



PARERE Pro Veritate

regarding the assertions of H.J.A. Sire to the SMOM (Sovereign Military Hospitaller Order of St. John of Jerusalem of Rhodes and of Malta) / regarding the Ecumenical Hospitaller Order of St. John's prerogatives

- Knights of Malta or

Ecumenical Hospitaller Order of Saint John Knights of Malta, the qualities of H.R.H. Prince Peter Iossif of Lemessos and North American Foundation of the Ecumenical Hospitaller Order of Saint John Knights of Malta

drafted in the Holy City, on XXIII of the month VI *Anno Domini* MMXVI
by Don Francesco Maria Mariano Duke of Otranto &c. &c.

Most Excellent Court,

with reference to the civil case no. 15/5839, pending before the District Court for the Eastern District of Pennsylvania (USA), allow me, as a scholar, expert and Curator of the Italian Heraldic Council - Marquis Vittorio Spreti Institute, founded in 1948 in Turin, to quietly challenge the assumption that the SOM (*Sovereign Order of Malta*), as defined by H.J.A Sire (Annex 1, actually, S.M.O.M., acronym for Sovereign Military Hospitaller Order of St. John of Jerusalem of Rhodes and of Malta, with masterly headquarters in Via Condotti, no. 68, Rome, Italy) is a sovereign Order.

To counter this assertion, hastily given as postulated by Sire, some preliminary brief history, which will also serve to demonstrate the lack of jurisdiction of the Court to give judgment in the field of "*religious or historical disputes*", in compliance with the Decision of 29 September 2011 by the *United States District Court - Southern District of Florida* (February 28-March 2 2011 West Palm Beach, Florida), before the Magistrate - "United States District Judge" - Dr. Kenneth L. Ryskamp.

Following the events of 1797-1798 we can affirm that the original Order of St. John of Jerusalem, of Rhodes, of Malta, has given way under the increased





strength of the military-political events, to other new entities, separate from what is the current Sovereign Military Order of Malta in via Condotti.

Indeed, while in Paris the Directoire was preparing the expedition to Egypt in order to break in two the British Empire, January 15, 1797, there was a meeting in St. Petersburg: on behalf of the Tsar, Prince Alexander Kourakin and Count Alessandro of Besborodvo, on behalf of the Grand Master of the Order of Malta Bailiff Brother Jules René Conte di Litta. A Convention was signed which stated that the Priory of Malta in Poland was declared abolished, and given that Poland had been annexed in the Empire, was incorporated into the new Priory of Catholic Malta of Russia. Meanwhile, in that same year (July 13), the Grand Master de Rohan passed away. It is said that, on his deathbed, he foresaw being the last Grand Master of the Sovereign Order, "*Illustrious and independent*". The Convention concluded with Russia was thus ratified by Brother Ferdinand von Hompesch, elected by the Knights as new Grand Master (71st).

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Bailiff Brother Jules René Conte di Litta went as Ambassador Extraordinary of the Grand Master, to St. Petersburg (7 August 1797), for the ratification of the Convention in January, with the assignment to offer the Tsar the office of Protector of the Order. Do not forget that, in that year, after the successes of Bonaparte in Italy, a separate peace was signed between France and Austria; in 1795 separate peace treaties had already been taken out with Spain and Prussia. It was clear that the Order was referring to Russia, to get behind them a protecting Power of international calibre.

Pope Pius VI (1775-1799) did not object to this nomination. The Tsar then accepted the position of Protector and by Imperial Decree reformed the Council Order (29 November 1797). On 15 February 1798 the French came into Rome and deposed *de vi* Pope Pius VI as the Sovereign of the Church State. The Pope was sent into exile (20 February). He stopped in Siena, then in Florence, until even this city was occupied by the French (25 March 1799). Here he suffered the stigma of deportation, to Valence, France. There, on August 29 he died.





Upon expulsion of the pope the known facts of the French occupation of Malta followed, during the sailing to Egypt (June 12, 1798). Von Hompesch did practically almost nothing to oppose the landing. One of the severest historians of the Order - like Thourot Pichel - branded Hompesch as "*sold to the French*". On the night between 17 and 18 June, he departed from Malta aboard a Dalmatian ship, accompanied by the French vessel *Artemise*. Having asked hospitality of the emperor of Austria (then still emperor of the Holy Roman Empire as Francis II), with only sixteen Knights remaining loyal to him, he landed in Trieste (27 July 1798), and there made the temporary headquarters of what was left of the now discredited Order.

