

MATER FAMILIAS

SCRITTI ROMANISTICI PER MARIA ZABŁOCKA

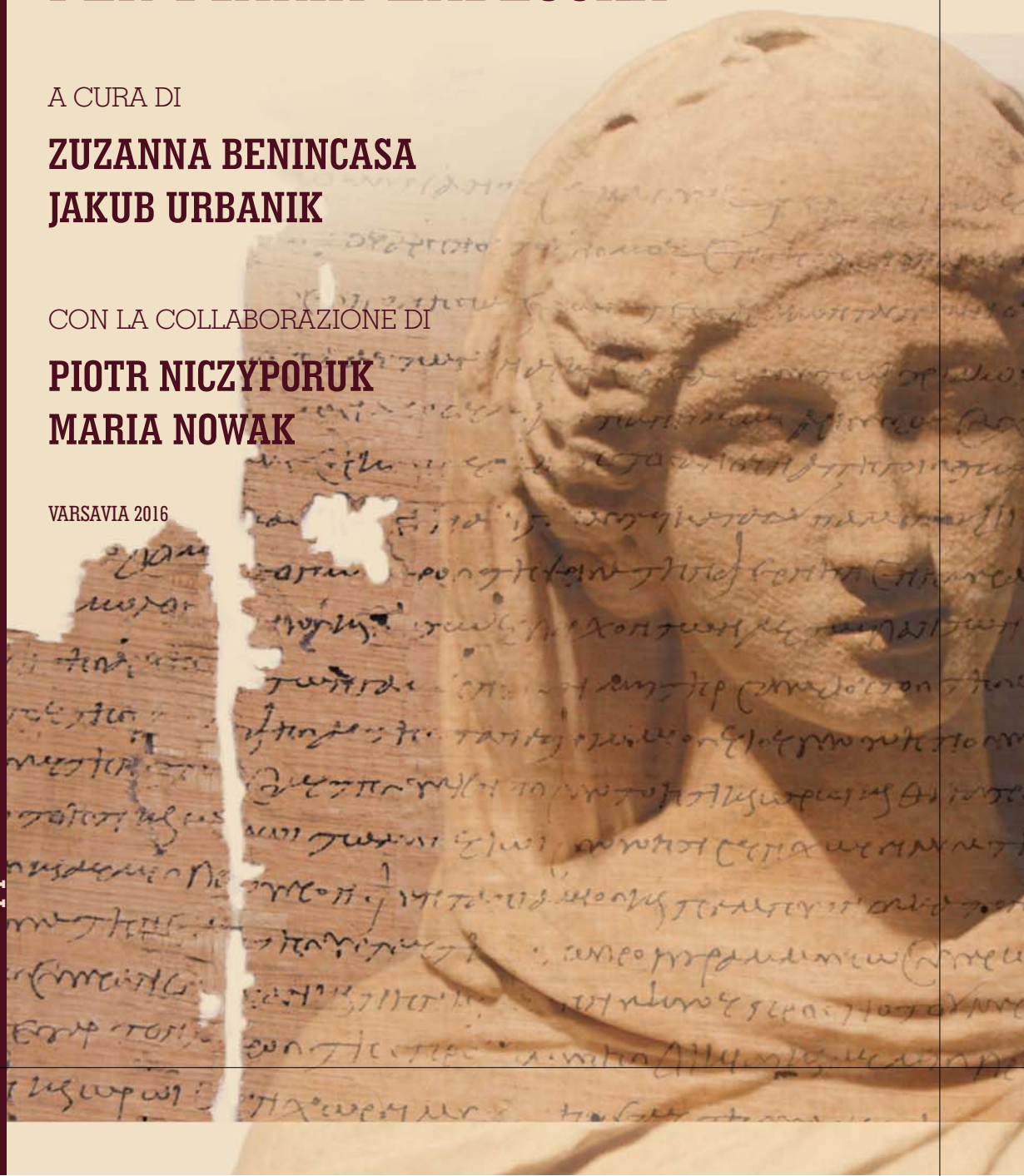
A CURA DI

ZUZANNA BENINCASA
JAKUB URBANIK

CON LA COLLABORAZIONE DI

PIOTR NICZYPORUK
MARIA NOWAK

VARSAVIA 2016



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Mater Familias
Scritti per Maria Zabłocka

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Ewa Gajda

ELEMENTS OF THEOLOGY IN ROMAN LAW
ON ZENON'S HENOTICON AND
JUSTINIAN'S LETTER (CJ. 1.1.8)

I. RECTA FIDES
AFTER THE COUNCIL OF CHALCEDON

NICENE-CONSTANTINOPOLITAN CREED and Ephesian *recta fides*¹ formed the dogma of 'cosubstantiality' of the Father and the Son, which – at

¹ Council of Ephesus, The operative part of the council for the deposition of Nestorius patriarch of Constantinople, 22 June 431: 'Definitio sanctae et oecumenicae Synodi in Epheso contra impios Messalianistas hoc ets Euchitas sive Enthusiastas. Venientes ad nos pientissimi ac religiosissimi episcopi', *ACO* I 5.2, pp. 354–355; 'Απόφασις ἐξενεχθεῖσα κατὰ Νεστορίου ἡ καθαιρούσα αὐτόν. Πρὸς τοῖς ἄλλοις μὴτε ὑπακοῦσαι βουληθέντος τοῦ τιμιωτάτου Νεστορίου', *ACO* I.1.2, p. 54; 'Sententia prolata a sancto concilio contra impium et inimicum rectae fidei Nestorium damnans eum. Super alia neque obaudire volente honoratissimo Nestorio', *ACO* I 3, pp. 82–83; "Ὁρος κατὰ τῶν δυσσεβῶν μεσσαλιανιστῶν ἢ γοῦν εὐχιτῶν. Συνελθόντες ἐφ' ἡμῶν οἱ εὐλαβέστατοι καὶ θεοφιλέστατοι ἐπίσκοποι', *ACO* I 1.7, pp. 117–118; 'Απόφασις ἐξενεχθεῖσα κατὰ Νεστορίου ἡ καθαιρούσα αὐτόν', 'Πρὸς τοῖς ἄλλοις μὴτε ὑπακοῦσαι βουληθέντος τοῦ τιμιωτάτου Νεστορίου', [in:] G. ALBERGIO, G. DOSSETTI, P. P. JOANNOU, C. LEONARDI, P. PRODI & H. JEDIN (eds.), *Conciliorum oecumenicorum decreta* (hereinfter *COD*), Bologna 1991, pp. 61–62; 'Απόφασις ἐξενεχθεῖσα κατὰ Νεστορίου ἡ καθαιρούσα αὐτόν', 'Πρὸς τοῖς ἄλλοις μὴτε ὑπακοῦσαι βουληθέντος τοῦ τιμιωτάτου Νεστορίου', [in:] A. BARON & H. PIETRAS (ed.), *Dokumenty soborów powszechnych. Tekst grecki, łaciński, polski* I. (325–787). Nicea I, Konstantynopol I, Efez, Chalcedon, Konstantynopol

that stage of theological discussion – ended the controversies around the Holy Trinity. As a consequence of the recognition of the hypostatic union in the balanced and ‘positive’ Chalcedonian definition, a problem arose concerning the relation of divinity and humanity of incarnate *Logos*. Chalcedonian definition of faith² of two natures in Christ after incarnating of the *Word* together with an earlier dogma of the Holy Trinity caused doctrinal discussions, religious conflicts and schisms in the 5th and 6th cent. (especially the so-called ‘Acacian schism’ in 484–519 and the problem of ‘theopaschitism’).³

The political, historical and theological context of post Chalcedonian christological, trinitarian and mariological discussions as well as the need for sanation of the state and the law affected the law-making – ‘in materia religiosa et ecclesiastica’ – activity of Justinian I (527–565).

