

# Proposal in the early 1960s for Opus Dei to be a personal prelature

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2. From the moment of its foundation, Saint Josemaria had always seen Opus Dei as an institution whose members would not be religious or in any way comparable to religious. This was not out of any lack of affection for the religious:

Aware of the difficulties this would involve, and after having meditated on it at length in the presence of the Lord, in the spring of the year 1960 he decided to inform Cardinal Tardini, Secretary of State, very prudently about the institutional problem and his desire for a revision of the juridical status of Opus Dei along the lines of the Prelature *nullius* foreseen by the Code of Canon Law then in force.<sup>3</sup> In the informal consultation it was suggested, in substance, that: a) Opus Dei would pass to and “depend on the S. Consistorial Congregation,”<sup>4</sup> which would be in a position to resolve the main problems simultaneously”; b) “it would be sufficient to create a Prelature *nullius*” “with a single parish”, which would allow “the incardination of all the priests of the Institute in the territory of the Prelature itself, so that they would be not only secular, but diocesan”; c) if “the priests of the Institute are secular and diocesan priests, *a fortiori* the lay members will be considered by all as secular laity, normal citizens, ordinary layfolk”; d) “this solution would provide that desired greater stamp of secularity to the whole Institute”.

Saint Josemaria was informed of the opposition to the proposed solution on the part of Cardinal Valeri, Prefect of the S. Congregation for Religious. Subsequently on June 27, 1960 Cardinal Tardini granted Saint Josemaria an audience, in the course of which he advised him to let things remain as they were for the time being, since it was necessary to wait: “We are still a long way off”. Saint Josemaria’s comment after the audience was that “The seed has been sown that will not fail to bear fruit.”<sup>5</sup>

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he certainly loved them and venerated them with all his strength, but the apostolate of Opus Dei would be carried out in the middle of the world in all spheres of civil society by ordinary lay people, citizens like anyone else. “We venerate and profoundly respect the priestly vocation and that of the religious, and all the immense work which the religious have carried out and will carry out in the service of the Church: therefore he would not be a good son of mine who lacked this spirit. But at the same time we repeat that our calling and our work—since they are an invitation to remain in the world and our apostolic activities are carried out *in* and *from* secular activities—are completely different from the vocation and work entrusted to the religious” (SAINT JOSEMARIA, *Letter*, March 11, 1940, n. 40).

3. On this consultation to Cardinal Tardini, cf. *Canonical Path*, pp. 306–309, and *The Founder of Opus Dei*, Vol. 3, pp. 398–399.

4. Now called the Congregation for Bishops.

5. AGP [General Archive of the Prelature], Juridical Section, VI/15611.

## 2. The 1962 request to John XXIII for a prelature with its own statutes

On January 7, 1962, despite the recent negative experience of the informal consultation to Cardinal Tardini (who died on July 30, 1961) and the fact that circumstances were still not propitious, Saint Josemaria, at the insistence of Cardinal Ciriaci, Prefect of the S. Congregation of the Council, presented a formal request for the revision of the juridical status.<sup>6</sup> The letter to the Holy Father was a concise document summing up the reasons for the request and its content. It began by explaining the difficulties that Opus Dei encountered because of its present juridical configuration, and went on to set out the proposal for overcoming these problems: “a new juridical configuration is necessary”, one that will achieve “the definitive clarification of the secular character of the Institute (and its members) both in its external juridical structure and in what has to do with its dependence upon the Congregations of the Holy See, in such a way as to make disappear the pretext of assimilation to the religious, of Opus Dei’s laity and priests.” The letter suggested two possibilities. The first was the same as the one proposed to Cardinal Tardini in 1960, although now it was expressed in schematic form; it was not mentioned again in any of the later documentation presented in connection with the request. All the documentation, together with explanations and clarifications from Saint Josemaria, focused on the second possibility.<sup>7</sup> In substance—as can be gathered from the documents presented—this involved the following: a) “to establish the Institute as a Prelature *nullius*, like the *Mission de France*,<sup>8</sup> wherein the Prelate would have ordinary jurisdiction over his own clergy and people, much like military Ordinaries over their own priests and military personnel”; b) “as the