Others expelled from Malta, were dispersed: some went back to their home countries, creating combinations or independent Pories. On an emotional wave of information coming from Malta, according to which the Grand Master von Hompesch had accepted the surrender in exchange for the promise, by Napoleon, of a large sum of money, the veteran Knights from the island, from France, from the former Catholic Priory of the Order in Poland, gathered in St. Petersburg on October 12, 1798. The Grand Master von Hompesch forfeited his role, and in his place, Tsar Paul I was elected as Supreme Grand Master (72nd). As required, the news of the appointment was sent for ratification to Pope Pius VI, who was then staying, in exile, in Florence. Though not in compliance with the Statute of the Order, as the Tsar was married and Orthodox, the appointment was accepted by the old Pope, who sent his Apostolic Blessing. It was certainly a *sacrificium intellectus*, dictated by the desire to have a military-religious order survive that had worked so hard for Christianity: the pope certainly had to yield to force majeure.

On 13 November 1798 the Tsar, under papal consent, accepted the appointment and had erected on the roof of the Admiralty Palace, in St. Petersburg, the Order's banner. The Tsar himself changed it, adding the double-headed Russian eagle with two crowns and spread wings. Then came the congratulations and recognition of the European nations not under France. The Italian Pories (or "*of the Italian*





Language", Lombardy, Capua, Barletta, Messina, and others) also recognized the Tsar as Grand Master.

On July 6, 1799, von Hompesch resigned to the Grand Council of the Order. He would later die on May 12, 1805, in Montpellier, in France, in absolute poverty it would seem.

As mentioned, Tsar Paul I, in the fullness of his powers as Grand Master, received the approval of Pope Pius VI, dictated a new Statute, in order to make the Order more appropriate to the difficult circumstances of the historical moment. In St. Petersburg a sumptuous palace was donated to the Order, which was known from then on as "*Malta Palace*", and became the new headquarters, with an adjoining chapel where, a Mass in Latin was held for the Knights. The Tsar wanted *motu proprio* to establish a second Grand Priory of Russia (10 December 1798), under Russian-Orthodox rite. Thus the new Grand Council, elected to govern the Order, consisted of both Catholics and Orthodox.

4

In 1801, by further Grand Master decree, it was decided that the Grand Council Members were only laymen. Lieutenant of the Grand Master was Bailiff Count Nicholas Soltykov. Hereditary Commandry were instituted, and, consequently, the title and rank of Knight of Malta became hereditary; many Knights were married and sired children, in order to prolong the life of the Institution.

Pope Pius VI was taken prisoner by General Berthier and taken to Valence, where he died of starvation in the prisons on August 29, 1799.

After the brutal murder of the Tsar, the new Tsar Alexander I once on the throne, was contrary to taking the Grand Mastership of a Catholic Order. With unilateral act, he confiscated the wealth and property of the Order, which although they were part of the Imperial Treasury, by transferring them to the state, he renounced his appointment as Grand Master of the Order inviting the Grand Council to ask the pope to appoint a new Catholic Grand Master.

In Venice on 14 March 1800, the conclave elected Pius VII, a very flexible and conciliatory Pope, who managed to pull a Concordat from Napoleon (1801) that





ensured the survival, at least, of the Church, although historic worldly possessions seemed, for the moment, completely lost.

The new Tsar's request was completely irregular: to entrust the Pope with the appointment of the new Grand Master. Being a Sovereign and Independent Order, the Grand Master had to be elected by the Grand Council, made up of the Bailiff of the Order. According to the Statute, the Pope had to take note of the election and accept the appointment, by sending his Apostolic Blessing.

Alexander I - returning to the chain of events - only intended being the Protector of the Order. Meanwhile, in St. Petersburg, the Grand Council continued to exercise its powers. In 1802, therefore, meeting the Tsar's demands, Pope Pius VII appointed *motu proprio* a new Catholic Grand Master, Bailiff Brother Bartolomeo Ruspoli, who found the appointment obviously invalid, and respectfully declined it. With a Brief of February 9, 1803, the Pope appointed Bailiff Brother Giovanni Battista Tommasi, who accepted (as 73 rd Grand Master).

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Thus was born, from an illegitimate and unilateral act, the current Sovereign Military Order of Malta. Alexander I was Protector of the Order until 1817, but suppressed Commanderies created in the empire by his father Paul I in 1799, but not Catholic ones, that were already part of the Catholic Priory of Poland.

It can be said that the Tsar gave the final blow to the Order, which, from 1803 to 1817, remained virtually without any specific guidance, since the papal appointment was never implemented in Russia. But no action was taken, neither by Alexander I, nor any of his successors, to declare the Order dissolved.

Born from the request of Tsar Alexander I, received by the Pope through King Ferdinand IV of Naples (III King of Sicily) - given that the Tsar, in his fiery fundamentalist Orthodox feeling, thought it inappropriate to deal directly with the Holy See - the new Maltese Order was born without continuity with the original Palestinian order, and delivery was very difficult.

Pius VII (1800-1823), then acquiesced, as mentioned, in derogation to the original Statutes of the Order, to appoint a Grand Master, in the person of the





Grand Bailiff Brother Bartolomeo Ruspoli (September 1802), but on December 2, the nobleman submitted his resignation. Then Pius VII returned to the fray with another candidate, Bailiff Brother Giovanni Battista Tommasi da Cortona (9 February 1803), who accepted. So, on June 27, 1803, in the Priory Church of Messina, with a solemn ceremony he was enthroned Grand Master. A more severe historian - like Menna - spoke rather of "*self-proclamation*" at the head of an Order of Malta no longer sovereign but set up under "*papal institution*".

