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MARRIAGE IN THE METROPOLITANATE OF KARLOVCI IN THE LATE EIGHTEENTH CENTURY

Abstract: In the late eighteenth century, matrimony and marriage law in the Habsburg monarchy underwent changes due to the reforms of Emperor Joseph II and new political and social circumstances brought about by the war with France. These changes affected all Christian Churches, including the Metropolitanate of Karlovci. In the 1790s, Metropolitan Stefan Stratimirović was able to adapt to new circumstances and new laws, even though they were not always in accordance with his beliefs. This paper will present these changes and provide examples demonstrating how the episcopate of the Metropolitanate of Karlovci and its head responded to these new circumstances. It will also point to specificities that emerged during this time among Serbs and Orthodox Christians within the Habsburg monarchy.

Keywords: Habsburg monarchy, Metropolitanate of Karlovci, Serbs, Stefan Stratimirović, Military Frontier, marriage.

1. Imperial Reforms of Marriage Law in the Habsburg Monarchy in the Late Eighteenth and Early Nineteenth Centuries

In the Catholic and Orthodox Churches, matrimony is one of the seven Holy Sacraments by which two Christians are united through the Holy Spirit. Church authorities recognized the existence of marriage as far back as the Old Testament, and according to them, Jesus Christ had imbued it with deeper meaning. This understanding of marriage in Christian lands left all aspects of it to the jurisdiction of the Church, which controlled how it was concluded and even resolved disputes related to inheritance law.¹ Until the reign of Maria Theresa (1740–1780), marriage in the Habsburg monarchy had been solely under the

¹ A sacrament is a visible sacred act through which, according to the teachings of the Orthodox Church, God's grace imparted miraculous gifts to those who accepted it. What and how many there are vary from one Christian Church to another. The Roman Catholic and Orthodox Churches recognize seven, but most Protestant faiths recognize two. For more, see: Nenadović 1758: 4; Mogila 1763: 59; Rajić 1773: 17.

jurisdiction of the Catholic and Orthodox Churches. New aspects were introduced to this domain as part of centralizing reforms, during which the state's influence was increased at the expense of the Church's. The first step Maria Theresa took was to issue an Imperial Patent dated April 12, 1753, which imposed limitations on the Church regarding underage marriages. As it had been previously, for such a marriage to occur, the consent of the parents or guardians of the minor spouses had to be given, but now consent also had to come from representatives of the local secular government rather than the ecclesiastical authorities. Only then could the marriage be performed by a priest as it had been earlier, and all marriages of underage couples that had been concluded differently were considered invalid.² The Engagement of Minors Act did not affect the sacrament of marriage nor did later legislation, but it did radically change something else—the state's jurisdiction at the expense of the Church's.

On January 16, 1783, three decades after the Engagement of Minors Act, Emperor Joseph II (1765/1780–1790) enacted the Marriage Patent (*Ehepatent*), which gave secular courts precedence over ecclesiastical courts in marital disputes. In the future, only secular courts could rule in cases of consanguinity, and they had jurisdiction over all marriages and divorces.³ Priests performed weddings as civil servants, and if there was a discrepancy between secular and ecclesiastical law, the clergy was required to act in accordance with the state's interests and perform marriages as ordered by the state administration. Failure to do so would incur severe sanctions. Marriage was thus considered to be a civil agreement or contract.⁴

The Marriage Patent was something new for the Catholic Church because, unlike the Orthodox Church, it did not allow for divorce. Instead, couples were permitted to separate, or as it was called in the sources, “divorce from table and bed.” This did not violate the sacrament of marriage: spouses were still formally married but were unable to enter into another marriage until one of them died. The Marriage Patent transferred the right to rule on separation from the consistory—the ecclesiastical court—to the secular courts, which gave a ruling if it determined there was no realistic possibility for cohabitation.⁵ Initially, separation from table and bed was only possible if both partners agreed. The Court Decree of October 16, 1786, allowed one partner to bring the matter to court if there was abuse or if one partner deliberately refused to agree to dissolve the marriage. Marriage law thus defined became part of the Josephine Code of 1786 and later of the General Civil Code of 1811. This was followed by a Court Decree of November 10, 1811, which stipulated that the court would divide property between spouses separated from table and bed.⁶

In 1783, the validity of the Marriage Patent was extended to the Erblände, Galicia, and the Military Frontier, and in 1786 it was extended throughout Hungary by a special decree of the Lieutenancy Council making it mandatory throughout the Metropolitanate of Karlovci. It was published in Serbian that same year.⁷ Separations from table and bed were

² Michel 1870: 77–78; Floßmann 2008, 81–82.

³ Beales 2013: 322–323.

⁴ Floßmann 2008: 86.

⁵ Griesebner 2020: 22, 25–26.

⁶ Tschannett 2015: 10–11, 39–40; Griesebner-Planer-Dober 2021: 257–258; Rieder-Zagkla 2022: 98–99.

