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Holy See and Economic European policies. The reform process of Pope Benedict and Pope Francis

ABSTRACT - This paper analyses the reform process of Pope Benedict and Pope Francis in order to Vatican financial system by a normative approach. Although in a formal manner Vatican City is not a member of European Union, since 2000 Vatican City adheres to European financial system and it has the same duties of other State members in financial matters. So thanks to the relationship with European Union, Vatican City State is working for adapting itself to the principles of transparency and honesty of international market. The reform process of Pope Francis is not finished yet, because it touches the matters of idolatry of money and social imbalance.

KEYWORDS - Holy See, Canon Law, Vatican financial system, reform.

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SUMMARY: 1. *Introduction: evangelical values and money in Catholic Church-* 2. *Catholic Church, Holy See and Vatican City: three different normative positions-* 3. *Holy See and Economic European policies. Pope Benedict and Pope Francis' reforms-* 4. *Conclusion*

1. Introduction: evangelical values and money in Catholic Church

The pontificate of pope Francis looks carefully to the issue about financial system of Vatican. Possibly, it is one of the most important steps of pope Francis' reform process in the Catholic Church and it is a sector (like also marriage) in which Francis is applying the legal means of Canon law and Vatican law.

When it comes to Holy See and Economic European policies it is necessary, first, to give attention to the issue of the relationship between religion (Christian Catholic form of religion) and economy¹. This connection is strictly related to one of the most important values of the Gospel, which is also the essence of the Evangelic life: the idea of poverty. In fact, when Bergoglio became pope, in his first meeting with journalists, he said: "I would love a poor Church and a Church for the poor".

¹ Dottorando di ricerca in "Teoria del diritto e ordine giuridico ed economico europeo" presso l'Università "Magna Graecia" di Catanzaro. Il contributo riproduce, con l'aggiunta delle note, il testo della relazione presentata in lingua inglese alla Conferenza "*Freedoms of Internal Market of the European Union in Relation to the Changing Political and Economic Situation in Europe*", presso la Katolicki Uniwersytet «Jana Pawla II», di Lublino (Polonia), il 2 dicembre 2016.

¹ P. CONSORTI, "Le riforme economiche di papa Francesco", in E. BANI, P. CONSORTI (ed.) *Finanze vaticane e Unione europea. Le riforme di papa Francesco e le sfide della vigilanza internazionale*, il Mulino, Bologna, 2015, 7.

Although it raises the question: can a poor Church, or a Church for the poor, have a financial system, like a bank or a lending institution? Is a bank or a lending institution coherent with the values of the Gospel? They are loaded questions, to the extent that they cannot easily receive an immediate answer. Moreover, Catholic Church is not only a “spiritual community”, but also a “visible assembly” with a “visible social structure”²: it is a divine institution and a human institution. Like all human institutions, managing money is necessary for its existence and duration. Therefore, the problem is not managing money itself, but *how* money is managed and if money is managed in a way coherent with Gospel values.

2. Catholic Church, Holy See and Vatican City: three different normative positions

Catholic Church, Holy See and Vatican City represent different normative positions. The Catholic Church is a faith community formed by people who believe in a particular tradition of Jesus Christ gospel. The Holy See (called also Apostolic See), instead, is the governing body of the Catholic Church. It has legal personality under international law and can be understood in two different meanings: *strictu sensu*, it is the See of the Apostle Peter’s successor, the pope; *latu sensu*, it consists of the pope and the departments of Roman Curia³. The Holy See can exercise the authority and the jurisdiction thanks to the Vatican City, which is an independent State (it has population, territory and power of sovereignty) established by the Lateran Treaty, one of Lateran Accords, signed by Italy and the Holy See in the 1929, in which Italy ensures the Holy See a full jurisdiction on Vatican

²*Lumen Gentium*, Dogmatic constitution on the Church, 21 novembre 1964, par. 8, in http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html.

³ Committee on the Rights of the Child. Sixty-fifth Session, 13-31 January 2014, *Replies of the Holy See to the List of Issues*, 9 gennaio 2014, p. 3.