The Magistral Seat was established in Messina. But the Order did not remain very long in Messina. Tommasi still being the Grand Master, the Government of the Two Sicilies invited the Order to settle in Catania, where there were new buildings available that could accommodate it: the Nuovaluce Convent, left by the Discalced Augustinian Friars, to which was added an aristocratic building, made available by the Duke of Carcaci (Piazza San Filippo Neri, then Piazza Mazzini, on the street corner of via della Lettera). The first, for the accommodation of the Knights and the religious office, the second as the home of the Grand Magisterium. On June 23, 1804 the ambassadors of Tsar Alexander I presented themselves to the Grand Magisterium and put the insignia of the Catholic Order and the documents held by Tsar Paul I back in the hands of the Grand Master.

With regard to Malta, we know that the French presence was short-lived. The British seized the island and had no intention of returning it to the Order: in the following years, the request made by the Kingdom of the Two Sicilies was also rejected, although it claimed possession, being direct heir of the ancient Kingdom of Sicily. Brother Giovanni Tommasi claimed possession in vain; he died (June 13, 1805) with the bitterness of not being able to restore the Order to its historic headquarters.

From 1805 to 1871 the Order was subject to the Vatican and was ruled by Lieutenants, who had poor consideration of it at the Holy See.

They alternated:

- Inigo Maria Guevara Suardo (1805-1814);





- Andrea di Giovanni Centelles (1814-1821);
- Antonio Busca, Balì d'Armenia (1821-1834);
- Carlo Candida (1834-1845);
- Filippo di Colloredo (1845-1864);
- Alessandro Borgia (1865-1871).

There was also a sort of accident with the Holy See, upon the death of the Grand Master Tommasi. Pope Pius VII sent a Brief dated October 5, 1805 by which he appointed *motu proprio* as Lieutenant Bailiff Caracciolo di Sant'Erasmus, who accepted the appointment. The Grand Council, however, rejected it, restoring the right of the Knights to elect the Grand Master. So Bailiff Guevara Sardo was elected, but only as Lieutenant.

Only in 1827 did Pope Leo XII (1823-1829) find a home in the Roman States: in Ferrara. In 1831 Pope Gregory XVI (1831-1846) authorized the transfer to Rome, in the historic building on Via Condotti, under Lieutenant Brother Antonio Busca, former Bailiff of Armenia.

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The transfer of the Magistral Seat to Rome took place in clear continuity with the policy of expansion outside of Sicily pursued by the Lieutenants. The Grand Priory of Rome had been reconstituted in 1816, after the Napoleonic surge and having stabilized the temporal power. Then followed the constitution or reconstitution of the Grand Priory of Lombardy, Venice and Two Sicilies (1839). Finally, in 1879, after seven Lieutenancies, Pope Leo XIII (1878-1903) appointed *motu proprio* a new Grand Master (74th): Brother Giovanni Battista Ceschi di Santa Croce (1879-1905). It had been eight years since the death of the last Lieutenant Alessandro Borgia.

In succession from 1905 to date there have been:

- 75th Grand Master Brother Galeazzo von Thun und Hohenstein (1905-1931);
- 76th Grand Master, Brother Ludovico Chigi Albani della Rovere (1931-1951),
- Lieutenant General Brother Antonio Hercolani Fava-Simonetti (1951-1955);
- Lieutenant General Ernesto Paternò Castello di Carcaci (1955-1962)





- 77th Grand Master Brother Angelo de Mojana di Cologna (1962-1988);
- Lieutenant General Brother Giancarlo Pallavicini (1988);
- 78th Grand Master Brother Andrew Willoughby Ninian Bertie (1988-2008);
- Lieutenant General Brother Giacomo Dalla Torre del Tempio di Sanguinetto (2008);
- 79th Grand Master Brother Robert Matthew Festing (in office since 11.03.2008).

Now, having finished the short historical digression, it is worth remembering that the Order, under the Lieutenancy of Brother Antonio-Hercolani Fava Simonetti, the reigning Pope Pius XII, asked the Holy See "*to determine the nature of the qualities of the Sovereign Religious Order of the Sovereign Military Order of Malta*".

8

The Cardinals Tribunal set up by the Pontifical chirograph of December 10, 1951, held on January 24, 1953, examined the documentation produced by the Order, and resolved as follows (decision published in the *Acta Apostolicae Sedis*, vol. XLV (1953), pages 765-767):

“The qualities of the sovereign Order, referred to by Article 2 of Title I of the current Constitutions of this same Order, repeatedly recognized by the Holy See and enunciated in that Article, consists in the enjoyment of certain prerogatives regarding the Order itself as a subject of international law. These prerogatives, which regard sovereignty - in accordance with the principles of international law - and that, following the example of the Holy See, have also been recognized by other states, however, they do not constitute in the Order that complex of powers and prerogatives which pertain to sovereign entities in the full sense of the word.