⁷ The Karlovci archbishopric and metropolitanate were created after the Orthodox dioceses in the Habsburg

not common practice in the metropolitanate after 1786. A ruling in favor of this type of separation was made only when cohabitation was impossible or if the life of one of the spouses was endangered. A period of separation was meant to allow the spouses to consider their situation and ultimately recommit to cohabitation. During their separation, the husband was required to support his wife financially, but in the end, if cohabitation was impossible, the consistory could grant them a divorce.⁸

The Marriage Patent was repealed in Hungary in 1790, and the Hungarian Diet of 1791–1792 returned jurisdiction over marriage to the Catholic and Orthodox consistories, which it did not do for the Protestants because for them it was not a sacrament.⁹ The same Diet also passed Article 26 (§26/1791), which permitted mixed marriages between Catholics and Protestants, but they could only be performed by Catholic priests. If the father was Catholic and the mother Protestant, any children from the marriage would be raised in the Catholic faith. If the mother was Catholic, the daughters would be Catholics and the sons could remain Protestant. All matrimonial disputes involving existing mixed marriages and those that had not yet been concluded were under the jurisdiction of the Catholic Church.¹⁰ This law was meant to be applied exclusively to Catholic–Protestant marriages and was not formally connected to Orthodox Christians; in practice, however, this was not the case. A provision was added on October 12, 1807 that left open the possibility for children of mixed marriages to become Catholic if they so wished.¹¹ A few days earlier, on October 6, 1807, a resolution had been passed according to which mixed marriages (Catholic–Protestant and Catholic–Orthodox) performed by Protestant pastors or Orthodox priests were considered invalid and had to be repeated by a Catholic priest. Because these marriages were considered illegitimate, so too were the children they had produced, and these children were unable to inherit their parents' property. The emperor ordered the courts to temporarily suspend this interpretation until the marriage was concluded again by a Catholic priest, and that the children could inherit property in the event of their parents' deaths.¹² Other minor changes to marriage law followed in 1815 when it was determined that unknown individuals could not be married without the consent of a guardian or secular jurisdictional authority, and that the Church must be vigilant regarding underage marriages and must prevent any marriages from being conducted to avoid military service.¹³

monarchy were reorganized in 1695 by Patriarch Asenije III Crnojević (1673–1706) of Peć with the permission of Emperor Leopold I (1658–1705). The metropolitanate was founded *de jure* in 1708 and was an autonomous part of the Patriarchate of Peć until the Patriarchate was abolished in 1766, after which it became an autocephalous Orthodox Church *de facto*. Although it was formed at the end of the seventeenth century as a church for Serbs, in the early eighteenth century it gained jurisdiction over other Orthodox Christian peoples (Romanians, Greeks, Aromanians, and Ruthenians) living within its borders. Its jurisdiction was then extended to all Orthodox Christians under Habsburg rule (Transylvania in 1761, Bukovina in 1783, and Dalmatia in 1828), but exclusively in regard to overseeing the spiritual and dogmatic teachings of the Orthodox Church. For more on this, see: Vasin, Ninković 2022, 159–160, 178.

⁸ ASANUK, MPA, K, 81/1797.

⁹ Nagy 2019: 821.

¹⁰ <https://net.jogtar.hu/ezer-ev-torveny?docid=79000026.TV&searchUrl=/ezer-ev-torvenyei?keyword%3D1790>

¹¹ ASANUK, MPA, „A“ 102/1807.

¹² ASANUK, MPA, „A“ 104/1807.

¹³ ASANUK, MPA, „A“ 16. and 88/1815.

2. Mixed Orthodox–Catholic Marriages in the Habsburg Monarchy during the Reign of Maria Theresa

Marriages between Roman Catholics and Orthodox Christians were not common, but did occasionally happen in Croatia, which sporadically led to problems. The first to address these marriages was the Catholic Diocese of Senj, whose spiritual authority extended through Lika and Krbava, where, according to the 1712 census, 77.35 percent of the population were Orthodox (Serbs) and 32.65 percent were Roman Catholic (Croats, Bunjevci, and converted Muslims).¹⁴ People of different faiths living side by side inevitably led to mixed-faith marriages. Entering into a mixed marriage also required religious conversion, so in 1714, the Senj diocese tried to prevent them by prohibiting Roman Catholic women from marrying Orthodox Christian men.¹⁵

However, this ruling was not followed, and in response, Bishop Ivan Antun Benzoni (1731–1745) insisted that all mixed marriages be considered Catholic and ordered that these marriages could only be performed in the future by Roman Catholic priests. This meant that children born to these marriages were raised in the Roman Catholic faith. In 1744, Aleksije Andrejević (1744–1749) of Kostanjica and Pavle Nenadović (1744–1749) of Upper Karlovac, two Orthodox bishops whose dioceses were mostly located within the Military Frontier (the Karlovac Generalate and the Banovina), appealed to Empress Maria Theresa against the bishop's decision and sought permission for Serbian Orthodox priests to marry Orthodox Christian men to Roman Catholic women.¹⁶ The empress did not render judgment at the time, but Nenadović continued his appeal, especially after he became the metropolitan of Karlovci in 1749, a position he held until his death in 1768.¹⁷ After several appeals, on December 13, 1758, Maria Theresa issued a resolution permitting mixed marriages so long as the spouses remained within their own faiths after they were married. Any children resulting from the union would be raised in the faith of their same-sex parent (boys in the faith of their father and girls in the faith of their mother).¹⁸ The possibility was left open for Orthodox children to freely convert to the Uniate or Roman Catholic Churches.¹⁹

This resolution also announced that anyone already in a mixed marriage would be examined, which the local military authorities (in the Karlovac Generalate) saw as an invitation to interfere in marriage law. Officers tried forcing the Serbs living there who were in mixed marriages to convert to Catholicism, even though no specific decree regarding this had been issued.²⁰ Furthermore, to maintain control over future marriages, they ordered that no marriages could take place without formal permission from the military government, regardless of the couple's faiths. Marriages could only be performed once written

¹⁴ Kaser 2003: 19–42.