Theological polemics combined with the necessity of solving the problem by the existing law referred to, among other things, the doctrinal

II, *Konstantynopol III, Nicea II*, Kraków 2007 (hereinafter *DPS*), pp. 158–159; “Ὁρος κατὰ τῶν δυσσεβῶν μεσσαλιανιστῶν ἡ γοῦν εὐχιτῶν”, ‘Συνελθόντες ἐφ’ ἡμῶν οἱ εὐλαβέστατοι καὶ θεοφιλέστατοι ἐπίσκοποι’, *ibidem*, pp. 168–173.

² Council of Chalcedon, ‘Profession of faith’, 22 October 451: Ἡ ἁγία καὶ μεγάλη καὶ οἰκουμένη συνόδος ἡ κατὰ Θεοῦ χάριν καὶ θέσπισμα τῶν εὐσεβεστάτων καὶ φιλοχρίστων ἡμῶν βασιλέων Οὐαλεντιανοῦ καὶ Μαρκιανοῦ αὐγούστων συναχθεῖσα ἐν τῇ Χαλκηδονέων μητροπόλει τῆς Βιθυνῶν ἐπαρχίας ἐν τῷ μαρτυρίῳ τῆς ἁγίας καὶ καλλινίκου μάρτυρος Εὐφημίας ὥρισεν τὰ ὑποτεταγμένα. Ὁ κύριος ἡμῶν καὶ σωτὴρ ὁ Χριστὸς, *ACO* II 1.2, pp. 126–130; ‘Santa et magna et universalis synodus quae per gratiam Dei et praecepta piissimorum et christianissimorum imperatorum nostrorum Valentiniani et Marciani augustorum congregata est in Chalcedona metropoli provinciae Bithyniorum in ecclesia sanctae et victricis martyris Euphemiae. Dominus noster et salvator Iesus Christus’, *ACO* II 3.2, pp. 134–138; cf. *COD*, pp. 83–87 & *DSP*, pp. 214–225.

³ The controversy about the so-called ‘theopaschitism’ amounted to the recognition of orthodoxy or heterodoxy condemnation phrases: λόγος σεσαρκωμένος, τοῦ θεοῦ Λόγου σεσαρκωμένη – verbumque carne vestitum or unus ex Trinitate incarnatus est; εἷνα ἐκ τῆς τριάδας πεπονθέναι σαρκί – unus de Trinitate passus est carne; εἰς τῆς ἁγίας τριάδας ἐναθε σαρκί – unus de Trinitate crucifixus est in carne; unus de Trinitate mortuus est, and ὁ σταυρωθεὶς δι’ ἡμᾶς – qui est crucifixus pro nobis. The ‘theopaschite formula’ could be described – as a result found to be incorrect – the proposal doctrinal derived from the Scythian monks, probably of the Gothic origin. More on this topic – cf. e.g., EWA GAJDA, ‘Problem prawny *credo* Justyniana w poezji bizantyńskiej na przykładzie modlitwy cesarskiej’ [The legal problem of the Justinian’s *Credo* in the Byzantine poetry: The case of the imperial prayer], [in:] *Studia Prawnicze Katolickiego Uniwersytetu Lubelskiego* 1 (57) 2014, pp. 42–46.

conflict between the followers of Chalcedonian *credo* – theologically diversified: diophysites and the followers of St. Cyril of Alexandria⁴ – and monophysites.⁵ Justinian started to reflect upon – out of his love of science of God – certain theological formulations about the effects of incarnation and passion of *Logos* and the crucifixion and death of Christ, which remain in close connection with rejection or acceptance of monophysite views, and – as a legislator – authoritatively solved one of the *doctrinae fidei* problems.

Cesarean doctrine of incarnation, suffering and crucifixion *Λόγος*, together with the mariological issue connected with these problems, is known from the *Justinian Code* from 534 and a few other writings outside Justinian codification. It also refers to the promulgated in *Codex repetitae praelectionis*: Cesarean letter to pope John II (*Reddentes honorem*) from March 533 (*Cf.* I.I.8),⁶ two Cesarean constitutions from March 533: one – destined for the inhabitants of the capital (*Cf.* I.I.6)⁷ and the other –

⁴ About the differences of doctrinal theology of Constantinople and Alexandria in 5th century – cf. e.g., the letters of Cyril to Nestorius (dated approx. to 26 January or 26–24 February 430): ‘Cyrilli episcopi Alexandriae ad Nestorium. Oblocuntur quidam’, *ACO* I 2, pp. 37–39; ‘Reverendissimo et optimo Dei cultori comministro Nestorio Cyrillus in Domino salutem. Oblocuntur quidem’, *ACO* I 3, pp. 20–22; *Τῷ εὐλαβεστάτῳ καὶ θεοφιλεστάτῳ συλλειτουργῳ Νεστορίῳ Κύριλλος ἐν κυρίῳ χαίρειν. Καταφλυαροῦσι μὲν, ACO* I I.I *Concilium universale Ephesenum. Acta Graeca. Collectio Vaticana* I–32, pp. 25–28; *ACO* II I.I, pp. 104–106; ‘Cyrilli Alexandriae ep. ad Nestorium. Oblocuntur quidem’, *ACO* II 3.I, pp. 82–85.

⁵ Cf. e.g., M. JUGIE, s.v. ‘monophysitisme’, [in:] A. VACANT, E. MANGENOT & É. AMANN (eds.), *Dictionnaire de théologie catholique* x 2, Paris 1903–1950, coll. 2237–2241; É. AMANN, s.v. ‘Theopaschite (controversie)’, *ibidem*, xv 1, coll. 506–507.

⁶ I. D. MANSI, I. B. MARTIN & L. PETIT (eds.), *Sacrorum conciliorum nova et amplissima collectio* ... VIII, Florentiae – Venetiis – Parisiis – Lipsiae 1759–1927 [hereinafter: MANSI], coll. 795–797; *PL* LXVI, coll. 14–17. *Nota bene* pope John II responded by the letter dated March 534 *Inter claras sapientiae*, 24–25 March 534, O. GUENTHER (ed.), *Epistulae imperatorum pontificum aliorum inde ab a. CCCLXVII usque ad a. DLIII datae. Avellana quae dicitur Collectio* [CSEL 35], Praegae – Vindobonae – Lipsiae 1895 [hereinafter: *Coll. Avell.*], pp. 322–325, ep. 84; M. AMELOTI & Livia MIGLIARDI ZINGALE (eds.), *Scritti teologici ed ecclesiastici di Giustiniano*, Milano 1977 [hereinafter: *Scritti teol. eccl.*], pp. 18–20. I mention this only marginally in my ‘Problem prawny’ (cit. n. 3), pp. 38–39.