(Omissis)

The Order of Jerusalem of Malta, since it comprises the Knights and Chaplains, referred to in:

articles 4 and 9 of the Constitutions’ Title I, is a religion or more precisely a religious Order, approved by the Holy See.

(Omissis).





The quality of the sovereign Order of the institution is functional, that is aimed at ensuring the achievement of the purposes of the Order itself and its development in the world. The Order of Jerusalem of Malta is dependent on the Holy See (...) and, in particular, as a religious Order, by the Sacred Congregation of the Pious (...). Emblems and insignia of the Order and its Associations depend on the Order and, for it, on the Holy See.

(Omissis).

This judgment is enforceable immediately”.

The Holy See, therefore, does not recognize the Order as a Sovereign State subject to international law (as well as enshrined in the Order’s Constitutions), but only recognizes it as a Religious Order, and as such, dependent in every way on the Holy See.

9

So, in 1955, the magistrate of the district of S. Agata di Puglia, in the hearing of 25 June 1955 (Criminal proceedings No. 81/1955), acquitting some defendants from illegal conferral of chivalrous honours, referring to the then very recent judgment by the Cardinals Tribunal (which concerned, as said, the S.M.O.M.), stated:

1. that the powers and prerogatives of the Order are not those of their sovereign entities, and therefore it is not independent;
2. that the Order is a religion or more precisely a religious Order;
3. that the Order depends on the Holy See and, in particular, as a religious Order, the Sacred Congregation of the Pious, and insignia are dependent upon the Order and in turn upon the Holy See.

Evidently the Cardinals Tribunal had intended to cover just the new Papal institution, the S.M.O.M., and not the ancient Order represented by the various Priories. Acknowledging the wording of the Cardinals’ judgment, the Magistrate then distinguished between S.M.O.M. (Religious Order of the Holy Roman Church) and the various Priories, some already standing, others newly formed, not unlike which even the S.M.O.M. in Via Condotti, directly referred to the tradition of the





ancient and extinct Order of St. John of Jerusalem, a branch of which, reconstituted by papal initiative, is the same S.M.O.M.

Therefore, Sire's statement that the SOM (Sovereign Order of Malta) is a Sovereign Order is wholly unacceptable, but, as explained, it lends itself to be widely discussed, if not overruled.

Another statement by Sire entirely without merit is that according to which no family exists today that represents the dynastic pretensions of some of the ancient Byzantine Empire ruling families: the annexed documentation serves to refute this hasty allegation (Annex. No. 2), from which one can easily deduce how prince Francesco AMOROSO COMNENO ANGELO FLAVIO LASCARIS PALEOLOGO D'ARAGONA was a historical figure and a subject of public international law, a known philanthropist in the United States of America (Annex No. 3), with proven indisputable pretensions through multiple rulings by the Italian judiciary (Annex No. 4).

10

By way of example, the magistrate of Bari's judgment (April 19, 1952, no. 1472) absolved prince Pietro Amoroso d'Aragona of the Byzantium Amoriense Bloodline (the father of Francesco, who, as we shall see, rejected the Order in favour of Prince Peter Joseph Iossif) from the charge of illicit conferral of chivalric honours: the Magistrates Court, considered entirely legitimate *fons honorum* in the light of the noblemen's law. Next, then, to the Order of St. John of Jerusalem, the judgment established that the Holy See, through the Cardinals Tribunal, having given its opinion on the S.M.O.M., described it as a religious Order but not a Sovereign Order, subjecting it to the ecclesiastical hierarchy (Sacred Congregation of the Pious).

It should be remembered that in modern public law, the concept of abdication, borrowed from Roman law, has retained a sense of voluntary abandonment of Regal office by a manifest show of the same monarch's will, which has the effect of regular succession as a result of death. Abdication is a personal act, which should just be done by a King and not his descendants - in respect of which it could only be effective with the subsequent approval by parliament - nor is it acceptable that





the King abdicate in favour of a person other than the one called on to succeed immediately by virtue of the constitution. It must be absolute, not temporary or which can be revoked, so that the abdicating King cannot be called again to the throne except by virtue of a law that modifies the natural order of succession. Finally, it must result from an authentic deed, so that no doubt remains on the explicit and free expression of the King's will, even if a law is not considered necessary for this purpose, being a personal act by the King.

Abdication, in turn, stands out from renunciation the inheritance of the throne, consisting in the rejection or non-acceptance of the crown at the time of succession (so who abdicates is King and who renounces is not but should become such) and *debellation*, a term borrowed from international law indicating the total dissolution of a State won, which, with reference to a sovereign or a pretender, consists in the loss of sovereignty by an act accepted spontaneously by which they renounce their functions and the special prerogatives connected to the actual exercise of power. Failing that, it is up to the sovereign, in any way he has been ousted, the continuation of certain manifestations of reigning power, thus becoming a pretender.

