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Church Tribunals in the Czech Republic during the COVID-19 Epidemic

Abstract: The article aims to summarize the situation in the church justice system in two aspects. From the distance of several years, it briefly evaluates the application of the norms of the 2015 reform of the matrimonial procedural law of the Catholic Church (the dramatic increase in the number of cases after the reform, the stabilization of the situation after the first years, the low use of the possibility of abbreviated proceedings, etc.). It assesses the impact of the imposed limitations (and people's worries) in the Czech society during the COVID-19 epidemic on the activity of church tribunals and the search for alternative ways of processing cases (using the example of the Interdiocesan Tribunal in Olomouc).

Keywords: church tribunals, Czech Republic, nullity of marriage, *Mitis Iudex Dominus Iesus*, religious freedom, restriction of rights, Catholic Church, COVID-19

Introduction

The COVID-19 epidemic has triggered many unprecedented measures around the world in an effort to guarantee the collective and individual safety of the population. These rules were initially more chaotically, then with more rationality, established by states and their authorities, as well as from within the churches themselves. This necessarily gave rise to new rules for the coexistence of churches within the state, interfering with the

exercise of fundamental human freedoms, including freedom of expression and freedom of religion, which are protected both at the level of international law and by the internal regulations of states. These freedoms can only be restricted for reasons established by law — including, *inter alia*, for the protection of public health. The article will attempt to describe the situation of the religious judiciary using the example of a particular tribunal in the Czech Republic at the time of such restrictions. The initial interruption of contact with clients and its consequences (limitations on consultations, hearings, the inability of the senate to meet for sentencing, etc.) were gradually replaced by the search for new forms (especially with the use of new technologies) that would help clients to access justice even in these extraordinary times and at the same time would not imply a detriment to traditional procedural principles and procedures. This situation of limitations also coincides with the first years after the reform of the matrimonial process (2015), in which Pope Francis sought to make these procedures more accessible to persons whose marital situation makes it difficult for them to participate in the active life of the ecclesial community. Therefore, in this article we summarize both topics in an attempt to present the Church's justice system in the European environment, specifically in the Czech Republic. In the two ecclesiastical provinces (Czech and Moravian), there are currently (2022) a total of six Church tribunals: the Metropolitan Tribunal in Prague, the Interdiocesan Tribunal in Olomouc, and the diocesan tribunals in Hradec Králové, Brno, Plzeň and Litoměřice (with its seat in Liberec). Only the České Budějovice and Ostrava-Opava dioceses and the Apostolic Exarchate of the Greek Catholic Church in the Czech Republic do not yet have their own tribunals and their cases are heard by the Metropolitan Tribunal in Prague and the Interdiocesan Tribunal in Olomouc, respectively.

1. The 2015 reform of the Matrimonial Procedure Law of the Catholic Church and its consequences

The reform of the judicial procedure for examining the validity of marriage in the Catholic Church, promulgated by Pope Francis in September 2015 in his *motu proprio Mitis Iudex Dominus Iesus* for the Latin Church, reiterated the connection between the Church's judicial system and the pastoral accompaniment of the divorced and remarried, and recalled the legal tools the Church offers for dealing with their situation. The aim

of the changes was, above all, to make the procedure for the declaration of nullity of marriage faster, simpler and more accessible. In order to compare the effects of the changes before and after the beginning of the reform, it may be helpful to compare the reports that the various tribunals sent annually to the Apostolic Signatura on their activities. On 30 July 2016, the Supreme Tribunal of the Apostolic Signatura issued a Circular Letter,¹ in which it announced the basic criteria of the new procedural principles, stressing the responsibility of the tribunals themselves, but also of the bishops-moderators and the Apostolic Signatura. Then, at the beginning of 2017, it circulated a new form for tribunals to fill in with statistical data on their activities for the past judicial year, entitled *Relatio de statu et activitate tribunalis (pro Ecclesia latina) pro anno 20xx redacta*.