⁷ Justinian to the people of Constantinople: *Τὸν σωτήρα καὶ δεσπότην τῶν ὅλων* – Cum Salvatore et Dominum omnium (15 March 533; also in, e.g. *Cbr. Paschale* [PG XCII, coll. 891–896]; *Scritti teol. eccl.*, pp. 32–35); cf. also GAJDA, ‘Problem prawny’ (cit. n. 3), pp. 38–39.

addressed to Epiphanius, Patriarch of Constantinople (Cf. I.I.7)⁸ and preserved in fragments in constitution from around 527 (Cf. I.I.5).⁹ Justinian's writings, which are known from several historiographical, literary, council and synod texts, include diversified in terms of language, contents, form and *meritum*: Edict against Origenes – Ἡμῶν μὲν ἀεὶ σπουδῇ γέγονε (from around 542–543);¹⁰ Edict on Τρία Κεφάλαια (from around 544–545);¹¹ Edict Ὁμολογία πίστεως (from 551);¹² Letter – once again – on Τρία Κεφάλαια (around 549–551 or after 553);¹³ dogmatic treaty des-

⁸ Justinian to Epiphanius patriarch of Constantinople: Γινώσκων βουλόμενοι τὴν σὴν ἀγιωσύνην – Edocere volentes sancitatem tuam (26 March 533, also in *Collectio tripartita* I.I.6, N. VAN DER WAL & B. H. STOLTE [eds.], *Collectio tripartita. Justinian Religious and Ecclesiastical Affaire*, Gröningen 1994, pp. 15–21); cf. also GAJDA, 'Problem prawný' (cit. n. 3), pp. 38–39.

⁹ Justinian, Constitution Τῆς ὀρθῆς καὶ ἀμωμήτου πίστεως (Cum recta intemerataque fides); cf. also GAJDA, 'Problem prawný' (cit. n. 3), pp. 38–39.

¹⁰ Cf. I.I.5 (ca. 527): Justinian, Edict [probable] against Origen addressed to the patriarch of Constantinople, Menas: Ἡμῶν μὲν ἀεὶ σπουδῇ γέγονε – Nobis semper studio (ca 542–543, *PL* LXIX, coll. 177–222; *PG* LXXXVI A, coll. 945–990; *MANSI* IX, coll. 487–534; *ACO* III, pp. 189–214; *Scritti teol. eccl.*, pp. 68–119); cf. also GAJDA, 'Problem prawný' (cit. n. 3), pp. 38–39.

¹¹ Justinian, Edict against Τρία Κεφάλαια (ca 544–545), reconstructed on the basis of the text (dated to ca 550) of Facundus, bishop of Hermiane, *Pro defensione Trium Capitulorum Concilii Chalcedonensis Libri* XII. *Ad Iustinianum imperatorem* II 3 (*PL* LXVII, coll. 527–582, *PL* LXVII, coll. 566B, 567A); a dubious fragment of II 3 (*PL* LXVII, coll. 568 A–B; *PL* LXVII, coll. 582D, 585A, 586C, 588C); III 3 (*PL* LXVII, coll. 589C, 591C); III 4 (*PL* LXVII, coll. 595C–596A, 598C); V 1 (*PL* LXVII, coll. 632A, C–D); V 2 (*PL* LXVII, coll. 633 C–634A, 636A–B); V 3 (*PL* LXVII, coll. 638A–B); VI 3 (*PL* LXVII, coll. 665D–666B); VII 5 (*PL* LXVII, coll. 691C–692A, 693B); a dubious fragment of II 1 (*PL* LXVII, coll. 797B); cf. *Scritti teol. eccl.*, pp. 130–135 (fragm.), and also *CCbr.* XC A; cf. also GAJDA, 'Problem prawný' (cit. n. 3), pp. 38–39.

¹² Justinian, Edict on the orthodox faith (the so-called Ὁμολογία πίστεως, Confessio rectae fidei), *Εἰδοτες ὡς οὐδέν* – Scientes quod nihil (January 551, *PL* LXIX, coll. 225–268; *MANSI* IX, coll. 537–582; *PG* XCII, coll. 901–952; *PG* LXXXVI A, coll. 993–1036; *Chr. Pasch.* (Dindorf), pp. 636–665; E. SCHWARTZ (ed.), *Drei dogmatische Schriften Iustinians*, Milano 1973 [hereinafter: *Drei dogm. Schrift.*], pp. 130–169; cf. also GAJDA, 'Problem prawný' (cit. n. 3), pp. 38–39.

¹³ Justinian, the Letter against Τρία Κεφάλαια: Γράμματα ὑμῶν ἐδεξάμεθα (Litteras vestras accepimus), about 549–551 or after 553 (*PL* LXIX, coll. 273–328; *PG* LXXXVIA, coll. 1041–1096; *MANSI* IX, coll. 589–646; *Drei dogm. Schrift.*, pp. 82–127); cf. also GAJDA, 'Problem prawný' (cit. n. 3), pp. 38–39.

tined for the monks of Alexandria (from around 542–543 or 543–545),¹⁴ as well as a liturgy Hymn ὁ Μονογενῆς.¹⁵



II. NICENE CREED WITHOUT CHALCEDONIAN FORMULA THE IMPERIAL LAW IN LATE FIFTEENTH CENTURY?

Emperor Zenon, in his letter to pope Simplicius¹⁶ recognized the decisions of the Chalcedonian Council, though it is known that he simultaneously supported monophysite patriarch¹⁷ Peter the Fuller¹⁸ (*nota bene*

¹⁴ Justinian, the Letter to the monks of Alexandria: Πρώτην εἶνα σωτηρίαν ἅπασιν ἀνθρώποις (Vere fidei confessionem) from ca 542–543 or 543–545 (PG LXXXVI, coll. 1103–1146; *Drei dogm. Schrift.*, pp. 6–79); cf. also GAJDA, ‘Problem prawny’ (cit. n. 3), pp. 38–39.

¹⁵ The Greek text of the anthem comes from two sources: the notes of an unknown author to 14th century *Historiografia* of Nicephorus Calistus Xanthopoulos and from the sixth century *Chronographia* of Theophanes the Confessor. This text is repeated in the 12th century by George Kedren in his *Compendium of History*: Nicephorus Callistus Xanthopoulos, *Ecclesiasticae historiae* III 28 (PG CXLVII, coll. 291–292, n. 1); Ἀντίφωνα ψαλλόμενα ἐν τῇ λειτουργίᾳ τοῦ Χρυσοστόμου. Ἀντίφωνον β', [in:] W. CHRIST & M. PARANIKAS (eds.), *Anthologia graeca carminum christianorum*, Lipsiae 1971, pp. 52; *Scritti teol. eccl.*, p. 44. More on this subject, GAJDA, ‘Problem prawny’ (cit. n. 3), pp. 28–35.

¹⁶ On Simplicius (pope, 3 March 468–10 March 483) – cf. e.g., Ph. JAFFÉ, *Regesta pontificorum Romanorum ad condita Ecclesia ad annum post Christum natum MCXCVIII* 1. *Ap. Pietro ad a. MCXLIII*, Lipsiae 1885 (2 ed.), pp. 77–80; V. GRUMEL, *La chronologie. Traité d'études byzantines* 1, Paris 1958, p. 430.

¹⁷ Cf. C. CAPIZZI, s.v. ‘Zenone’, [in:] E. G. FARRUGIA (ed.), *Dizionario enciclopedico dell'oriente cristiano*, Roma 2000, p. 814.