With *debellation*, provided that it is not imposed and is freely made, the sovereign and the pretender fall into the category of private citizens, while preserving their sovereign titles. Without *debellation*, however, sovereign titles are taken by the sovereign and his descendants, and remain so even when the sovereign has lost the effective sovereignty over a territory: the sovereignty (albeit without *jus imperii*, that is the power to command, *jus gladii*, namely the right to obedience by his subjects, and *jus majestatis*, that is the right to receive protection and honours) is still part of the family's heritage. In other words, a sovereign could be deprived of the throne just so, and that in being overthrown, will be banished from the country but will never be deprived of his standing: in this case, as said, lacking *debellation*, the pretender can claim the throne, also an internationally recognized institution.





Even if he is ordered to leave his country, the pretender still keeps the rights of sovereignty uninhibited in their exercise by the changed legal-institutional position and may continue to exercise, while others are suspended: there is no doubt that among the rights preserved intact there is also *jus honorum*, that is the right to grant noble titles and ranks of knightly orders that are part of the family's personal dynastic heritage.

It should be noted that the Order in question, the *Ecumenical Hospitaller Order of Saint John Knights of Malta*, is neither nor aspires to establish itself as a modern state created from scratch. The legal setting of the Order within the international public law is that to link, the old and according to tradition, a sovereignty that was born around the second half of the twelfth century AD: as demonstrated historically and legally, the Order's establishment was sovereign as independent of any nation, state or sovereignty. The sovereignty of a legal entity *sui juris*, such as the Order, which is part of the family heritage of a former ruling sovereign dynasty, continues perpetually or until the dynasty to which he belongs is not extinguished or does not yield its sovereign prerogatives to such an entity subject to rejection and transmission or through *debilitation*.

12

And such sovereignty is peculiar to a sovereign entity *super partes*, able to exercise its sovereign functions on persons subject to it voluntarily.

The fact that the Order was reformed in 1922 does not mean that, according to *jus gentium* and, today, the international public law, it has lost its sovereign prerogatives over time as non-exercised on an ongoing basis; in fact, the opposite exists, since it is in public international law that the Order today finds a precise legal identity, historically proven, as *subject* and not *object*.

The current definition of the modern state, fundamentally created through the Treaty of Westphalia of 1648 and consequently the Congress of Vienna in 1814, cannot oppress the Order in freely exercising its sovereign functions through its duly organized government even if, in addition to a people, the concept of the modern state requires a well-defined territory over which to exercise its sovereignty. The sovereign functions of the Order, exercised over all persons





subject to it through its appropriately organized system, are comparable to the sovereign functions of a modern State, but do not qualify the Order as a modern state. In fact, the Order does not ask for, nor does it pretend to be recognized as a modern state; however, it asserts its independent sovereignty as such in *jus gentium* which finds its initial placement of absolute or independent sovereignty.

Since the Order is not a modern State, the Order is not subject to the requirements under international public law for the creation *ex novo* of a modern state; the Order exists as sovereign *sui juris* from its birth and within *jus gentium*; moreover, its sovereignty has continued to exist over time as a dynastic family heritage subject to the dynastic succession laws and public international law if applicable. Political recognition of the sovereignty of the Order by modern states is not a *sine qua non* for exercising its sovereign functions.

13

The fact that the Order, personal heritage of the Head of Name and Arms of the oldest living Byzantine dynasty, assumed the current name on November 21, 1922, following approval of the new statute by the will of prince Luigi Cesario Spyridon, father of Francesco AMOROSO COMNENO ANGELO FLAVIO LASCARIS PALEOLOGO D'ARAGONA, and which was through rejection passed on to the noble House of Prince Peter Joseph Iossif, of whose heritage he is now part (Annex No. 5), does not negate the aforementioned original rights, which continue to exist in perpetuity. If it is true that in public international law there is, within the ruling dynasties, or former rulers, the figure of the pretender or to the throne or to the sovereign prerogatives of the dynasty of which he is the Head of Name and Arms, it must also be true that these prerogatives should also be recognized in a lawful successor, provided that the rights transmitted are the same as the original, *ipsa jura*: once transmitted they do not change *ex post facto* as intended by the august Founder of the Order, which qualifies all his successors, descendants or not, *ex pacto et providentia majorum*. It follows then that not just the dynastic pretender who is born within a dynastic ruling or ex-ruling family is subject to public international law but also the appointed pretender, in legitimate succession as master, of all the original rights (indisputable, inviolable and inalienable, indivisible, perpetual and





hereditary) and pertaining to the title of Sovereign Prince Grand Master of a Knightly order, itself subject to public international law following the fact that it exists autonomously and independently, albeit as a dynastic heritage.