¹⁵ Dabić 2000: 301–302.

¹⁶ Točanac Radović 2015: 127.

¹⁷ Ninković 2017: *passim*.

¹⁸ This ruling did not apply to Trieste because the empress believed it would cause unrest. For this reason, she permitted parents to decide in which faith to raise their children. (ASANUK, MPA „A“ 8–10/1757; AV, IDKD, 2407, 2450. and 2452; Kostić 2013: 167)

¹⁹ ASANUK, MPA „B“ 44/1758.

²⁰ Točanac Radović 2015: 128

permission from a regimental officer had been received and presented to the priest. These decisions were not decrees issued by state institutions and applied only to the Karlovac Generalate in the Military Frontier, but they set a serious precedent, because of which the metropolitan unsuccessfully took legal action against Maria Theresa in 1764. Moreover, over time they became mandatory for the commands of other parts of the Military Frontier where officers granted the Grenzlers permission to marry.²¹

The Council that was convened in 1769 to choose a successor to Metropolitan Pavle also considered the issue of mixed marriages in the diocese of Upper Karlovac (Karlovac Generalate). At the Council, Danilo Jakšić (1751–1771), the diocese's bishop, sought from the empress a ban on mixed marriages so there would be no further disputes. However, through the General *Regulament* of 1770, the empress ordered that mixed marriages would fall exclusively under the jurisdiction of the Roman Catholic and Uniate bishops.²² That same year, a special resolution stipulated that children of mixed marriages could only be raised as either Roman Catholics or Uniates. The Council of 1774 sought the annulment of these decrees and compliance with the resolution of December 13, 1758. Once again, the empress did not concede to their demands and the earlier decrees in the *Regulament* of 1777 remained in force. In 1778, Metropolitan Vikentije Jovanović Vidak (1774–1780) again petitioned for these decrees to be changed but was unsuccessful, and they were upheld for the third time in §68 of the *Declaritorium* of 1779.²³

3. Mixed Marriages in the Metropolitanate of Karlovci after 1791

The adoption of §26/1791 reiterated the precedence of the Roman Catholic Church over the Orthodox Church and its right to perform mixed marriages. Although this article was not meant to apply to mixed marriages between Roman Catholics and Orthodox Christians, it was nevertheless amended in 1793. This was a consequence of a particular mixed marriage of which the consistory of the Catholic Csanád diocese had informed Bishop Pavle Avakumović (1786–1815) of Arad, by writing to him that this marriage would be performed by a Catholic priest. The bishop then informed the metropolitan, who filed suit with the Hungarian Court Chancellery, arguing that §26/1791 could not be applied to Orthodox Christians. The Chancellery replied that §26/1791 also applied to Catholic–Orthodox marriages.²⁴ Stratimirović again appealed to the Hungarian Court Chancellery and the Lieutenancy Council to seek an explanation, noting that this practice that applied to Protestants could not be applied to Orthodox Christians because, for them, marriage was a Holy Sacrament, just as it was for Roman Catholics. He noted that all of this contradicted §27/1791, which had granted Orthodox Christians rights as citizens in Hungary and put

²¹ ASANUK, MPA „A“ 72/1764.

²² Through the process of reform, Maria Theresa sought to introduce a permanent legal system for Serbs and Orthodox Christians within the Metropolitanate of Karlovci. To this end, she issued the first *Regulament* in 1770 via the Illyrian Court Deputation. Due to Serbian resistance, it was replaced in 1777 by the second *Regulament* but it did not quell the resistance. This resulted in a third act, the *Declaritorium* of 1779. There was essentially no difference between these two laws. For more on this, see: Mikavica, Lemajić, Vasin i Ninković 2016: 172–179.

²³ Točanac Radović 2015: 128–129.

²⁴ ASANUK, MPA „A“ 4, 57. i 67/1793. Dobrovšak 2005: 81, 91.

them on equal footing with Roman Catholics.²⁵ Last, he referred to the resolution of 1758.²⁶ His arguments were answered by the Lieutenancy Council's resolution of April 19, 1793, which stipulated that mixed marriages were the jurisdiction of Catholic priests.²⁷ Stratimirović immediately informed his bishops of this decree, but Bishop Kiril Živković (1786–1807) of Pakrac wanted to seek the opinion of Emperor Francis II (1792–1835).²⁸ There is no evidence that the metropolitan did so, but in March 1794 he brought suit against the Hungarian chancellor Count Karol Pálffy over the same issue, using the same arguments as before. This time, he asked the emperor for a final ruling based on §27/1791,²⁹ but the Hungarian Court Chancellery answered that it was the will of the emperor that §27/1791 be upheld, and that mixed marriages could only be Roman Catholic priests.³⁰ On October 9, 1799, the Lieutenancy Council repeated the earlier provisions regarding marriages between Catholics and Orthodox Christians, of which Metropolitan Stefan then informed the episcopate.³¹