6. On this 1962 request, cf. *Canonical Path*, pp. 313–320, and *The Founder of Opus Dei*, Vol. 3, pp. 399–400.

7. The original Italian text of the letter to the Holy Father John XXIII is given in *Canonical Path*, pp. 544–546.

8. The establishment of the *Mission de France* as a prelature *nullius* took place with the Ap. Const. *Omnium Ecclesiarum sollicitudo*, August 15, 1954: AAS 46 [1954], 567–574.

proper territory of the Prelature" which "would be necessary (*necessitate iuris*), the following are listed by way of example, and in order of preference: the small territory of the current building of the Headquarters (Viale Bruno Buozzi 73, Rome); a small territory in one of the dioceses more or less close to Rome, but in any event in Italy, since that seems to be required by the universal (and distinctly Roman) nature of the Institute"; c) "this solution comes within the *ius conditum* [established law]. According to can. 319, every Prelature *nullius*, with its own clergy and people and fewer than three parishes, must be governed by special law; in our case, this special law would consist of the Constitutions already approved by the Holy See, with any modifications that may be introduced by a commission of Cardinals, as well as other Papal documents referring to Opus Dei" (the modifications in question being those "necessary for defining the new juridical configuration, or for adapting certain norms of our internal law to this"); d) as a result of its establishment as a Prelature *nullius*, Opus Dei would "depend on the S. Consistorial Congregation" which would have "the same faculties it has in respect of military Ordinariates and the *Mission de France*"; e) "*Dependence on the Bishops*. We do not desire in any way that the new solution change this dependence. The only change, in this aspect, would be with regard to the small territory of the Prelature; for everything else, *nihil immutetur*"; f) "the Prelate would be the person who is President General of Opus Dei" who "would be appointed in the manner determined by the Constitutions" then in force, except that now the appointment "would require the confirmation of the Holy See".<sup>9</sup>

As he had done with the informal consultation two years beforehand, Saint Josemaria stated that "The only intention which lies at the base of this project and this request from the Institute is exclusively that of preserving intact the spiritual

9. AGP, Sec. A, Leg. 0276, Carp. 04, EF-620107-2t; Leg. 0277, Carp. 01, EF-620308-1t; Leg. 0277, Carp. 02, EF-620412-1t.

physiognomy of the Institute itself, and of obtaining the maximum spiritual fruit of the apostolic work which the members of Opus Dei carry out all over the world for the service of the Church and the good of souls". In order that this exclusive intention should be made even clearer, Saint Josemaria declared that, since the Prelate would be the one who happened to be President General of the Work, then "if it were thought that to achieve the proposed solution—which I believe *in Domino* to be necessary—my own humble person might be an obstacle, I would be very happy to step aside within the Institute".<sup>10</sup>

Of great importance for our topic are a number of Saint Josemaria's statements and reflections included in the documentation presented to the Holy See. For the first time Saint Josemaria officially informs the Holy See of the content of his "special intention" as Founder: "The juridical configuration that I glimpsed even from 1928 was something similar to that of the military Ordinariates or Vicariates, made up of secular priests, with a specific mission; and of lay people who, because of special circumstances, need an appropriate juridical treatment within ecclesiastical law and special spiritual care. In our case, particular needs arise from the requirements of carrying out a secular apostolate in all environments of society, in places inaccessible or prohibited to priests and religious, through lay people who have a permanent dedication, a specific spiritual and intellectual formation, and a mutual bond uniting them to the Institute."<sup>11</sup>

Saint Josemaria sought to forestall possible difficulties and misunderstandings over the proposed solution, especially in relation to its novelty and extraordinary nature. "*The solution is not new* [...]. There are not a few precedents, which authorize us to deem the aforesaid solution as no novelty. a) There are many prelates in the Church (cf. *Annuario Pontificio*, 1962, pp. 1313–1314) with territorial and personal jurisdiction