About the above, a historic example of great legal significance is the accession by Charles IV of Bourbon to the throne of Sicily in 1734, who on that occasion declared not to be a conqueror of Sicily but the rightful successor to Charles VI of Habsburg. Charles IV of Bourbon wanted to clarify from the outset, clearly and unequivocally, the fact that a new ruling dynasty in Sicily did not start with him, as can happen in the case of conquest, but that, although his House was different to that of Charles VI, he (Charles IV of Bourbon) would have passed on, by the Grace of God and the law of succession, the same historical, cultural, social, heraldic, political and legal heritage as understood by Ruggero II, first king of the Kingdom of Sicily.

14

Just as in the case of the legitimate succession to the throne of Sicily by Charles IV of Bourbon in 1734, in the case of legitimate succession to the Order, Prince Peter Joseph Iossif having received by rejection and transmission, without the need for further ratification or confirmation, all original privileges, rights, prerogatives, treatments and faculties, customs and practices, none excluded or excepted, and pertaining to the title of effective Sovereign Prince Grand Master of the Order, with the right to the original title, for himself and his successors ever after, to all the qualifications, responsibilities, attributes and standing, with the right to use coats of arms, titles and qualifications that belong to him, valid for due continuation, although the House of Prince Peter Joseph Iossif is different from that of the legitimate descendants of the august Founder of the Order, all the same, and original privileges, rights, services and goods, customs and practices, qualifications and attributes, already possessed by the dynastic pretender, Head of Name and Arms of the oldest living Byzantine Dynasty, they belong to the title of effective Sovereign Prince and Grand Master of the Order, including, *inter alia*, the same recognition as a subject of public international law of the dynastic pretender, recognized as such by virtue of sovereign dynastic prerogatives that, in relation to





the Order, are also of the Sovereign Prince Grand Master as a successor, descendant or not, *ex pacto et providentia majorum*.

The dissolution of the secular order of the Knights Hospitaller of St. John, as willed by Emperor Napoleon I after the conquest of the island of Malta, ended a continuity of purpose and resources that counted nearly eight hundred years of history. From that date, the knights found themselves divided into several parallel orders: the Sovereign Military Order of St. John of Jerusalem of Rhodes and of Malta which has its headquarters in Rome and many others that are linked historically and legally with S.M.O.M.

There are currently Orders of St John of Jerusalem, which are dependent on 'bodies' different to private ones - or *self-styled Orders* - which are a collation of former ruling Families, recognized as such by the judiciary judgments, bearers of *fons honorum* internationally recognized as a 'residual' prerogative, surviving the end of sovereignty. It concerns perfectly legal Magisterial Orders: the Head of Name and Arms of a former sovereign House can set up and bring together new orders, 'Chain' Orders, that have the same status as those 'of the Crown', the collation, that is, of the actual Ruling House.

15

Legitimate Orders of knights have actually stemmed from the historic Order of the Knights of Malta returning their *fons honorum* to that of their Grand Master, as in some of the sample cases below, namely:

- Most Venerable Order of the Hospital of Saint John of Jerusalem, of which H.M. Elizabeth II is Head and the Grand Master is H.R.H. Richard, Duke of Gloucester; Order Instituted in 1888 (Protestant or Anglican faith);
- the Bailiwick of Sweden of the Order of the Knights Hospitaller of St. John of Jerusalem, of which the King of Sweden Carl Gustav XVI is Grand Master; Order instituted in 1946 (Evangelical branch of the Knights Hospitaller);

Bailiwick of the Netherlands of the Order of the Knights Hospitallers of St. John of Jerusalem, of which the King Willem-Alexander Nicholas George Ferdinand of Orange-Nassau is Grand Master; Order instituted in 1909 (the Protestant branch of the Netherlands Knights Hospitallers);





- Bailiwick of Brandenburg of the Order of the Knights Hospitaller of St. John of Jerusalem, of which Prince Oskar of Prussia is Grand Master; Order instituted in 1099 (the Protestant branch of the German Knights Hospitaller);
- OSJ Russian branch, former Grand Master H.M. Peter I Karadžorđević, king of Serbia, the Croats and Slovenes (Orthodox branch).

Ultimately, the Holy See has only expressed itself on S.M.O.M., and not on the Autonomous Priories or the other Maltese Order, which are beyond its jurisdiction, and that have a right to exist just like the S.M.O.M.: even with recognition of the full sovereignty of the Order of Malta in Via Condotti, it remains *par inter pares* with regard to the international rights of the Knightly Orders.

We consequently produce a certified copy of the judgment by the Civil and Criminal Court of Padua (Annex No. 6), summarised in the Official Gazette of the Italian Republic (Annex No. 7), from which it emerges in a legally indisputable way that Prince Peter Joseph Iossif is Sovereign Prince Grand Master of the actual Ecumenical Hospitaller Order of St. John - Knights of Malta - with his relevant claim and related prerogatives of *ius maiestatis* and *jus honorum*, also for the purpose of granting knightly titles and noble statutory enactment of the Grand Master of the said Order - as well as being a subject of public international law, even under the stringent and restrictive competent Italian laws, even for the purpose of exercising the right of active and passive legation on condition of reciprocity with other subjects under public international law.