Comparing these reports of the above-mentioned ecclesiastical tribunals in the Czech Republic from 2014 (before the reform) and 2016 (after the reform), we arrive at the following assessment.² Almost all of the church tribunals saw an almost 100 percent increase in the number of lawsuits filed and in the number of verdicts handed down during this breakthrough period (the only exception is the Brno diocesan court, where the increase was not as significant).³ After this increase, the situation stabilised at that higher level in the following years (the highest figures were in 2017) and is no longer increasing.⁴

¹ SUPREMUM SIGNATURAE APOSTOLICAE TRIBUNAL: *Lettera circolare sullo Statoe L'Attività dei Tribunali Inter munera* [30.07.2016].

² For details see article: M. MENKE: “Motu proprio *Mitis Iudex Dominus Iesus* v praxi českých a moravských církevních soudů [Motu Proprio *Mitis Iudex Dominus Iesus* in the Practice of Czech and Moravian Church Tribunals].” *Revue církevního práva* 69/4 (2017), pp. 27—44.

³ Cf. TRIBUNALE DIOECESANUM BRNO: *Relatio de statu et activitate tribunalis ad Signaturam Apostolicam unoquomque anno mense ianuario mittenta — anno 2016*: the increase of number of cases of this tribunal of only first instance was from 141 to 155. In 2016, the court decided 155 cases, 93 of which concerned the validity of marriage. A total of 28 marriage nullity trials were concluded with a judgment, in 21 cases affirmative.

⁴ TRIBUNALE INTERDIOECESANUM OLOMOUC: *Relatio de statu et activitate tribunalis (pro Ecclesia latina) pro anno 2019 redacta*, pp. 5, 9. As an illustration from the pre-COVID-19 era: at the end of 2019, the Olomouc church tribunal was hearing a total of 171 matrimonial cases in the first instance (109 from 2018 with earlier, 58 newly admitted in 2019). By a judgment confirming the nullity of the marriage, 46 of them were terminated, 3 marriages were declared valid, 4 cases were revoked by the parties, and 113 cases were transferred to 2020. In the second instance, this court dealt with a total of 40 appeals (16 from 2018 and earlier and 23 cases received in 2019): of these, it terminated 5 cases by declaring nullity, declared the validity of the marriage in three cases and one case was withdrawn by the appealing party. By 2020, 31 second instance cases had been transferred.

The staffing of the courts in the Czech Republic does not reflect the staffing dimension of the reform (involvement of more lay personnel, creation of a network of consultants, etc.) because most of the lay personnel already working in the tribunals started their service prior to the reform in question and without any connection to this incentive. In addition, the qualifications for certain judicial positions (especially at least a licentiate in canon law for defenders of the bond and judges) are difficult to obtain in the Czech Republic. Studies to obtain the licentiate in canon law are not offered by universities in the Czech Republic, and candidates for these positions are sent to study abroad (Rome, Venice) or have already taken the course for the licentiate, organized twice in cooperation with the Catholic University of Lublin (from 1998 to 2000 and from 2012 to 2016). Laypersons perform directly in the courts the offices of defenders of the bond (can. 1435), experts (art. 205 § 2 of the Instruction *Dignitas connubii*), patrons (advocate and prosecutor), notaries (can. 1437 § 1 and 2; can. 484 § 1—3), in five cases moderators of the court office (art. 61 § 2, art. 91 § 1 and 2 of the Instruction *Dignitas connubii*), interpreters (can. 1471), auditors or *ponentes* (can. 1428 § 2). In the case of the consent of the Bishops' Conference, lay persons may also exercise the office of judge — in the Czech Republic this has been the case since 2004⁵ and there are currently five lay judges (two men and three women). However, the ecclesiastical tribunals use a larger number of auditors who conduct hearings (especially of witnesses) closer to their homes, thus speeding up both the work of the tribunals themselves and improving accessibility for clients.

