concordats**. Although the Vatican is a sovereign state, concordats are signed by the Holy See, which is the entity recognized as a subject of international law. This distinction is crucial for understanding the legal nature of these treaties and how the Catholic Church maintains its influence in international affairs.

The chapter also presents **significant examples of concordats**, such as those concluded with Italy in 1929 (the Lateran Pacts), with Germany in 1933, and with Poland in 1993. Each of these agreements is analyzed in detail, emphasizing their key clauses and their impact on the signing state.

Another subchapter discusses the **impact of concordats on domestic and international law**, highlighting their effects on religious freedom regulations, education, and the legal status of clergy. Additionally, the criticisms directed at these agreements are presented, including debates on their compatibility with the principle of separation between Church and state in modern democracies.

In conclusion, the chapter emphasizes that, despite controversies, concordats remain an essential tool of Vatican diplomacy, allowing the Catholic Church to maintain a stable legal framework for its global activities. They represent an example of legal continuity and adaptability to new international realities, strengthening the role of the Holy See as a distinct actor in international law.

Chapter V: Diplomatic Relations Between Romania and the Holy See and the 1927 Concordat: A Case Study

Chapter V explores the diplomatic relations between Romania and the Holy See, with a special focus on the 1927 Concordat, a treaty that regulated the status of the Catholic Church in interwar Romania. The Concordat was a key diplomatic act that consolidated relations between the two entities and played a defining role in the evolution of canon law and national legislation on religious matters.

The first subchapter examines **the Holy See's relations with Romanian territories before 1918**, highlighting the repeated attempts to negotiate a favorable legal framework for the Catholic Church. However, the confessional diversity of Romanian territories complicated this process, generating tensions and reluctance in adopting a Concordat.

A significant section of the chapter is dedicated to **the negotiation process of the 1927 Concordat**, detailing the stages of discussions between Romanian authorities and Vatican representatives. Key points of contention included the organization of Catholic dioceses in Greater Romania, the status of Catholic priests, and the issue of confessional education. The Concordat was seen as a diplomatic success but also a source of controversy in the Orthodox environment, where figures such as Onisifor Ghibu vehemently opposed its signing.

The chapter also analyzes **the legal effects of the Concordat on Romanian religious legislation**, emphasizing that this document set a crucial precedent for recognizing the rights of the Catholic Church in Romania. However, its implementation was not without challenges, as there were divergent interpretations regarding provisions on the Church's autonomy and its relationship with the Romanian state.

A distinct subchapter addresses **the unilateral repeal of the Concordat in 1948** by the communist regime, an event that marked a deep rupture in diplomatic relations between Romania and the Vatican. The denunciation of the Concordat was justified by the argument that it no longer reflected Romania's social and political realities, but in reality, it was part of the communist policy of suppressing the Catholic Church's influence in Romania.

The final section of the chapter explores **the diplomatic relations between Romania and the Holy See after 1989**, highlighting efforts to restore bilateral ties and the Vatican's role in supporting Romania's accession to NATO and the European Union. Additionally, papal visits to Romania and their impact on reconciliation between the Orthodox and Catholic Churches are analyzed.

In conclusion, Chapter V demonstrates that relations between Romania and the Holy See have been profoundly influenced by the political and ideological realities of each era. The 1927 Concordat remains a compelling example of how religious diplomacy can shape a state's legislation and have long-term effects on international relations.

General Conclusions

The conclusions of this thesis summarize the analysis conducted on the legal status of the Vatican and the Holy See in international law, highlighting the main aspects that contribute to their recognition as relevant actors in the global legal system. The research demonstrates that the Vatican and the Holy See represent a unique case in international law, as they manage to function as sovereign entities and maintain diplomatic relations without fully meeting the classical criteria of statehood.

A key aspect emphasized is **the legal continuity of the Holy See**. Unlike ordinary state entities, which base their international legitimacy on territorial sovereignty, the Holy See maintains its status through diplomatic recognition and its role as the supreme representative of the Catholic Church. This historical continuity explains why the Holy See has been treated as a subject of international law even during periods when it did not possess its own territory.

Another central element analyzed is **the legal paradox of the Vatican**, which formally meets the criteria of the Montevideo Convention (1933) on statehood but does not fit the classic model of national states. The Vatican has a clearly defined territory, an effective government, and the ability to establish international relations. However, its small size and religious nature raise questions about its statehood.

Additionally, the conclusions highlight **the diplomatic role of the Holy See** in the international system. Through its extensive network of apostolic nunciatures and its involvement in diplomatic negotiations, the Holy See continues to be an active mediator in international conflicts and a promoter of peace. This diplomatic dimension has been particularly reinforced in the context of recent events such as the COVID-19 pandemic and the war in Ukraine.

The thesis also emphasizes **the importance of concordats** as legal instruments through which the Holy See exerts its influence on a global scale. Concordats demonstrate the Vatican's ability to maintain stable legal relations with states, ensuring the protection of the Catholic Church's rights and regulating fundamental aspects of religious freedom.

In conclusion, the research finds that the Vatican and the Holy See constitute a remarkable exception in international law, offering an example of how a religious entity can coexist with sovereign states without being subordinate to them. The thesis suggests further research on this topic, particularly through a more in-depth analysis of the future of relations between the Vatican and modern international organizations.

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