10. AGP, EF-620308-1t, nn. 1, 15 and 17.

11. AGP, EF-620308-1t, n. 3.

for the spiritual care of immigrants of different eastern rites. These prelates sometimes have as a territory—with exclusive jurisdiction—only a church, while exercising personal jurisdiction over a territory consisting of many dioceses, in addition to the faculty of incardinating their own priests. (See, for example, among others, AAS, LI (1959), p. 789.) b) Bear in mind also the example of the military Ordinariates and the *Mission de France*: the former, for the spiritual care of groups of persons in special circumstances; the latter, for the development of a special apostolate. We humbly consider that in our case, there are reasons of equal weight (the spiritual care of some lay people who, with a specific formation, are at the very forefront of the apostolate) that make advisable the adoption of a solution similar to those just mentioned.”<sup>12</sup> In another part of the documentation he completes the explanation in a clear and precise manner: “The proposed solution would not be something extraordinary, but rather a simple combination of the two types of interdiocesan institutions already dependent on this S. [Consistorial] Congregation, i.e. the military Ordinariates and the *Mission de France*.”<sup>13</sup> Do we not see, in the combination of these two figures referred to by Saint Josemaria, the conciliar figure of the “special dioceses or personal prelatures” for “the carrying out of special pastoral projects” of Vatican II (Decree *Presbyterorum ordinis*, n. 10)? Do we not recall that the Preamble to the Bull *Ut sit*, referring to this new conciliar figure, states that “it was seen clearly that this juridical figure was perfectly suited to Opus Dei”? Do we not think of this combination of the two figures when, almost twenty years later, the Congregation for Bishops, in its Note of November 14, 1981 to the Bishops<sup>14</sup> informing them of the establishment of Opus Dei as a personal prelature, stressed the “doubly pastoral aim of the

12. AGP, EF-620412-1t, n. 1.

13. AGP, EF 620308-1t, n.13.

14. Cf. M. COSTALUNGA, “The Establishment of Opus Dei as a Personal Prelature”, *L'Osservatore Romano*, November 28, 1982, p. 3; ID., “I lavori preparatori alla promulgazione della Costituzione Apostolica *Ut sit*. Appunti personali di un testimone”, Rome, April 1, 1998 (*pro manuscripto*).



Prelature" of Opus Dei: *ad intra*, the particular spiritual care of the faithful of the Prelature, and *ad extra*, the carrying out of a specific apostolate by the priests and laity of Opus Dei?<sup>15</sup>

On May 22, 1962 Saint Josemaria received a letter from Cardinal Cicognani in which the Secretary of State informed him that the request could not be accepted, because at that time it presented virtually insuperable juridical and practical difficulties.

As we have seen, the solution to the institutional problem of Opus Dei proposed in 1962 consisted, in substance, of the transformation of Opus Dei into a Prelature with its own statutes, in accordance with can. 319, paragraph 2, of the Code of Canon Law then in force. Saint Josemaria was aware that this norm referred only to Prelatures of a territorial nature and that it would not have been possible to apply it to Opus Dei without an extensive interpretation. For that reason he expressed the desire that a situation be adopted similar to the territorial and personal jurisdictions existing at that time: the military Ordinariates or Vicariates; the Prelature *nullius* of Pontigny or *Mission de France*; and the various Prelates for those faithful of eastern rite outside the patriarchal territory who lacked their own established hierarchy.

### 3. Start of Paul VI's pontificate: the Note reserved to the Pope, 1964

John XXIII died on June 3, 1963, and was succeeded by Paul VI. Almost immediately Paul VI confirmed that the Second Vatican Council should continue. Both personally and through Don Alvaro, Saint Josemaria informed a number of ecclesiastical personalities about Opus Dei's institutional problem: among these was Cardinal Confalonieri, Secretary

15. Cardinal Baggio also refers to this "specifically pastoral purpose of the prelature" in S. BAGGIO, "A benefit for the whole Church", *L'Osservatore Romano*, November 28, 1982, p. 3.