Thanks to the presentation of the *motu proprio Mitis Iudex Dominus Iesus* in the media,⁶ but also, thanks to the fact that some pastors of the Church have begun to understand the preliminary consultations on the nullity of marriage proceedings as part of a wider pastoral work, there has certainly been a positive shift in terms of education: people's awareness of the existence of the church tribunals and their workload has improved. It would be more than desirable, however, if there were already sufficient professionals educated in canon law and experienced in pastoral ministry to provide information about the procedure, to write up complaints with

⁵ Cf. M. MENKE: *Soudnictví římskokatolické církve v českých zemích v období kodifikovaného kanonického práva* [The Judiciary of the Roman Catholic Church in the Czech Lands in the Period of Codified Canon Law]. Olomouc 2015, p. 86.

⁶ This level has its negatives. On the one hand, the media have reminded the public of the possibility of annulment proceedings before the courts of the Catholic Church, but on the other hand they have raised unrealistic expectations. There has been only a simplification of the procedure, not its abolition or the abolition of evidence, as clients often mistakenly assume.

clients, and to whom the pastor of the party could refer before the action is brought. We are not aware that any diocese has established a pastoral tool through which advance information and consultation on options for specific cases can be obtained (e.g., consultation offices at the diocesan level, *forane vicariates*, various programme to help spouses).⁷ Consultations are provided, as before, either by the staff of the tribunals or by other canonists working in the dioceses — but there are still about the same number of them. The family centres of individual dioceses cannot be used for such activities in the Czech environment because their teams are not staffed by persons educated in canon law. Some of these centres at least refer their clients themselves to staff of the tribunals in specific cases.

The reasons for the nullity of marriage, usual in the European environment, have not changed with the reform and do not change now: most cases are still decided on the basis of canon 1095, paragraphs 2 and 3, or on the basis of the exclusion of the good of the offspring according to canon 1101, section 2. The other grounds occur sporadically, and mostly in combination with the reasons already mentioned.

The abbreviated trial *coram Episcopo* according to the new wording of the provisions of canon 1683 was used only in a few cases (several times in the courts in Pilsen, Brno and once in Olomouc). However, an increase in the number of such proceedings was not expected in our environment, because it is an extraordinary way of examining the nullity of a marriage, in which specific conditions must be met, especially the active participation of the non-plaintiff, which is a significantly limiting element in the conditions of the Czech and Moravian ecclesiastical provinces for the wider application of summary procedure.⁸ Another problem with these cases is that they are presumed in situations where the nullity of the marriage is so obvious and for which evidence can be gathered in a single session — such conditions are also rare in the Czech Republic. Nor is the provision of the *motu proprio Mitis Iudex Dominus Iesus* that a bishop who cannot provide for a senate decision in his diocese may, according to the new wording of can. 1673 § 4 to entrust matrimonial matters to a single judge — a cleric, namely, a single judge subordinate to the bishop's responsibility (the principle of *iudex unicus sub Episcopi responsabilitate*) does not apply in the Czech Republic, since the total number of

⁷ Cf. PONTIFICIO CONSIGLIO PER I TESTI LEGISLATIVI: *Istruzione da osservarsi nei Tribunali diocesani e interdiocesani nella trattazione delle cause di nullità del Matrimonio Dignitas connubii*, Art. 113 § 1.

⁸ L. BOTEK: “Praktické otázky aplikace *motu proprio Mitis Iudex Dominus Iesus* [Practical Questions of the Application of the *Motu Proprio Mitis Iudex Dominus Iesus*].” *Revue církevního práva — Church Law Review* 67/2 (2017), p. 59.

professionally trained persons remains almost constant and the network of Church tribunals sufficiently covers the entire territory of the Czech Republic.