And such arbitration award, according to the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards* (the multilateral international treaty signed during the Diplomatic Conference of the United Nations in New York June 10, 1958, which came into force on 7 June 1959), **could easily be made enforceable even in the United States, which endorsed it on 30 September 1970.**

The story of the Order *Knights Hospitallers of the Sovereign Order of Saint John of Jerusalem - Knights of Malta - the Ecumenical Order*, is emblematic and exemplary especially with regard to its "*Florida Priory*" with the S.M.O.M, which leads us to consider the S.M.O.M. in Via Condotti nothing more than *par inter pares*. I refer to the court case instituted at the *United States District Court - Southern District of*





Florida (28 February to 2 March 2011 decided on September 29, 2011 in West Palm Beach, Florida), before the Magistrate - "United States District Judge" - dr. Kenneth L. Ryskamp.

This Order should be considered in line with the Russian Orthodox tradition, since it originates from a group of knights who recognized Prince Alexander Mikhailovich (died 1933) as 71st Grand Master. Not wanting to recognize Andrei Vladimirovich, the son of a cousin of the Grand Master, as the successor, these Knights passed to the US Order, recognizing Cronian Edelen de Burgh as 72nd Grand Master. Then when Roberto II Paternò Castello di Carcaci claimed the Grand Magisterium for the Paternuense Dynasty, they passed to his ranks (73rd Grand Master). At this point they decided it was time to set up an Independent Order: the 74th Grand Master Prince George Korey-Krzeczowski, Grand Cross of Justice, Count of Serrabone, in 1993, was followed by Prince Joseph Frendo Cumbo de Torre Sarrocca (75th), from 1997 to 2006. Prince Nicholas ES Papanikolaou (76th) is currently in office. The Order has several Pories, including that of Florida, which is leading the judicial event that I just mentioned. The S.M.O.M. denounced the Priory of Florida (2011), as it found that the "*Trademark*" (the Order's official banner) filed by the latter - according to the laws in force in the United States – imitated its own. This led to the courtroom. As well as having 'copied' the banner, the S.M.O.M. accused the Priory of false advertising, unfair competition, and deceptive business practices. After tracing the history of its order, the S.M.O.M. denies the validity of the election of Tsar Paul I, as he was married, not Catholic, not a member of the Order, and as he never received the Pope's *placet*. Furthermore, the S.M.O.M. points out that, as an Association under US law, it exists in New York since 1926, in San Francisco since 1953, in Washington (as a "*Federal Association*") since 1974. Through its defenders, the Priory gives its version of events: the election of Tsar Paul I was valid and approved by the Pope; in more recent times there has been the re-establishment with the official name of *Knights Hospitallers of the Sovereign Order of Saint John of Jerusalem - Knights of Malta - the Ecumenical Order*. The Ecumenical Order has set up various pories, of which one is in Florida. The Assembly in 1908 is remembered and, straight after,

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registration on February 18, 1911 of the Ecumenical Order in New Jersey as "*The Knights of Malta, Inc.*" Between 1953 and 1958 the "Corporation" changes name several times, until the current name (U.S. Trademark Registration, March 11, 1958, in Delaware). In addition, both Pope John Paul II, and Pope Benedict XVI, sent the Apostolic blessing for charitable and humanitarian activities of the Ecumenical Order, a sign that they considered it not false or abusive but parallel to the S.M.O.M. In conclusion, the Court rightly believes itself incompetent to judge in the field of "*religious or historical disputes*". Nor can it judge whether one of the two contending Orders is "*just and legitimate*". The Court judges on the question of the "*Trademarks*". First of all, the emblems of the two orders are very different, so they cannot have been 'copied' from the Ecumenical Order. As to the charge of "*unfair competition*", this topples as the Ecumenical Order makes clear its history and its leadership, which cannot be mistaken for that of S.M.O.M. The Court therefore rejects the accusation made by S.M.O.M. against the Priory of Florida, and orders that the Registrations of the S.M.O.M.'s "*Trademark*" be deleted, as not in keeping with the current law on "*Trademarks*" (September 29, 2011, West Palm Beach, Florida).

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The comparative history of the two Orders is substantially correct. One does not exclude the other. The S.M.O.M. is a military, religious, sovereign Order, but subjected to the Catholic Church; the Ecumenical Order is a lay Order, philanthropic, duly registered in the U.S., as well as being legitimate are the Order "Knights of Malta - O.S.J." of G.M. Sir Barry Garland, and the Order of "The Ecumenical Order" of G.M. Sir Michael Papanikolaou, by virtue of their registration under US law, which also applies for the Order in question and of which Prince Peter Joseph Iossif is Grand Master, also recognized according to the findings of the Italian judiciary judgment.