¹⁸ Peter Fuller (Πέτρος Β' ὁ Φούλων, ὁ Κναφεύς – Petrus Fullo, Gnapheus), patriarch of Antiochia (470 or 471; 475–477; 485–488 or 489). Cf. e.g., G. FRITZ, s.v. ‘Pierre le Foulon’, *DTC* XII, coll. 1933; E. HONIGMANN, *Évêques et évêchés monophysites de l'Asie antérieure au VI^e siècle* [CSCO 127 Sub. 2], Louvain 1951, pp. 3–6; 19; 27; 38; 55; 86; 97; GRUMEL, *Chronologie* (cit. n. 16), pp. 446–447; L. PERLONE, s.v. ‘Pietro il Fullone’, [in:] A. DI BERARDINO (ed.), *Dizionario patristico e di antichità cristiane* II, Casale Monferrato – Mariotti 1983–1988, coll. 2794–2795; G. FEDALTO (ed.), *Hierarchia ecclesiastica orientalis. Series episcoporum Ecclesiarum Orientalium* 2. *Patriarchatus Alexandrinus, Antiochenus, Hierosolymitanus*, Padova 1988, II,

Knafesus' return to the patriarch capital of Antioch was owed to the promonophysite politics of the emperor).¹⁹ In 482 – probably for political reasons – the emperor issued an edict edited by the patriarch of Constantinople Acacius,²⁰ known as 'union act' – the so-called *Ἐνωτικὸν* (*Henoticon*),²¹ destined for the clergy and the faithful in Alexandria, Lybia and the union of five cities – Pentapolis (*Ἀρχὴν καὶ σύστασιν*).²²

A thorough scientific analysis is possible thanks to numerous, well-preserved texts of this constitution. The Greek version of Zenon's union edict comes from *Ecclesiastical History* by Evargius Scholasticus from the second half of the 6th century and from *Codex Vaticanus gr. 1431*,²³

p. 688; T. E. GREGORY, *s.v.* 'Peter the Fuller', [in:] A. P. KAZHDAN, Ann M. TALBOT, A. CUTLER, T. E. GREGORY & N. P. ŠEVČENKO (eds), *The Oxford Dictionary of Byzantium* III, New York – Oxford 1991, p. 1641.

¹⁹ Cf. e.g., PERLONE, 'Pietro il Fullone' (cit. n. 18), coll. 2794.

²⁰ On Acacius (*Ἀκάκιος*), patriarch of Constantinople (February 472–26 or 28 November 489) – cf. GRUMEL, *Chronologie* (cit. n. 16), p. 435; V. GRUMEL, V. LAURENT & J. DARROUZÈS *Les 'Regestes' des actes du Patriarcat de Constantinople* I I, Paris 1972 (2 ed.), p. III; M. SIMONETTI, *s.v.* 'Acacio di Melitene', [in:] DI BERARDINO (ed.), *Dizionario patristico* I (cit. n. 18), coll. 23; FEDALTO (ed.), *Hierarchia ecclesiastica orientalis* I (cit. n. 18), p. 4; A. P. KAZHDAN, *s.v.* 'Akakios', *Oxford Dictionary of Byzantium* I (cit. n. 18), p. 43; A. P. KAZHDAN & Ann M. TALBOT, *s.v.* 'Constantinople, patriarchate of', *ibidem* I, p. 522; C. CAPIZZI, *s.v.* 'Acacio', [in:] FARRUGIA (ed.), *Dizionario enciclopedico* (cit. n. 17), p. 7.

²¹ The letter had the status of an imperial edict (*Ἡδικτὸν Ζήνωνος*); so also [in:] E. SCHWARTZ (ed.), *Codex Vaticanus gr. 1431 eine antichalkedonische Sammlung aus der Zeit Kaiser Zenos*, München 1927, p. 52. Name *Ἐνωτικὸν* (*Henoticon*) was adopted in historiography and consequently in the literature, i.e. 'document unification' or 'letter of the union' – cf. e.g., Ewargiusz Scholastyk, *Historia Kościoła* [Ecclesiastical History], transl. S. KAZIKOWSKI, ed. Ewa WIPSZYCKA, Warszawa 1990, p. 120; CAPIZZI, 'Zenone' (cit. n. 17), p. 814.

²² Zeno, the edict to the clergy and faithful of Alexandria, Libya and Pentapolis: *Ἀρχὴν καὶ σύστασιν* (Cum imperii nostri; Cum initium et confirmationem; Coniungimini igitur matri; Principium et statum; Initium et statum), the so-called *Ἐνωτικὸν* (*Henoticon*), 482, cited in, e.g., Evarg. *HE* III 14; Callist. *HE* XVI 12 (PG CXLVII, coll. 135–140); Facundus, *Pro defensione* XII 14 (PL LXVII 67, coll. 845–848); Liberatus, *Brev.* 17 (PL LXVIII, coll. 1023–1024); Zacharias Rhetor, *HE* V 8 (E. W. BROOKS [ed.], *CSCO* LXXXVII, pp. 157–159); SCHWARTZ (ed.), *Codex Vaticanus gr. 1431* (cit. n. 21), pp. 52–54.

²³ Cf. Evarg. *HE* III 14; SCHWARTZ (ed.), *Codex Vaticanus gr. 1431* (cit. n. 21), pp. 52–54. On the subject of *Codex Vaticanus gr. 1431* – cf. *Appendix*.

they, in turn, were the basis of the translations into modern languages,²⁴ as well as of the accounts of a late medieval historiographer, Nicefor Callist *Ξανθόπουλος*, in his *Ecclesiastical History* dated to 1317–1335.²⁵ The Latin version of *Henoticon* are included in *Breviarium causae Nestorianorum et Eutychianorum* by deacon Liberatus and *Pro defensione Trium Capitulorum* of Facundus, the bishop of African Hermiane, both dated approximately to the mid-6th century.²⁶ Certain dogmatic views of emperor Zenon on theology – first formulated, later well-grounded – of monophysite churches caused the emperor's document to be preserved in other oriental languages: Syrian, Armenian and Coptic.²⁷ The Syrian version of union constitution, included in the *Ecclesiastical History* of Zacharias Rhetor (dated to the first half of the 6th century),²⁸ is based on the Greek original – according to Evargius Scholasticus, and on the Latin text – according to Liberatus.²⁹

²⁴ Italian translation of part of the edict, based on the Greek text found in *HE*: 'Il Cristo', [in:] A. ORBE, M. SIMONETTI & C. LEONARDI (ed.), *Testi teologici e spirituali in lingua greca dal IV al VII secolo II*, Milano 1990, pp. 466–469. Polish version, based on Evagr. *HE*: KAZIKOWSKI & WIPSZYCKA, *Evagr. Hist.* (cit. n. 21), pp. 121–122. English translations: J. BIDEZ & L. PARMENTIER (eds.), *The Ecclesiastical History of Evargius with the Scholia*, London 1898, pp. 351–354; [from the Syriac rendition]: E. W. BROOKS & F. J. HAMILTON, *The Syriac Chronicle known as the Zachariah of Mitylene*, London 1899, pp. 121–123; P. COLEMAN-NORTON (ed.), *Roman State and Christian Church. A Collection of Legal Documents to AD 535 III*, London 1966, nr. 527, pp. 925–927; an English version is also contained in the work of Methodius FOUYAS devoted to the discussion of the christological and trinitarian in the provisions of ecumenical councils – M. G. FOUYAS, *The Person of Jesus Christ in the Decisions of the Ecumenical Councils. A historical and doctrinal Study with the relevant Documents referring to the Christological relations of the Western, Eastern and Oriental Churches*, Addis Ababa 1976, pp. 155–157.

²⁵ Modern Latin translations in *PG* LXXXVI B, coll. 2620–2626; Callist. *HE* XVI 12 (*PG* CXLVII, coll. 135–140).

²⁶ Cf. Facundus, *Pro defensione* XII 4 (*PL* LXVII, coll. 845–848); Liberatus, *Brev.* 17 (*PL* LXVI–II, coll. 1023–1024).

²⁷ Source references are given – among others – COLEMAN-NORTON (ed.), *Roman State and Christian Church* III (cit. n. 24), p. 925 and M. GEERARD (ed.), *CPG* III, p. 163.