The first mixed marriages were performed by Catholic priests in mid-1793, but issues soon arose over details that had not been properly regulated.³² The first of these came before the consistory of the Diocese of Arad in 1794 when Sofija, daughter of Stefan Tenecki (1720–1798) a painter and an Orthodox Christian, married a Roman Catholic officer after the death of her first husband. Since she had become Catholic through this marriage, the question of which faith her daughter Katarina from her first marriage needed to be resolved. Stefan Tenecki opposed his granddaughter being raised Roman Catholic and took guardianship over her. After a period of time, however, Sofija petitioned the Arad County for her child to be returned.³³ The final ruling handed down by the Lieutenancy Council confirmed Stefan Tenecki's suspicion that this would entail a religious conversion: The council announced that the daughter must be raised in the faith of her mother, which in this case was Roman Catholicism. Stratimirović sought intervention from the emperor, but the Lieutenancy Council replied that this decision was, in fact, the will of the emperor.³⁴

Stratimirović became an opponent of mixed marriages because of these sorts of rulings, and he repeatedly told his bishops and priests that they should try to prevent any mixed marriages, especially in civil Hungary and Croatia. In the Military Frontier, however, his hands were tied despite his desire to prevent them. There, rulings permitting mixed marriages came from the military authorities rather than the Church. This did not diminish his admonitions to the priests to use various means, primarily persuasion, to dissuade the faithful from marrying women of other faiths.

In August 1794 he reported this to Jelisej Popović, a military priest accompanying Count Ignác Gyulay's volunteer regiment in Worms. Stratimirović asked Popović to

²⁵ ASANUK, MPA „A“ 67/1793; Mikavica, Gavrilović, Vasin 2007: 128.

²⁶ ASANUK, MPA „A“ 71/1793.

²⁷ ASANUK, MPA „A“ 82/1793.

²⁸ ASANUK, MPA „A“ 103. and 147/1793.

²⁹ ASANUK, MPA „A“ 315/1794.

³⁰ ASANUK, MPA „A“ 324/1794.

³¹ ASANUK, MPA „B“ 23/1799.

³² ASANUK, MPA „A“ 164/1793.

³³ ASANUK, MPA „A“ 263/1793.

³⁴ ASANUK, MPA „A“ 302, 304. and 466/1794.

persuade Serbian officers not to marry Roman Catholic women by pointing to the drawbacks of mixed marriages, including the fact that their future children would be raised in different faiths. If the military authorities approved a mixed marriage, the priest should warn the Serbian officers that they would be married by a Catholic priest rather than an Orthodox one.³⁵ Stratimirović raised the possibility that these marriages could be performed if the bride first accepted the Orthodox faith, but the priests would have to act publicly and voluntarily rather than under pressure.³⁶ Based on these instructions, in late 1798, Popović married officers after their fiancées had converted to Orthodoxy.³⁷

In 1799, Stratimirović expressed a similar position to Gavriilo Isaković, the protopresbyter of Mitrovica, when he told him that a Grenzer named Jovan Milutinović from Šašinci, who was asking for his birth certificate for the third time so he could marry a Catholic, to dissuade him by explaining to him all the problems that came with mixed marriages.³⁸ In 1801 he also advised Sofronije Eraković, another military priest, to prevent a marriage between Sima Selaković, and Orthodox Christian, and Ana Barbara, a Roman Catholic with whom Selaković already had two children. However, when Colonel Andrija von Stojčević, the commander of Petrovaradin regiment, permitted the marriage, Stratimirović ordered Eraković to do everything he could to satisfy the command.³⁹

Stratimirović's position regarding marriages between Orthodox men and Protestant women was quite different. He always accommodated them and gave priests permission to perform them, but he also noted that it would be better for the Protestant women to first convert to Orthodoxy before the marriage took place. The only question remaining was if it was necessary for them to undergo a six-week examination, which was required for Catholic women converting to Orthodoxy.⁴⁰ After consulting with the Protestants, Stratimirović concluded that there was no need, and they could convert without any examination. It was only important that the priests determine if they were entering the marriage willingly or for an illicit reason. If they were marrying out of love, the priests should marry them straight away while also respecting Orthodox traditions, of which the most important was to announce the future nuptials in church three times.⁴¹ There were several examples of marriages between the Orthodox Grenzers and Protestant women. In 1797, a military priest named Aksentije Molović married four Orthodox men to four Lutheran women, of whom only one had converted to Orthodoxy.⁴² In 1801 Stratimirović assented to a marriage between Mojsij Mijić, a Grenzer from the village of Šimanovci, and Johanna Dorotea Schultz, a Protestant from Prussia who had converted to Orthodoxy.⁴³

³⁵ ASANUK, MPA „A“ 435/1794.

³⁶ ASANUK, MPA „A“ 62. and 452/1794.

³⁷ ASANUK, MPA „A“ 329/1798.