City territory. So Vatican City grants the policy independence of the Holy See in a visible way⁴, and it is the smallest independent state in the world⁵. Two important financial structures in Vatican City are the *Administration of the Patrimony of the Apostolic See* (APSA), for the administration of real estate, and the *Institute for Works of Religion* (IOR), a lending institution that can be considered, in a substantial manner, the Vatican bank, although for the Catholic Church it is not a bank⁶.

In Vatican City money market is regulated by financial agreements. Since 1930, agreements were signed every ten years with Italy to use “Lira”, Italian coinage. Maastricht Treaty (1992) left without prejudice financial relationships between Italy and Vatican City (as well as between Italy and Republic of San Marino and between France and Principedom of Monaco). Since 2000, financial agreement is signed with Italy on behalf of European Community⁷: in accordance with it, Vatican coinage became “Euro” and Vatican City gave quotation at Euro money, starting from 1st January 2002⁸. The last financial agreement has been signed in 2009 with both European commission and Italian Republic.

3. Holy See and Economic European policies. Pope Benedict and Pope Francis’ reforms

In a formal manner Vatican City is not a member of European Union, but at the same time Vatican City adheres to European financial system and so, in financial matters, it has same duties of other State members. Since

⁴ See M. CONDEMI, “La regolazione delle attività finanziarie vaticane”, in E. BANI, P. CONSORTI (ed.), *op. cit.*, 34.

⁵ C. LADBORKE, R. FLORES, “Holy See (Vatican)”, in G. ROBBERS, W. C. DURHAM, JR. (ed.), *Encyclopedia of Law and Religion*, Brill-Nijhoff, Leiden-Boston, 2016, p.174.

⁶ P. CONSORTI, “Le riforme economiche di papa Francesco”, *cit.*, 28.

⁷ *Decisione del Consiglio del 31 dicembre 1998 sulla posizione della Comunità in vista di un accordo sulle relazioni monetaria con lo Stato della Città del Vaticano*, in “Gazzetta Ufficiale”, 4 febbraio 1999.

⁸ L. n. CCCLVII/2001.

2000 Vatican City is in the Euro zone and it has implied a “sovereignty softening”⁹, because Vatican agreed to its financial system limitations for assuring transparency in the Euro zone against international money laundering¹⁰. In detail, with the agreement of 2009 Vatican became part of the European bank system, and Holy See has now an international responsibility in fighting international financial crimes, as money laundering or financing terrorism (art. 8). Thanks to this agreement Vatican City and Holy See are subjected to the supervision of *Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism* (MONEYVAL), a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems¹¹.

So, since 2009 Vatican has changed its administrative approach of managing money, more oriented now to values of transparency¹² and international honesty.

To implement the agreement of 2009, Vatican promulgated during 2010¹³ important laws for preventing and contrasting money laundering in its

⁹ An Italian scholar calls it “affievolimento di sovranità”, see F. VECCHI, “L’affievolimento di sovranità nello Stato Città del Vaticano per assorbimento nell’area monetaria dell’euro”, in *Il diritto ecclesiastico*, 3 (2013), Giuffrè, Milano, 2002, 1034-1084.

¹⁰ A. VALSECCHI, “Lo Stato della Città del Vaticano”, in G. CASUSCELLI (ed.), *Lezioni di diritto ecclesiastico*, 5^a ed., Giappichelli, Torino, 2015, 473.

¹¹ See Council of Europe website: http://www.coe.int/t/dghl/monitoring/moneyval/About/About_MONEYVAL_en.asp.

¹² See Fabio Vecchi, “La progressiva armonizzazione della legislazione finanziaria vaticana in materia di contrasto all’evasione fiscale internazionale. Il FATCA-IGA (Foreign Account Tax Compliance Act - Intergovernmental Agreement, 10 giugno 2015) tra Santa Sede/Stato Città del Vaticano e Stati Uniti d’America”, in *Diritto e religioni*, 21 (2016), 210 e ss.

legal order, also with the partnership of a mixed committee, composed by Vatican members and European Union members (like it is provided for art. 11 of the agreement of 2009).