²⁸ Zacharias Rethor, *HE* V 15.

²⁹ Cf. Zacharias Rethor, *HE* V 8 (cf. BROOKS, *CSCO* LXXXVII, p. 227, n. 1 and BROOKS & HAMILTON, *The Syriac Chronicle* [cit. 24], p. 157, n. 1).

The proposed formula of faith in *Henoticon* in the presently known ‘first’ version reads as follows:

Ἐνὸς γὰρ εἶναι φαμέν τοῦ μονογενοῦς υἱοῦ τοῦ θεοῦ τὰ τε θαύματα καὶ τὰ πάθη ἅπερ ἐκουσίως ὑπέμεινεν σαρκὶ ... Ἐμεινεν γὰρ ἡ τριάς τριάς καὶ σαρκωθένος τοῦ ἐνὸς τριάδος θεοῦ λόγου.³⁰

In the other version the formula is edited slightly differently, *i.e.*:

Ἐνὸς γὰρ εἶναι φαμέν τὰ τε θαύματα καὶ τὰ πάθη ἅπερ ἐκουσίως ὑπέμεινεν σαρκὶ Μεμένηκε γὰρ τριάς ἡ τριάς καὶ σαρκωθένος τοῦ ἐνὸς τῆς τριάδος θεοῦ λόγου.³¹

The quoted fragments of the ‘union edict’ in Latin are known not only from two but from three texts slightly different from each other, *i.e.*:

Unius enim esse dicimus, tum miracula, tum passiones quas sponte sua in carne sustinuit Trinitas enim semper mansit Trinitas, etiamsi unus ex Trinitate, Deus scilicet Verbum incarnatus sit,³²

Unius enim esse dicimus unigenitus Filii Dei et miracula et passiones, quas sponte carne perpassus est ... quoniam facta sine peccato ex Dei genetrice secundum veritatem incarnatio augmentum filii non fecit; manist enim Trinitas, etiam incarnato uno de Trinitate Deo Verbo;³³

Unius enim unici Filii Dei dicimus esse miracula et passiones quas sua sponte in carne toleravit ... Mansit enim Trinitas [Trinitas] etiam quando unus e [ex – E.G.] Trinitate Deus Verbum incorporatus est.³⁴

³⁰ *Henoticon* [in:] SCHWARTZ (ed.), *Codex Vaticanus gr.* 1431 (cit. n. 22), p. 54, vv. 4–6; 8–9.

³¹ *Henoticon* apud Evarg. *HE* III 14 [in:] *Εὐαγγρίου Σχολαστικοῦ Ἐπιφανέως καὶ ἀπὸ ἐπάρχων Ἐκκλησιαστικῆς ἱστοραὶς τόμ. ε΄*, *PG* LXXXVI B, coll. 2624B; J. BIDEZ & L. PARMEN-TIER (eds.), *The Ecclesiastical History of Evagrius with the Scholia*, London 1898, p. 113, vv. 9–10; 13–15; C. KIRCH & L. UEDING, *Enchiridion fontium historiae ecclesiasticae antiquae*, Friburgi – Romae – Barcinone 1955 (8 ed.), p. 547.

³² *Henoticon* apud Evarg. *HE* III 14 [in:] *PG* LXXXVI B, coll. 2624B; *Enchiridion* (cit. n. 31), p. 547.

³³ Liberatus, *Brev.* 17 (*PL* LXVIII, coll. 1024B).

³⁴ Zacharias Rhetor, *HE* v 8, Latin trans. [in:] E. W. BROOKS (ed.), *Historia ecclesiastica Zachariae Rhethori vulgo adscripta* 1 [*CSCO* 87] Lovanii 1924, pp. 157–159, cf. BROOKS &

The primary purpose of issuing the edict was, which seems obvious, the reconciliation of the followers of chalcedonism with monophysites. The Union Act from 482 did not condemn the fourth ecumenical Council, but actually foiled the realisation of its decisions.³⁵ In literature – quite rightly – the emperor's stance is described as conformist, because the content of the constitution neither condemns nor confirms the Chalcedonian decisions.³⁶ The political and religious stance of emperor Zenon, promulgated with the act from 482, is sometimes described, with a smaller disapproval, as compromise³⁷ with the patriarch of Alexandria, Peter Mongos (*Μογγός*),³⁸ emphasising the fact that the faithful could either accept or reject the decisions of the Council from 451 with their free judgement.³⁹ It caused extremist monophysites to 'have their say' and new problems of religious nature.⁴⁰

It is probable that the successor of Zenon, emperor Anastasius I, approved or, perhaps, only tolerated *Henoticon*.⁴¹ The Synod convened by

HAMILTON, *The Syriac Chronicle* [cit. 24], p. 159, vv. 12–13; 16–17. Cf. H. S. ALIVISATOS, *Die Kirchliche Gesetzgebung des Kaisers Justinian I*, Berlin 1913, p. 75, n. 7.

³⁵ Cf. CAPIZZI, 'Zenone' (cit. n. 17), p. 814.

³⁶ Cf. L. MENZE, *Justinian and the making of the Syrian Orthodox Church*, Oxford 2008, p. 15.

³⁷ E.g., T. E. GREGORY & A. P. KAZHDAN, s.v. 'Akakian schism', [in:] *Oxford Dictionary of Byzantium* I (cit. n. 18), p. 42.

³⁸ Peter III Mongos, patriarch of Aleksandria (31 June 477–4 September 477 and December 482–29 October 489) – cf. HONIGMANN, *Évêques* (cit. n. 18), p. 25; 34; GRUMEL, *Chronologie* (cit. n. 16), p. 443; FEDALTO (ed.), *Hierarchia ecclesiastica orientalis* II (cit. n. 18), p. 586. Cf. Th. MOMMSEN in his introduction to *The Chronicles of Victor bishop of Tonnona: Victoris Tonnonnensis episcopi Chronica A. CCCCXLIV–DLXVII* [MGH XI], Berlin 1894, p. 182; E. DE MURALT, *Essai de chronographie byzantine pour servir à l'examen des Annales du Bas-Empire et particulièrement des chronographes slaves de 395 à 1057*, Paris 1963, pp. 96; 98; 103; 106; T. ORLANDI, s.v. 'Pietro Mongo', [in:] DI BERARDINO (ed.), *Dizionario patristico* II (cit. n. 18), coll. 2796; A. PAPADAKIS, s.v. 'Peter Mongos', [in:] *Oxford Dictionary of Byzantium* III (cit. n. 18), p. 1638.

³⁹ Cf. e.g., CAPIZZI 'Zenone' (cit. n. 17), p. 814.

⁴⁰ Cf. e.g., CAPIZZI 'Zenone' (cit. n. 17), p. 814.