³⁸ ASANUK, MPA „A“ 112/1799.

³⁹ ASANUK, MPA, „A“ 10/1801.

⁴⁰ Examinations served to confirm if a Catholic woman had changed her faith voluntarily or under duress.

⁴¹ When an upcoming marriage was announced to the community, enough time was left for the priest to be informed of any reasons why the couple should not marry. ASANUK, MPA „A“ 324/1798.

⁴² ASANUK, MPA „A“ 329/1798.

⁴³ ASANUK, MPA, „A“ 5/1801.

4. Second and Third Marriages

Unlike the Catholic Church, the Orthodox Church permitted divorce, which had been regulated since the Middle Ages when Saint Sava, the first Serbian archbishop, translated the Nomocanon into Serbian (1219/1220). Stratimirović referred to this legal code for delicate situations when divorce was required. According to the Nomocanon, a husband could divorce his wife if she had acted against his or the state's interests, if she had committed adultery, or if she had in any way conducted herself immorally. Divorce was also possible for the same reasons if the wife initiated it due to her husband's behavior. She could recover her dowry and even claim some of her husband's estate. If it was the husband rather than the wife who had committed adultery, the divorce did not have to be granted. A divorce could also be granted if the husband appeared to have been impotent for a period of three years, if he was a soldier of which nothing had heard for five or more years, or if one of the spouses chose to enter a monastery. It could also be granted if the husband debased his wife, intentionally made her life difficult, or threatened her life. Divorces were also granted in cases involving homosexuality, fetishization of or sexual intercourse with animals, castration, anal sex, masturbation, or infanticide.⁴⁴

The metropolitan communicated his views on divorce to the Lieutenantcy Council, which was had an interest due to a large number of petitions for new marriages from widows in Banat who had lost their husbands during the last Austro-Turkish War (1788–1791) but were unable to prove it. For these cases, the practice, also partially established by the Nomocanon, was that the widows were required to provide at least two statements: either written depositions issued by secular or ecclesiastical institutions, or two oral statements given under oath to a consistory by those who had witnessed their spouse's death or conversion. This law applied regardless of the sex of the person petitioning for a new marriage.⁴⁵ If the witnesses were priests, they took a spiritual oath, and laymen were subject to harsh penalties if they were found to have been untruthful.⁴⁶ If the required testimonies provided evidence of either death or conversion, the consistory would grant permission for a second marriage.⁴⁷ If it was not possible to obtain such evidence, and one of the spouses had disappeared within the Habsburg monarchy, a public summons to return to the marriage was issued to the spouse every two months. After the third summons, if the spouses still did not appear before an ecclesiastical or secular court, the marriage could be annulled. This, however, could not be applied to prisoners of war when it was unknown where the individual had gone missing, or if they had gone missing in a country where there was no possibility of hearing a public summons.⁴⁸

In the bishopric of Vršac, permissions for marriage became a pressing issue because it had suffered the most casualties in 1788 when Ottoman troops invaded Banat.⁴⁹ Three years after the war ended, there were many widows who could not substantiate their

⁴⁴ Petrović 1990: 33–37; Petrović 2004: 507–508, 719–723; Hadžić 2010: 59–200.

⁴⁵ ASANUK, MPA, K, 1. and 5/1795.

⁴⁶ ASANUK, MPA, K, 5/1795.

⁴⁷ ASANUK, MPA, K, 56/1797.

⁴⁸ ASANUK, MPA „A“ 189/1798.

⁴⁹ Ilić 2020: 146–151.

husbands' deaths. Their petitions to be allowed to remarry reached the military command in Timisoara, which asked Bishop Josif Jovanović Šakabenta for detailed information on the subject. The bishop's reply, dated April 26, 1794, included information about 493 people who were divided into three categories: 442 people who were still being held in the Ottoman Empire, twenty-five people who had been captured in 1788 but it was unknown whether they were still living, and twenty-six of whom nothing was known other than they had abandoned their wives. Šakabenta also expressed his opposition to the emperor's intention to adopt a general dispensation that would essentially grant permission to marry for all who could not prove their partner was dead.⁵⁰ The bishop held that searching for runaway spouses in the Ottoman Empire was not possible due to its size, but that the Church could allow remarriages when five years had passed since the spouse had disappeared, although he did wonder what would happen if the spouse returned after five years. If this happened, he believed there would be no issues around dividing property because the wife was only entitled to what she had brought into the marriage with her dowry. The custody of the children, however, would be significantly more complicated. In the end, Šakabenta felt that the final decision should rest with the emperor because the canons did not offer a solution. The solution was that it would be sufficient to provide one deposition stipulating that an individual was no longer listed in their records, and this could be provided to the military authorities. This satisfied the secular institutions, and it satisfied the Church by implementing the Nomocanon and Canon 93 of the Quinisext Council (691–692), which permitted marriages for widows of soldiers of whom nothing had been known for five years and for whom it was reasonable to assume were deceased.⁵¹