Pope Benedict by *Motu Proprio* on 30 December 2010 decided that the normative against the money laundering and the corruption has to be applied on governing bodies of the Church, as Roman Curia departments and IOR. It is interesting to observe for a matter of normative writing method, that Benedict in his *Motu Proprio* quotes also “future integrations”. Therefore, legal discipline has to be completed now by Pope Francis’ *Motu Proprio* of 8th August 2013 in which this Vatican financial law is extended also outside Vatican boundaries, when the crime is anyway committed by a subject (or a legal entity) that is under Vatican law (it may be defined as “extra-territoriality”¹⁴ of financial Vatican law).

In the same *Motu Proprio* of 2010, Pope Benedict established the *Financial Information Authority* (FIA), an authority of the Holy See and Vatican City State competent for supervision and financial intelligence for the prevention and countering of money laundering and financing of terrorism as well as prudential supervision. It is important to look that FIA is independent and autonomous from each other Roman Curia departments.

During 2013, the law n. VIII introduced financing terrorism crime in Vatican legal order, and it represents another important step in this field.

In the Pope Francis’ *Motu Proprio* of the 8th of August 2013 it is established also the *Financial Security Committee* (FSC), with the task to coordinate competent Holy See and Vatican City authorities for the prevention and countering of money laundering, the financing of terrorism and the proliferation of weapons of mass destruction.

¹³ L. n. CXXX/2010; L. n. CXXXVIII/2010; L. n. CXXIX/2010; L. n. CXXVII/2010 (The law n. n. CXXVII/2010 is changed and integrated by decr. n. CLIX/2012, L. n. CLXVI/2012, L. n. CLXXXV/2012, L. n. XVIII/2013, decr. n. XI).

¹⁴ See A. VALSECCHI, “Lo Stato della Città del Vaticano”, cit., 474, n. 32.

Then, by *Motu Proprio* of 24th February 2014 is established a new coordinating agency for the economic and administrative affairs of the Holy See and the Vatican City State. This new apical structure for economic matters is articulated in: a *Council For The Economy*, chaired by a Cardinal Coordinator, “an entity having oversight for the administrative and financial structures and activities of the dicasteries of the Roman Curia, the institutions linked to the Holy See, and the Vatican City State” (art. 1); a *Secretariat For The Economy*, presided over by a Cardinal Prefect, that is “competent for the economic control and vigilance over the agencies mentioned in Point 1, including policies and procedures concerning purchasing and the suitable allocation of human resources” and immediately subjected to the Pope (art. 5); an *Auditor general* for the accounting review.

On 1st April 2015, another financial agreement signed by Italian Republic and Holy See regulates economic relationships between Italy and Vatican City State (Vatican City is a State *enclave* in the city of Rome), after Pope Benedict and Pope Francis’ financial system reform¹⁵.

4. Conclusion

To talk about financial system of Holy See often means to touch issues of yellow journalism. Mysteries and shadows of History are hidden behind some financial structures of Vatican City States.

In this paper, we wanted to take on the matter by a normative approach, in order to analyse the reform process of Pope Benedict and Pope Francis.

Thanks to the relationship with European Union, Vatican City State now is working for adapting itself to the principles of transparency and honesty of international market. Transparency and honesty in financial structures make economic policies of Catholic Church more coherent with Evangelical values. Nevertheless, the reform process of Pope Francis is not

¹⁵ See A. FUCCILLO, “La convenzione monetaria SCV/UE e la concorrente sovranità finanziaria di Italia e Vaticano”, in E. BANI, P. CONSORTI (ed.), *op. cit.*, 149.

finished yet, because it touches the matters of idolatry of money and social imbalance¹⁶.

¹⁶ A. FUCCILLO, “La convenzione monetaria SCV/UE e la concorrente sovranità finanziaria di Italia e Vaticano”, cit., p. 148.