of the S. Consistorial Congregation which Saint Josemaria hoped would acquire competence for Opus Dei.<sup>16</sup> On October 31, 1963, Saint Josemaria wrote a letter to Cardinal Antoniutti, Prefect of the S. Congregation for Religious, enclosing the text of the Constitutions in their October 24, 1963 edition, now entitled *Codex Iuris Peculiaris*: "I am conscious that, as I have many times said to Your Eminence, there is still a long way to go to reach the definitive juridical solution of Opus Dei. I am comforted, nevertheless, by the certainty that almighty God, through the holy Church, will not fail to open for us the way he has desired since the far-off days of 1928, which then seemed something impossible to achieve." He added, "In the hope that this moment will arrive, all of my sons and daughters throughout the world continue praying for this intention, well aware that Opus Dei is a secular institute by law, but in fact it is not."<sup>17</sup> This principle, often repeated by Saint Josemaria, thus came to be officially communicated to the authority on which Opus Dei depended hierarchically.

On February 14, 1964, after a most affectionate audience with Paul VI which had taken place on the preceding January 24, and in the course of which the Holy Father showed his own interest in the institutional problem of Opus Dei, Saint Josemaria arranged for a letter to be passed to the Pope, accompanied by a copy of the *Codex Iuris Peculiaris*. Also attached was a Letter written by Saint Josemaria on the occasion of the thirtieth anniversary of Opus Dei, dated October 2, 1958, a copy of the book *De Spiritu*, and—on the advice of Msgr. Dell'Acqua, Undersecretary of State—a lengthy document entitled *Note reserved to the August Person of the Holy Father*, in which by way of a statement of conscience he set out certain questions and concerns. In the note he included some references to the institutional problem, expressing his desire for "a definitive solution,

16. AGP, PO1 1982, p. 1388.

17. The original Italian text of this letter can be found in *Canonical Path*, p. 549.

which will make it impossible for us to be considered as equivalent to religious, and which would avoid Opus Dei being included practically and juridically among the states of perfection." Referring to the 1962 request for a Prelature with its own statutes, Saint Josemaria added, "Such a solution should be sought, most certainly, in the realm of the common law of the Church. I have already presented some documents that at the proper time would perhaps be useful as a basis for resolving in a clear and just way our spiritual and apostolic problem."<sup>18</sup>

In the letter to the Pope that accompanied this note, Saint Josemaria had written, "In what has to do with the juridical reordering of Opus Dei, I consider it important to reaffirm what I told Your Holiness verbally: that we are not in a hurry."<sup>19</sup>

Neither in the letter nor in the accompanying note did Saint Josemaria present a formal petition for the revision of the juridical status of Opus Dei, since he was well aware that it was opportune to await the end of the Council. In the following May, after a long conversation with Archbishop Paul Philippe O.P., then Secretary of the S. Congregation for Religious, on the nature of Opus Dei and the problem of its place in Church law, Saint Josemaria learned that a number of ecclesiastics had already been asked for their opinion on Opus Dei's institutional question, on the basis of the reserved note sent to Paul VI.<sup>20</sup> He also discovered that some of the views expressed—even though they all praised Opus Dei's activity—were not in favor of the revision of Opus Dei's juridical status, at least not at that moment. It seems that the reason for the unfavorable opinions was that, since the members of Opus Dei made vows (albeit private and not public), they were like religious, and the Institute should

18. AGP, EF-640214-2t.

19. The original Italian text of this letter can be found in *Canonical Path*, p. 550.

20. For this information, cf. *Canonical Path*, p. 332, and *The Founder of Opus Dei*, Vol. 3, pp. 400–401.

therefore depend on the Congregation for Religious. Saint Josemaria thus saw confirmed once more what he had often written. In a Letter of May 25, 1962 he wrote, "People, and not only the man in the street and the civil authorities, but also virtually all ecclesiastics, including some members of the Hierarchy, consider as religious all those who form part of a Secular Institute, for the simple fact that they belong to it and depend on the Sacred Congregation for Religious."<sup>21</sup>