In 1795, the Lieutenantcy Council was particularly interested in whether the canons of the Orthodox Church permitted divorce in cases of adultery, and if so, did they only resolve the question of cohabitation (separation of table and bed) or of divorce and termination of the marriage. They requested information about how such cases were handled before it adopted Emperor Joseph II's Marriage Patent. The metropolitan answered that the ancient canons were in contradiction with the civil code and were thus inapplicable because they only referred to the death of an adulterer. In the Habsburg monarchy, the Metropolitanate of Karlovci rarely permitted divorce on grounds of adultery, and only allowed it if the wife's life was in danger or if there was a possibility of conversion to Islam after entering the Ottoman Empire. These matrimonial disputes could only be resolved by the *Apelatorija*,⁵² which the emperor confirmed through a special act.⁵³

Adultery could be a serious matrimonial issue, regardless of the metropolitan's position. Two examples illustrate this. The first dates from 1794 and occurred in Timisoara, where Marija Kostić, the wife of Georgij Nikolajević, sought a divorce after her husband beat her and threatened to kill her because he was living with another woman whom he loved.

⁵⁰ ASANUK, MPA „A“ 358/1794.

⁵¹ ASANUK, MPA „A“ 358/1794.

⁵² Each diocese within the Metropolitanate of Karlovci had its own consistory. Anyone dissatisfied with its rulings could appeal to a higher court of the metropolitanate's consistory, which is referred to in the sources as the *Apelatorija*. It could only consider judgments that had already been made by a diocesan consistory. For more, see: Vasin and Ninković 2022: 146–149, 158.

⁵³ ASANUK, MPA „A“ 30., 35. and 60/1795. and 166/1796.

She claimed there was nothing she could hope for from her savage and infatuated husband, so she was asking for a divorce and for him to pay her dowry, which was in accordance with the rules of the Church.⁵⁴ The other case occurred in 1799 in the diocese governed by the metropolitan himself, when a priest named Mihajlo Cikuša fell in love with the wife of a local officer who had been gone for a long time fighting on the battlefields against France. During this time, the priest and his mistress maintained a relationship that had produced a child, even though Cikuša already had a family from a previous marriage. The military command requested he be transferred to another village, which the metropolitan quickly granted. The priest then brought suit against Stratimirović for giving him a less prosperous parish than his previous one, because of which he was now suffering financially. He also added that he did not want to be separated from his mistress. However, he was forced to concede after being pressured by the command and the metropolitan.⁵⁵

The French Revolutionary Wars (1792–1801) created new issues for women whose husbands had been gone for years and about whom nothing was known. Many soldiers died or became invalids during these wars. In 1793, the Lieutenancy Council asked Stratimirović to persuade the priests under civil authority not to marry invalids without the permission of the secular authorities.⁵⁶ On February 25, 1794, it also stipulated that those claiming their marital partner had died and wished to enter into a second marriage must present written proof of death issued by the Church.⁵⁷ The metropolitan respected these directives, and he himself was opposed to anyone being granted permission to marry if there was no solid evidence that one of the spouses was deceased or had converted to Islam.⁵⁸ Here too, he considered only one deposition to be sufficient, as he had for the case in bishopric of Vršac after the last Ottoman–Habsburg war. His only requirement was that the judgment should come from the diocesan consistories rather than the secular authorities.⁵⁹

The urgency of the issue became apparent in 1801 when the Treaty of Lunéville was signed and the Grenzers' years-long military service came to an end. In the aftermath of the war, it became clear that adultery, illegitimate children, and infanticide had occurred in the Military Frontier during the war.⁶⁰ In late 1802, the Court suggested a blanket permission allowing all women whose husbands had not returned from the war to remarry. Stratimirović opposed this and demanded that the consistories hand down judgments in accordance with previous practice and on a case-by-case basis.⁶¹ After October 25, 1803, the Court issued a law deciding that all those in the Military Frontier wishing to remarry and who did not possess two written depositions about the death of their husband or two living witnesses to their death should appeal to the military command. In further proceedings, the command would question witnesses who might have some knowledge of what had befallen the missing husband. The officers and Grenzers from the unit he had belonged to were

⁵⁴ ASANUK, MPA „A“ 340/1794.

⁵⁵ Ninković 2015: 174–175.

⁵⁶ ASANUK, MPA „A“ 3/1793.

⁵⁷ ASANUK, MPA „A“ 307/1794.

⁵⁸ ASANUK, MPA „A“ 49. and 50/1801.

⁵⁹ ASANUK, MPA „A“ 200/1800.

⁶⁰ Ninković 2023: 421.

⁶¹ ASANUK, MPA „A“ 164/1802.

questioned, as were soldiers with whom he may have been imprisoned with or undergone medical treatment. When the place where he had been captured was identified or if it was unknown whether he was deceased, a request was submitted to the Imperial War Council to confirm through the embassies if he was living in another country or if his death could be confirmed. All available evidence was sent to the consistories.⁶² In practice, however, the embassies were passed over and everything was left to the regimental commands and the consistories, who would organize their own investigations conducted by protopresbyters. They directly collected what information they could, and the consistories always made their rulings, such as permitting a new marriage, on the basis of what they found.⁶³ Initially, this law only applied to the Military Frontier, but on April 7, 1807 it was extended to the area under civil administration, after which widows of Grenzlers could also marry there.⁶⁴ The laws remained unchanged in the following period, with the exception of permission given in mid-1816 to women who had been abandoned by their husbands to seek permission to remarry exclusively from the *Apelatorija* rather than the diocesan consistories.⁶⁵