⁴¹ In regards to matter one puts forward that the Council of Constantinople under Emperor Athanasius (in 495) was convened to approve the 'union of Zeno' – cf. A. BARON & H. PIETRAS (ed.), *Synody i kolekcje praw (Synodi et collectiones legum) v. Dokumenty synodów od 431 do 504* (Council Documents from 431 to 504), Kraków 2011, pp. 330–330*; C. CAPIZZI, s.v. 'Anastasio I', [in:] FARRUGIA (ed.), *Dizionario enciclopedico* (cit. n. 17), pp. 38–40.

this emperor in Constantinople around 495–496 confirmed the support for the union constitution of Zenon.⁴²

Not much is known about the recognition of the theological concept of ‘union’ from 482 in the canon law, because the files of the synod in Constantinople in 482, which probably concerned the approval of the content of *Henoticon* by emperor Zeno, disappeared. Zacharias Rhetor, in his *Ecclesiastical History*,⁴³ mentions the decision of the synod approving the emperor’s union edict without quoting the content of the document. From the text of the historiographer it is also known that the ‘union document’ was accepted at the Synod in Antioch (Zacharias Rhetor, *HE* v 10, ca 482–483)⁴⁴ convened – which is reliable – by Zenon⁴⁵ (*acta* of this meeting are unknown) and that there was a full affirmation of the theological *meritum* of *Henoticon* by the letter of Acacius the patriarch of Constantinople, writtento Peter, bishop of Alexandria (probably Peter Mongos) in 482 (cf. Zacharias Rhetor, *HE* v 11).

⁴² Victor of Tonunna in his *World Chronicle* determines the date of this assembly of bishops for 496: Vict. Tonun. *Chron.*, Paulo v. c. cos., p. 192 [MOMMSEN; *PL* LXVIII, coll. 918]. MANSI also opts for the date of 496: Mansi VIII, coll. 185–186. General note about it, [in:] *Histoire des conciles d’après les documents originaux*, H. LECLERQ & J. HERGENROETHER (ed.), Paris 1907–1952 II.2, p. 939. According to the latest opinion synod held in 495 – cf. BARON & PIETRAS (ed.), *Synody* v (cit. n. 41), p. 330–330*.

⁴³ The historiographer writes generally about the Synod of Constantinople under ‘the reign of the holy archbishop Acacius’ and taking into account the date of the announcement of ‘the edict of union’; the date of the letter of the bishops gathered for the Synod of Antioch, it comes to 482. Cf. Zacharias Rhethor, *HE* v 10. Cf. GRUMEL, LAURENT & DARROUZÈS, *Les ‘Regestes’* I I (cit. n. 20), p. 120.

⁴⁴ According to recent studies synod took place in 483. GRUMEL thought the synod was held in 482, cf. GRUMEL, LAURENT, & DARROUZÈS, *Les ‘Regestes’* I I (cit. n. 20), nr. 165, p. 121; BARON & PIETRAS (ed.), *Synody* v (cit. n. 41), p. 276. GRUMEL also identified the document as a ‘synodal letter on communion with Peter Mongos’ (*op. cit.*) In the collection of MANSI there is a brief mention of the two Antiochean synods convened for the purpose of depositing of Peter Fuller and John of Apamea (about 478). MANSI indicates a marginal note in HARDOUIN, according to which the second Antiochean synod took place in 483. *Amplissima collectio* lists two Antiochean synods in 482 held in order to condemn eutichianists, cf. Mansi VII, coll. 1018–1019; 1023–1024.

⁴⁵ The Synod of Antioch was probably convened by emperor Zeno, but the sources do not permit to identify the imperial act of its convocation, cf. e.g., BARON & PIETRAS (ed.), *Synody* v (cit. n. 41), pp. 276–276*.

The attempt to reconcile duophysite theology with monophysite one in *Henoticon* by Zenon yielded neither political nor religious results. A relatively long, over thirty-year long period began (484–519), of the so-called ‘acacian schism’ whose effects are visible during the reign of Anastasius I and Justin I and the beginnings of the reign of Justinian I and they pose a problem that a legislator cannot ignore. The contentious issue – concerning mainly a few contentious christological formulas proposed by John Maxentius and Scythian monks⁴⁶ and the translations of Alexandrian and Antiochian theology⁴⁷ – is still discussed in various circles, not only legal and theological (with regard to liturgy reforms).⁴⁸



III. LOGOS UNIGENITUS – INCARNATUS ACCORDING TO THE LETTER OF JUSTINIAN (CJ. 1.1.8)

After concluding of the religious union on the 28th of March 519 between Rome and Constantinople (the doctrinal agreement consisted in accepting the profession of faith of the bishop of Rome – Hormisdas⁴⁹ by emperor

⁴⁶ The main assumptions of the Scythian monks theology arose after the announcement of ‘unity doctrine’ by the Emperor Zeno, but their genesis dates back to the fifth century. As the primary source of Scythian christology are recognized the main works of Ioannes Maxentius, primarily in *Libellus Fidei* of about 519–520. More on this topic in my ‘Problem prawny’ (cit. n. 3), pp. 43–46.

⁴⁷ Discussion about the christological formula has origins in the theology of the Alexandrian school and in the misunderstood christological terminology of Cyril, the patriarch of Alexandria. The formula of the letter of this patriarch ad Successum: μία φύσις τοῦ λόγου σεσαρκωμένη (the one incarnate nature λόγος) was admittedly corrected the so-called *Tomus Leonis* of pope Leo I the Great (449), as well it was clarified in the christological expressions of Chalcedon but then subsequently modified, it became the basis of unorthodox doctrinal proposals. More on this topic, GAJDA, ‘Problem prawny’ (cit. n. 3), pp. 42–43.

⁴⁸ Anathematism VI proposed by Ioannes Maxentius was the inspiration of introduction to the liturgy of Antioch and Constantinople heterodox formula to the text of the *trishagion*.

⁴⁹ The orthodox faith of pope Hormisdas is known from several writings: the so-called *Libellus Hormisdas*, or the *Libellus* addressed to the citizens of Constantinople, *Prima salus*

Justinian I and the patriarch of Constantinople, John II Cappadocian),⁵⁰ the period of the so-called 'Acacian schism' formally ended, and the legal-theological situation was clear: the symbol of faith formulated at the Fourth ecumenical Council was to be in force in the Empire, irrespective of the different theology postulated in eastern patriarchates. The conclusion of the agreement was the result of long lasting diplomatic actions, the exchange of letters 'between Rome and Constantinople' and gradual recognition of doctrinal integrity of Rome by the emperors and patriarchs of Constantinople. Significant in that matter is the correspondence of Hormisdas with the emperors Anastasius I⁵¹ and Justin II⁵² and numerous letters of letters written before his ascension to the throne and addressed to the same pope.⁵³ Three letters are of interest here – from

est rectae fidei (10–15 August 515, *PL* LXV, coll. 45–48; *Mansi* VIII, coll. 733–735); a letter to the Spanish bishops, *Inter ea quae notitiae*, (2 April 517, *PL* LXIII, coll. 459–460; *Mansi* VIII, coll. 467–468) and a letter addressed to patriarch Epiphanius, *Πολλῆς ἐπιλήσθη* – *Multo gaudio* (26 March 521, *PL* LXIII, coll. 515–522; *Mansi* VIII, coll. 1029–1036; *ACO* III, pp. 56–59). More on this topic, GAJDA, 'Problem prawny' (cit. n. 3), p. 47

⁵⁰ Consent to the Roman doctrine expressed by the emperor and the patriarch of Constantinople in the spring of 519, is known from several documents – Cf. John II Cappadocian, patriarch of Constantinople, Libellus to pope Hormisdas, *Redditis mihi litteris* (28 March 519, *PL* LXIII, coll. 443–445; *Mansi* VIII, coll. 451–452); Justin I, a letter to Hormisdas, *Ioannes vir* (7 September 518, *PL* LXIII; *Mansi* VIII, coll. 435); Justin I, a letter to Hormisdas, *Scias effectum* (22 April 519, *PL* LXIII, coll. 448–449; *Mansi* VIII, coll. 456–457); more on this topic, [in:] GAJDA, *ibidem*.