At the beginning of August that year, Saint Josemaria was in the north of Spain. Foreseeing that Cardinal Antoniutti might also be asked for his opinion on the matter as Prefect of the Congregation for Religious, he asked Msgr. Salvador Canals, Prelate Auditor of the Sacred Roman Rota, who was then in Rome, to get in touch with the Cardinal to ask him to give an interlocutory reply, postponing everything until September when Saint Josemaria would be back in Rome and they could talk the matter over once more, as they had done before the summer. However, if the Cardinal wanted to reply immediately, Saint Josemaria suggested proposing that the solution in *Propositio VI* ("*diœceses vel prælaturæ personales*")<sup>22</sup> of the conciliar Schema *De sacerdotibus* of March–April that same year be applied to Opus Dei; otherwise he would return to Rome immediately. Msgr. Canals carried out these instructions on August 7, 1964. Cardinal Antoniutti showed great interest in this solution, but said that it was better to await the conclusion of the

21. SAINT JOSEMARIA, *Letter*, May 25, 1962, n. 23.

22. "6. (*Cleri distributio apte fovenda*). Normæ de incardinatione et excardinatione ita recognoscantur ut, firmo manente pervetere hoc instituto, hodiernis pastoralibus adiunctis et necessitatibus aptius respondeant, et, ubi ratio apostolatus postulaverit, faciliora reddantur non solum cleri diœcesani distributio, sed etiam peculiaria quædam opera pastoralia, quæ in aliqua regione, vel natione, aut in quacumque terrarum orbis parte, aut etiam pro quibusdam cœtibus socialibus perficienda sunt; ad hoc ergo constituentur seminaria internationalia, diœceses vel prælaturæ personales et alia huiusmodi, salvis semper iuribus Ordinariorum locorum": *Acta Synodalia Sacrosancti Concilii Œcumenici Vaticani II*, III–IV (Vatican City, 1974), p. 848.

Council, and in the meantime Opus Dei should continue to depend on the Congregation over which he presided. We consider it to be of great significance that Saint Josemaria, on the occasion of this study which he had not requested, should indicate to the Prefect of the Congregation upon which Opus Dei still depended that, of the possibilities being opened up by Vatican II, the desirable future specific juridical configuration was the figure of the Prelature (for the first time called "personal") which was to be found in the aforementioned Schema of ten propositions *De sacerdotibus* of 1964.

A few days later, Saint Josemaria wrote an extensive letter to Msgr. Dell'Acqua, dated Paris, August 15, 1964. In it he stated, "I think that when the Council is finished perhaps our question can be studied." Referring to this study, the letter continued, "If, as is the usual practice, when this study is done, the opinion of certain persons of the Curia is requested, I would not be at all surprised if these, in perfectly good faith and although being excellent specialists in Sacred Theology and Law, were to arrive at conclusions that are contrary, indeed contradictory—even on concrete facts—if they were to base themselves only on the documents which I have sent to the Holy Father [...] we are not a sort of secularized religious, but true secular people—diocesan priests in each diocese and ordinary laity—who do not seek a *life of evangelical perfection* proper to the religious, but *Christian perfection in the world, each one in his own state*." He added that "no one should consider his opinion definitive without first hearing myself, without a clarifying dialogue. Without a joint study, there could not truly be sufficient knowledge of Opus Dei without all the data I in all humility ought to provide. In this way a solution could be reached that would not be an exception nor one of privilege [...] the rights of Bishops [would] remain, as they are up to now, firm and secure".<sup>23</sup>

23. The original Italian text of this letter is given in *Canonical Path*, pp. 551–554.

On October 10, 1964 Paul VI granted Saint Josemaria a new audience, which again proved most cordial. They spoke of the institutional problem of Opus Dei and agreed to await the end of the Second Vatican Council as this might provide useful elements for finding a definitive juridical solution, suitable for the charism of the Work and within the common or general law of the Church.<sup>24</sup> In fact the solution was found—as had already been proposed by Saint Josemaria—in the idea of the personal prelature, a figure expressly foreseen in the conciliar Decree *Presbyterorum ordinis* and taken up by the current Code of Canon Law, but in the plans of God it was established that Saint Josemaria should first see the reward of heaven.

24. Cf. *The Founder of Opus Dei*, Vol. 3, p. 401.