5. Fourth Marriages and Clerical Marriages

Many Orthodox Christians from the Military Frontier had perished during the wars, and along with the many diseases that were incurable in the eighteenth century and the Orthodox Church permitting divorce, it became more likely that widows, widowers, and divorced people would remarry. Despite attempts to ban fourth marriages, which the Church Synod did in 1776 and Maria Theresa upheld by law in 1777, there occasionally were petitions for a fourth marriage, which could only be granted by a bishop. Stratimirović was formally opposed to fourth marriages, but in practice he did grant permission for them. He always insisted that priests educate the spouses-to-be about how problematic these marriages could be from the standpoint of the Church, and to then determine an appropriate penitential remedy (*epitimion*) for them. An illustrative example is that of Teodora, the widow of Marko Marković from Bešenovački Prnjavor. The metropolitan ordered the abbot of the Bešenova Monastery, Teofil Novaković, to have a clergyman hear Teodora's confession before the wedding and inform her that she would remain a penitent for the rest of her life, which meant penance and an obligation to teach her children the Orthodox faith and the basic Christian prayers.⁶⁶

The primary motivations for the metropolitan permitting fourth marriages were economic and social. He was always accommodating with young people who could still have children, when a family's financial stability depended on a fourth marriage, or when a wife was needed to properly raise children. Often when there was a fourth marriage, both spouses had already married three times, or one of them may have had two. It was rare for a man who had been married two or three times to marry a woman who had never been married.

Surviving documents illustrate Stratimirović's understanding of the need for fourth marriages. In 1793, when he granted permission to Stojan Vukovarac from the

⁶² ASANUK, MPA, „A“ 55/1803.

⁶³ ASANUK, MPA, K, 2, 3, 14, 37, 93, 97, 110, 111, 115, 131–133, 145. and 146/1803.

⁶⁴ ASANUK, MPA, „A“ 119/1807.

⁶⁵ ASANUK, MPA, „A“ 42/1777. and 183/1816.

⁶⁶ ASANUK, MPA, „A“ 342/1794.

village of Grk to marry the thrice-married Marija Lozjanin, he noted that Stojan was thirty-six years old and had a small child who needed a mother. Furthermore, considering Stojan's age, if he did not marry, he would most likely sin by cohabitating with Marjia anyway. For this reason, he considered a fourth marriage to be the lesser sin.⁶⁷ He always granted permission to merchants because the nature of their business meant they were away from home for long periods of time, and they would need a wife to care for the children and their households.⁶⁸ The case of Gavriilo Bakalović, a merchant from Vukovar, is an example of this and why a third or fourth marriage was not something of which to be proud. Bakalović was not young when he sought permission to marry for a third time in 1799. By then he already had a married daughter and a son who was engaged, but he needed a wife to run his household. He was ashamed to announce his third marriage in church due to his age and because he had grown children. He petitioned the metropolitan to make an exception for him; if not, he would give up on the marriage. Stratimirović obliged him.⁶⁹

In specific cases, the metropolitan was known to grant permission for marriages under extraordinary circumstances. In 1799, he permitted fifteen-year-old Kuzman Đurić of Jamena to marry, even though the Orthodox Church considered sixteen to be the age of majority. Stratimirović allowed this marriage because the village was located in the Military Frontier, which had suffered heavy losses, and any marriage that could produce children would help repopulate the area.⁷⁰ In 1815, the Court cautioned all the heads of the churches in the Habsburg monarchy keep a close eye on underage marriages being entered into as a means of avoiding military service, but by this time, the large-scale wars against France and Napoleon had already ended, so this decree could be enforced.⁷¹

Clerical marriages were a particular challenge for the metropolitan when it was young priests who had been widowed. The Orthodox Church did not allow priests to remarry, but after the *Regulamenat* and the *Declaratorium*, widowed priests could remain with their parishes until their deaths and were not forced to become monks. Eventually, there were cases of widowed priests cohabitating with women, often under the pretense that the women were caring for the household and children because the priests' spiritual duties kept them otherwise occupied. When such a case presented itself in the diocese of Upper Karlovac in 1795, its bishop Genadije Dimović (1786–1796) told Stratimirović that there had never been anything like it before and asked for his advice. The case in question was Petar Orlić, a priest from Karlovac who had been living with a widow for the past six years. Being that she was now pregnant for the second time, he asked Bishop Genadija to unfrock him so he could marry her. The metropolitan was unsure as to how to proceed; the priesthood and marriage were Holy Sacraments, but he could not allow a priest to live in sin. Stratimirović decided that Bishop Genadija should try to steer Petar Orlić toward a moral life, but if he still wished to cohabit with this widow, being unfrocked would be a lesser sin than living with a woman to whom he was not married.⁷²

⁶⁷ ASANUK, MPA „A“ 4/1793.

⁶⁸ ASANUK, MPA „A“ 329/1794.

⁶⁹ ASANUK, MPA „A“ 12/1799.

⁷⁰ ASANUK, MPA „A“ 25/1799.

⁷¹ ASANUK, MPA „A“ 88/1815.

⁷² ASANUK, MPA, „A“ 116/1795.