⁵¹ Cf., eg., Hormisdas, *Gratias supernae* (4 April 515, *PL* LXIII, coll. 370–371; *Mansi* VIII, coll. 385); *Bene atque utiliter* (11 or 15 August 515, *Mansi* VIII, coll. 393–395). More on this topic, GAJDA, 'Problem prawny' (cit. n. 3), p. 47.

⁵² Cf., eg., Hormisdas, *Venerabilis regni* (October–December 518, *PL* LXIII, coll. 427; *Mansi* VIII, coll. 434); *In tantum pro gratia* (January 519, *PL* LXIII, coll. 435–437; *Mansi* VIII, coll. 442–444); *Sumptam de imperii* (January 519, *PL* LXIII, coll. 428–429; *Mansi* VIII, coll. 435–436); *Lectis clementiae* (9 July 519, *PL* LXIII, coll. 454–455; *Mansi* VIII, coll. 462–463); *Gloriosis clementiae* (2 September 519, *PL* LXIII, coll. 463–464; *Mansi* VIII, coll. 471–472). Cf. further, GAJDA, 'Problem prawny' (cit. n. 3), p. 47.

⁵³ Primarily, Justinian (then comes), *Desiderabile tempus* (7 September 518, *PL* LXIII, coll. 430–431; *Mansi* VIII, coll. 438; *Scritti teol. eccl.*, p. 6); *Veneranda sanctitatis vestrae* (22 April 519, *PL* LXIII, coll. 450; *Mansi* VIII, coll. 458; *Scritti teol. eccl.*, p. 7); *Propitia divinitate* (29 June 519, *PL* LXIII, coll. 475–476; *Mansi* VIII, coll. 482–483; *Scritti teol. eccl.*, p. 8); *Quidquid est cautius* (July 519, *PL* LXIII, coll. 476; *Mansi* VIII, coll. 483–484; *Scritti teol. eccl.*, p. 9); *Ut*

comes Justinian to pope Hormisdas, in which he ponders upon the orthodoxy of the Scythian christological teaching, proposing his own solution to the problem.⁵⁴

The letter of Justinian to pope John II⁵⁵ was incorporated to *Codex repetitae praelectionis*, which leads to the rhetorical conclusion that the content of the letter became a norm of the Roman law.⁵⁶ Legitimation of canon law or, as some say, giving it ‘an official character’⁵⁷ by placing the letter in Book I, Title I: *De summa Trinitate, et fide catholica, et ut nemo de ea publicae continere audeat* permits to rightly assume christological-trinitarian content of the promulgated law. The argument supporting this assumption as true is that the letter *Reddentes honorem* precedes – in

plenissima fidei (15 October 519, PL LXIII, coll. 476–477; MANSI VIII, coll. 484; *Scritti teol. eccl.*, p. 10); *Domino nostro* (9 July 520, PL LXIII, coll. 496–497; MANSI VIII, coll. 503–504; *Scritti teol. eccl.*, pp. 11–12); *Quanta reverentia* (31 August 520, PL LXIII, coll. 507–508; MANSI VIII, coll. 515–516; *Scritti teol. eccl.*, p. 13); *Diligenter apostolates* (9 September 520, PL LXIII, coll. 510; MANSI VIII, coll. 517–518; *Scritti teol. eccl.*, p. 15); *Quantam venerationem* (9 September 520 PL LXIII, coll. 508–509; MANSI VIII, coll. 516; *Scritti teol. eccl.*, p. 14). The list of letters of Hormisdas to comes Justinian I in ‘Problem prawny’ (cit. n. 3), p. 48.

⁵⁴ The mentions of ‘Christ’s suffering in the flesh’ are found in the following letters: *Ut plenissima fidei*, *Domino nostro*, and *Quantam venerationem*. Justinian’s proposals of christological formula are as follows: ‘Christ the Son of God, our Lord was, for our salvation, crucified in the flesh as one of the Holy Trinity’ (519); ‘Son of the living God ..., as evidenced by the Apostle as of suffering in the flesh ..., one of the Holy Trinity’ (520). Cf. the preceding footnote and GAJDA, ‘Problem prawny’ (cit. n. 3), pp. 49–50.

⁵⁵ On John II (2 January 533–8 May 535), cf. e.g., L. DUCHESNE (ed.), *Le Liber pontificalis. Texte, introduction et commentaire*, Paris 1886, 58, p. 285; B. ALTANER, *Patrology*, New York 1961, p. 554; J. M. SZYMUSIAK & M. STAROWIEYSKI, s.v. ‘Jan II’ [John II], [in:] *Słownik wczesnochrześcijańskiego piśmiennictwa*, Poznań 1971, pp. 215; 414..

⁵⁶ The Letter *Reddentes honorem* to pope John II (July 533) was transmitted alongside the *Codex Iustinianus* also in a passage passage of another imperial letter written to the successor of pope John II – Agapet (*Ante tempus*, 14 March 536). It was also reported in the responses of pope John II (*Inter claras sapientiae*, 24 March 534) and pope Agapet (*Gratulamur*, 18 March 536). Cf. *supra*, n. 6 and *infra*, n. 63, respectively. On Agapet (Agapit) I (13 May 535–22 April 536) – cf. e.g., DUCHESNE (ed.), *Liber pontificalis* 59 (cit. n. 55), p. 287; ALTANER, *Patrology* (cit. n. 55), p. 555; SZYMUSIAK & M. STAROWIEYSKI, s.v. ‘Agapet I’, [in:] *Słownik* (cit. n. 55), p. 17.

⁵⁷ Which is also underlined by the non-legal scholarship. These studies emphasize the formal effect of ‘placing this letter in the Justinian’s Code’. Cf. e.g., M. JUGIE, s.v. ‘Justinien’, *Dictionnaire de théologie catholique* VIII 2 (cit. n. 6), coll. 2285.

Codex systematics document of Justinian constitution – the law stating the boundaries of the integrity of the catholic faith.

What is meant here are two constitutions adopted by Justinian from the *Theodosian Code*, dated the years 380–381 and promulgated by Gratian, Valentinian II and Theodosius I (*CTh.*16.1.2, February 380 = *CJ.* 1.1.1, and *CTh.* 16.5.6, January 381 = *CJ.* 1.1.2), an edict of Theodosius II and Valentinian III directed to prefect *praetorio* Hormizda (*CJ.* 1.1.3, March 448), and a promulgation of Marcian directed to prefect *praetorio* Palladius (*CJ.* 1.1.4, 8 February 452). What is vital for the process of christianisation of the Roman law is the fact that, the first of the two former acts repeats, the content of *Cunctos populos*, while the second concerns the decisions of the first common Council from 325, *i.e.* the Nicene creed.

The remaining acts of the codex law are concerned with the orthodox doctrine of the first ecumenical councils (*i.e.* the first – *Cc. Niceanum* in 325; the third – *Cc. Ephesinum* in 431 and the fourth – *Cc. Chalcedonense* in 451) including one, especially, about the mistakes of Nestorianism (as opposed to the doctrine of Cyril of Alexandria⁵⁸ considered to be legitimate) and about Chalcedonian formula of faith.⁵⁹ It is necessary to remember that in Title 1: *De summa Trinitate* ... – which is equally significant – Justinian promulgated his writings on matters connected with widely understood orthodox faith. Apart from the letter to pope John II the afore-mentioned constitutions were directed to all citizens (*CJ.*1.1.5 – *cf. supra*, n. 9), residents of Constantinople and other cities (*CJ.*1.1.6 – *cf. supra*, n. 7), as well as to Epiphanius, the patriarch of Constantinople (*CJ.*1.1.7 – *cf. supra*, n. 8).