With regard to the problem concerning the legitimacy of the use of the cross by the *Ecumenical Hospitaller Order of Saint John Knights of Malta* (properly certified on November 19, 2001 at *The House of Representatives of the Commonwealth of*





Pennsylvania), one first notices that the eight-pointed cross is contained in the civic symbol of the city of Amalfi.

This, because, "around 1020, some merchants from Amalfi, at the head of which was Brother Gerardo Scala, obtained from the Caliph of Egypt the right to be able to build a hospital dedicated to San Giovanni at the Holy Sepulchre and a church called St. Mary of the Latins. Such was the origin of the glorious Order of Jerusalemite knights, which were then of Rhodes and finally Malta "(*Treccani Italian Encyclopaedia*, sub Amalfi. - II, 748). Still (*ibidem*, sub Malta, Order of. - XXII, 47), "the order originated in the eleventh century from a hospice for the care of pilgrims from Amalfi established in Jerusalem".

Even Carlo Augusto Bertini Frassoni, in the work *The Sovereign Military Order of St. John of Jerusalem and of Malta* (p. 1, with concordant bibliography included), confirms the hypothesis that the nobles of Amalfi had founded the Order of the Hospital, later called Malta in 1020.

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Ad abundantiam, in the Heraldry Magazine of 1920 (p. 63 et seq.), in *The civic coat of arms of the ancient Amalfi Republic*, Antonio Guerritore, cites the work *History of the Amalfi City and Coastline*, Matteo Camera (Naples, Fibrano, a. 1836), where we read that "this city then had in use various emblems: ... on the right side the white cross on a black background, that is the origin of knights Hospitallers"; still, the work of Scipione Gazelle *Description of the Kingdom of Naples* (1601, p. 66) confirms that "the emblem of the city of Amalfi is described therein: in the 1st red to silver cross, the Religion of St. John of Jerusalem , alluding to the Amalfi foundation of this glorious and powerful Order".

Therefore, there were numerous Military Orders that used the Amalfi cross: many independent, including the Military and Hospitaller Order of Saint Lazarus of Jerusalem; the Hospitaller Order of St. John of Jerusalem; the Sovereign Military Order of Malta; the Sovereign Military Order of St. John of Jerusalem (and its independent institutions in Germany, England, Denmark, Spain, Sweden,





the Netherlands); the Royal Order of the Spanish Knights of St. John the Baptist; the *Sovereign Order of Saint John of Jerusalem - Knights of Malta*; the Sovereign Military Order of St. John of Jerusalem – United Autonomous Priories (this list is taken from *Orders of Chivalry - History and decorations*, Vincent Privitera, Catania, 1982).

But not just the Orders of Jerusalem origin embossed the symbol of the town of Amalfi: in fact, entirely by way of example (*Orders, Medals and Decorations of Britain and Europe*, Paul Hieronymussen, 1967), the cross is an integral part of the sign of public Orders, including the Order of St. Olaf (Norway); the Most Noble Order of the Seraphim (Sweden); the Royal Order of the Sword (Sweden); the Royal Order of the Western Star (Sweden); the Royal Order of Vasa (Sweden); the Royal Victorian Order (Great Britain); the Military Order of William (Netherlands); the Civil Order of Merit of the Dutch Lion; the Order of Orange-Nassau (Netherlands); the Order of Leopold (Belgium); the Order of the Crown (Belgium); the Order of Leopold II (Belgium); the Order of the Golden Lion of the House of Nassau (Luxembourg); the Order of St. John and Malta (Austria); the Order of Carlos III (Spain); the Order of San Raimundo de Penafort (Spain); the Order of the Golden Spur (Vatican City); the Order of St. Gregory the Great (Vatican City); the Order of St. Sylvester (Vatican City).

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The insignia of the listed orders - and many others with the same emblem - are reproduced in the *Iconographic Archive of Orders of Chivalry*, by yours truly Don Francesco Maria Mariano Duke of Otranto (Padua, 2004).

It can easily be deduced that the eight-pointed cross is a symbol of chivalry for which it is completely arbitrary to maintain it belongs to this or that Order, and is the prerogative of countless equestrian orders, as was easily demonstrated.

Therefore, it would appear to be absurd to contest the use of the aforementioned insignia by this or that Order of St. John of Jerusalem, also depending on the originality of each emblem, provided by the combination of the eight-pointed cross with other and several equestrian symbols.





However, the cross of the *Ecumenical Hospitaller Order of Saint John Knights of Malta* is topped by an imperial Byzantine crown differently to the S.M.O.M. that has the royal crown lined with a touch of black velvet.

We declare that we have faithfully fulfilled the mandate entrusted to us with the sole purpose of truth, and we point out that this *pro veritate* opinion does not involve or affect any rights of third parties.

With best regards.



The President
S.C. Don Francesco Maria Mariano
duca d'Otranto