A more difficult question was the marriage of Atanasije Božić of Vršac, a deacon who had married Ana, the daughter of Jovan Zafirović, a merchant from Ciacova in 1793. She was five months pregnant when they married, which Atanasije claimed not to have known. Ana gave birth four months later, and her husband sent her and the child back to her father. Meanwhile, Atanasije sought advice from Bishop Josif Jovanović Šakabenta as to what to do. He feared he would not only lose his position as deacon but would also be unable to enter the priesthood in the future. He was willing to remain married to Ana if it would prevent this. The bishop and the consistory should have rendered the final verdict, but they had no precedent to consult from, so they turned to the metropolitan. Stratimirović indicated there were two problems: the first concerned the deacon and the second his wife. He asked Atanasije if he had known Ana had had intimate relations even before he became a deacon, and if so, had he confessed this to his priest. If he had known and confessed, then he was at fault, could never become a priest, and must be sanctioned. However, the bishop who had ordained him as a deacon also bore the sin if he had been aware of this. But if Atanasije had known nothing of this before he was ordained, then he was innocent and could not only remain a deacon but could still enter the priesthood. However, a period of penance would be required. It was necessary to question Ana to determine whether she had had intimate relations before or during her marriage, whether this was conscious or unconscious, or if she had sinned because she was unable to exercise good judgment. If she had been aware of the sin, then the marriage must be considered null and void, and Atanasije would be free to marry again. If the sin had not been a conscious one, then Stratimirović ordered that the bishop to determine her penance. He explained this by referring to the canons of the Orthodox Church, and in particular Canon 18 of the Apostolic Canons, according to which a man married to a widow, a divorced woman, a harlot, a servant, or an actress was not permitted to become either a deacon or a bishop. According to the canons of Theodore Balsamon, the bishop must sanction the deacon because it had been his obligation to make inquiries about his future wife. If the deacon admitted he had not done so and knew little about Ana before they were married, he must be sanctioned, and the bishop must monitor improvements in his behavior, on which his priestly ordination would depend. It was clear to Stratimirović that the canons could not always be followed precisely, because here they would have required Ana to enter a convent, and no one had the power to force her to do so. Therefore, he concluded that it would be best for both of them to do penance and continue to cohabit as a married couple.⁷³

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Marriage law as domain exclusive to the Church within the Habsburg monarchy first became subject to Maria Theresa's reforms in 1753. In 1783, Emperor Joseph II subordinated it to the interests of the state through centralization and secularization. Although some rights were returned to the ecclesiastical courts after his rule, Joseph II's reforms essentially remained in place. This meant there was basically no difference between the Catholic and Orthodox Churches, and all changes related to marriages also applied to the Metropolitanate of Karlovci. The most significant change affected mixed marriages

⁷³ ASANUK, MPA „A“ 312/1794.

between Roman Catholics and Orthodox Christians, which gradually fell under the jurisdiction of the Catholic Church, as outlined by Maria Theresa (1770, 1777, and 1779). To keep marriage law under the metropolitanate's jurisdiction, Stratimirović would accommodate the state whenever possible, especially when it concerned the Military Frontier. The metropolitan was much more rigid about marriages between Orthodox spouses, which did not concern the state, than he was about issues discussed by local secular or military authorities. He was particularly opposed to mixed marriages between Roman Catholics and Orthodox Christians but showed no animosity toward Protestants.

When the canons contradicted secular law, the metropolitan made judgments as required by the state, and recommended that his bishops do the same. The justifications for his decisions were rooted in Church practice, but some of these required original interpretations when there was no precedent to which he could refer. The many requests for remarriage from widows whose spouses had not returned from the wars with France were particularly challenging. The state and the Church worked together with the best of intentions to secure them permission, especially so those who were young and still able to bear children could continue their lives. This example perfectly illustrates how cooperation between the state and Metropolitanate of Karlovci at the end of the eighteenth century tended to favor practical solutions, yet still followed the path dictated by the state. This cooperation, even regarding marriage, strengthened Metropolitan Stefan Stratimirović's position and enabled the expansion of his authority as both a Church leader and as an official of the state.

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**БРАК У КАРЛОВАЧКОЈ АРХИЕПИСКОПИЈИ
КРАЈЕМ ХVІІІ ВЕКА**

Резиме

Брак и брачно право су у Хабзбуршкој монархији током последње две деценије ХVІІІ века били предмет промена, с једне стране услед реформске политике цара Јозефа II, а са друге услед нових политичких и друштвених околности изазваних ратом против Француске. Промене су се односиле на све хришћанске цркве укључујући и Карловачку архиепископију. Последња деценија ХVІІІ века показала је колико је архиепископ Стефан Стратимировић могао да се прилагоди новим околностима и новим законима упркос што они нису били увек у складу са његовим схватањима. У раду се презентују ове промене и наводе примери из којих се види однос према новим околностима епископата Карловачке архиепископије и њеног поглавара. Указује се и на специфичности које су се појавиле у ово време у српском и православном друштву Хабзбуршке монархије.

Кључне речи: Хабзбуршка монархија, Карловачка архиепископија, Срби, Стефан Стратимировић, Војна граница, брак.

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