In Justinian's letter *Reddentes honorem* three thematic layers can be distinguished. The first one concerns the expression 'one of the Trinity suffered'. The second problem brought up in the letter is whether Christ 'suffered in the flesh'? Then the letter refers to the issue, that has its roots in the teach-

⁵⁸ *E.g.*, *CJ.* 1.3.3.2: ... τὴν ἀσεβῆ Νεστορίου πίστιν ἢ τῇ ἀθεμίτῳ αὐτοῦ διδασκαλίᾳ ...; *CJ.* 1.3.3.3: ... τῇ ἐκτεθείσῃ ὀρθοδόξῳ πίστει παρὰ τῆς ἁγίας συνόδου τῶν συνεληθόντων ἐν Νικαίᾳ καὶ ἐν Ἐφέσῳ ἁγίων πατέρων καὶ Κυρίλλου τοῦ τῆς εὐσεβοῦς μνήμης ... τοῦ δὲ λοιποῦ μηδενὶ ἐξεῖναι παρὰ τὴν ἐκτεθείσαν πίστιν, καθάπερ εἰρήκαμεν, τὴν ἐν Νικαίᾳ καὶ ἐν Ἐφέσῳ λέγειν τι ἢ διδάσκειν.

⁵⁹ *E.g.*, *CJ.* 1.1.4: 'Christiana fide ... qui Chalcedone convenerunt, per nostra praecepta statuta sunt'.

ings of Nestorius, of Mary as ‘God’s Mother’. The Roman legislator, in the analysed aspect of the problem, describes their christological creed:

Cf. 1.1.8.12 ... unigenitum filium dei et deum nostrum, incarnatum ... factum atque crucifixum ... consubstantialem patri secundum divinitatem et consubstantialem nobis eundem ipsum secundum humanitatem, passibilem carne eundem ipsum impassibilem deitate ... 14. et hominum factum et crucifixum unum esse et consubstantialis trinitatis.⁶⁰

The essence of Justinian’s christological formula in a letter addressed to the pope – like in other legal acts contained in *Codex*,⁶¹ and also in later legal and doctrinal activity⁶² – is consistent with the official Roman doctrine and opposed to the doctrine proposed by patriarch Acacius and emperor Zenon. Emperor Justinian uses the notion of the biblical origin ‘unigenitum filium dei ... incarnatum’ persistently and firmly promoting orthodox

⁶⁰ The quoted passage comes from the letter of 6 June 533 (*cf.* also *PL* LXVI, coll. 15 B–C; *MANSI* VIII, coll. 796A). *Cf.* further, Justinian, Letter to pope Agapet I, *Ante tempus* (14 March 536, *Coll. Avell.* ep. 91; *Scritti teol. eccl.*, p. 24, vv. 35–36; p. 25, vv. 1–2); John II, Letter to Justinian, *Inter claras sapientiae* (24–25 March 534, *Coll. Avell.* ep. 84; *Scritti teol. eccl.*, p. 18, vv. 19–22); Agapet I, Letter to Justinian I, *Gratulamur venerabilis imperator* (15 October 535, *PL* LXVI, coll. 37–38; *Coll. Avell.*, ep. 82; *Scritti teol. eccl.*, p. 24, vv. 35–36, p. 25, vv. 1–2). I mention this briefly in ‘Problem prawny’ (cit. n. 3), p. 50; *cf.* further n. 6 *supra*.

⁶¹ For example: essentially identical, although editorially broader are expressions of the imperial constitutions of March 533, *i.e.* *Cf.* 1.1.6: ... καὶ ἀρνούμενους καὶ μὴ ὁμολογοῦντας τὸν δεσπότην ἡμῶν Ἰησοῦν Χριστὸν τὸν υἱὸν τοῦ θεοῦ καὶ θεὸν ἡμῶν, τὸν σαρκωθέντα καὶ ἐνανθρωπήσαντα καὶ σταυρωθέντα ἕνα εἶναι τῆς ἀγίας καὶ ὁμοουσίου τριάδος (recusantes et negantes dominum nostrum Iesum Christum filium dei et deum nostrum incarnatum et cruci adfixum unum esse sanctae et consubstantialis trinitatis); *Cf.* 1.1.7: ... τὸν κύριον ἡμῶν Ἰησοῦν Χριστὸν τὸν μονογενῆ υἱὸν τοῦ θεοῦ ἀγίου καὶ θεὸν ἡμῶν, τὸν σαρκωθέντα ... καὶ ἐνανθρωπήσαντα καὶ σταυρωθέντα ἕνα εἶναι τῆς ἀγίας καὶ ὁμοουσίου τριάδας ... ὁμοούσιον τῷ πατρὶ κατὰ τὴν θεότητα, πατητὸν σαρκί, τὸν αὐτὸν ἀπατῇ θεότητι (dominum nostrum Iesum Christum unigenitum dei filium et deum nostrum incarnatum ... hominem factum cruciatumque unum esse sanctae et consubstantialis trinitatis ... consubstantialem patris secundum divinitatem et consubstantialem nobis eundem secundum humanitatem, passibilem carne eundem impassibilem deitatem). Further on this issue in my ‘Problem prawny’ (cit. n. 3), p. 51.

⁶² All this corresponds to – consistently proclaimed emperor doctrinal beliefs – the *Edict contra Origenem*, the letter to the Alexandrian monks, *Πρώτην εἰνὰ σωτηρίαν ἅπασιν ἀνθρώποις* to the *Edict on the true faith* – on which, *cf. supra*, nn. 10 and 12.

doctrinal stance (J 1.14; 1.18; 3.16; 3.18). Christ is attributed *unigenitus* – he is ‘the only begotten Son and *Logos* of God’. The legislator uses identical technical expressions, which in other legal norms – announced by Justinian in that question – sound as follows: τὸν μονογενῆ υἱὸν τοῦ θεοῦ (cf. CJ. 1.1 5–CJ. 1.1.7), and does not stress – as in scythian or monophysite proposals – the suffering of ‘God in the flesh’. This issue is not subject to – at this stage of Justinian’s legal and theological activity – is not a reason for dogmatic doubts and considerations without raising the emperor’s doubts – the legislator. Together with other Chalcedonian elements of faith profession about incarnation, consubstantiality (ὁμοούσιος), equality of Father and Son in divinity, ὁ μονογενῆς (*unigenitus*) – the emperor captures with the Latin expression ‘unigenitum filium dei ...’.

The emperor’s stance, expressed in the Roman law, was – neglecting here considerations about the formulation of ‘clear’ canon legal norm – recognised by the canon law. The support for the Justinian doctrine was first expressed by the popes: John 11⁶³ – the addressee of the analysed letter and Agapet 11⁶⁴ – his successor on the Holy See and then by the Council Fathers in 553.⁶⁵

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⁶³ Cf. John 11, *Inter claras sapientiae* (ed. cit. n. 6). I refer this problem in my ‘Problem prawny’ (cit. n. 3), p. 50.

⁶⁴ Cf. Agapet, *Gratulamus venerabilis imperator* (ed. cit. n. 63). I mention this in my ‘Problem prawny’ (cit. n. 3), p. 50.

⁶⁵ Cf. Second Council of Constantinople (5 May–2 July 553), Anathematismat x *against the so-called Three Chapters* (2 June 553, MANSI IX, coll. 383–384; ACO IV 1, p. 218, vv. 5–6; p. 242, vv. 30–31; COD, p. 118; DSP, p. 294. I address this point in my ‘Problem prawny’ (cit. n. 3), p. 52.