One of the intentions of the reform of matrimonial procedural law was to make judicial justice more accessible to the people, that is, closer and cheaper, and thus to make the Church's justice system more efficient. By expanding the criteria for local jurisdiction of the tribunal, this has been done to some extent, as evidenced by the increase in the number of cases in all church tribunals in the Czech Republic, as well as pre-trial consultations (e.g. applicants returning who have already failed once, or who have not found a reason for a trial, sometimes because they are convinced of a general change in the concept of trials). An interesting feature of the Czech Church judiciary is the situation of two courts which are both first instance tribunals (the Metropolitan Tribunal in Prague for the Archdiocese of Prague, the Diocese of České Budějovice and the Apostolic Exarchate, and the Olomouc Interdiocesan Tribunal for the Diocese of Ostrava-Opava and the Archdiocese of Olomouc) and at the same time tribunals of appeal (Prague for the sentences of the 1st instance from Olomouc Interdiocesan Tribunal, and Olomouc for sentences from the Diocesan Tribunal in Brno and Metropolitan Tribunal in Prague). Due to the extension of the criteria for the local competence of the court hearing the nullity of the marriage, applicants can usually choose from more than one court when filing an action: therefore, actions that could have been filed in other courts are now being filed in greater numbers in the Olomouc and Prague tribunals (often in an attempt by the parties to complete the trial faster or cheaper). We do not know whether we can conclude that the reason is their greater experience or pastoral wisdom, but it seems so.

The introduction of the principle that one judgment declaring a nullity of the marriage is executable (*una sententia pro nullitate executiva*) in the absence of an appeal has succeeded in speeding up the proceedings considerably. Since it is no longer necessary to examine *ex lege* the sentences of the courts of first instance declaring the nullity of the marriage, the length of the proceedings has in fact been reduced. In the previous practice, the courts of appeal largely simply confirmed decisions of first instance by decree. The negative side of this provision, however, is the greater complexity of cases considered at second instance. To the tribunals of appeal now tend to be sent cases that are unclear or problematic in substance, that is, cases in which the non-plaintiff was passive in the proceedings before the tribunal of first instance, or caused delays in the proceedings, or felt aggrieved by the judgment. The consequence of this is often protracted correspondence with the appellant

and the need for explanations, which usually results in the decision of the court of first instance being upheld, often after six months of inactivity by the party, or the proceedings being terminated because the party applies to withdraw the appeal.⁹ The above situation was therefore the situation in the Czech church judiciary before the COVID-19 epidemic: around 2017, there was a certain stabilization in the number of cases received and judgments handed down; matters used to be resolved within about a year and a half, and the system became somewhat faster and more stable.

The issue of financing of the ecclesiastical tribunals remained a problematic point, as well as the consideration of the Pope's request that proceedings for nullity of marriage should not be burdened with high court fees. The balance between the accessibility of court proceedings and — if not sufficient, at least fair — financial remuneration for the staff of the tribunals is still being sought in the Czech Republic, and the church tribunals are largely financed by the dioceses; the fees cannot cover them. The epidemiological restrictions and the COVID-19 disease itself have intervened in this situation, the consequences of which, as we will describe in the following sections, have again resulted in the prolongation of court proceedings, an increase in the number of pending cases in the church tribunals, and, in some places, a decrease in the number of members of the tribunals.

2. Epidemiological constraints in Czech society at the time of the COVID-19 epidemic and their impact in the religious sphere

In order to restrict the exercise of freedom of religion, which includes collective activities related to the manifestation of faith (such as religious services, prayer meetings, etc.), the conditions set out in Article 16 (4) of the Charter of Fundamental Rights and Freedoms must be met. The restriction must be made solely on the basis of the law, cannot be made by subordinate legislation or individual judicial acts, and must be made under the conditions laid down in the Charter: that is, it must be a measure necessary in a democratic society to protect public security and order, health, morals or the rights and freedoms of others. However, freedom

⁹ Cf. M. MENKE: "Motu proprio *Mitis Iudex Dominus Iesus...*," pp. 27—44.

of religion must never be restricted in such a way as to make its exercise completely impossible or substantially more difficult.¹⁰

“COVID” restrictions in the Czech Republic began to be introduced in February 2020 and continued with variable intensity, depending on the arrival of new waves and mutations of the virus, until spring 2022. Initially, these were flight bans from risk areas or quarantine measures for citizens returning from these areas, but these “minor” restrictions did not affect the majority of the population significantly. The restrictions were continued by a decision of the Ministry of Health on 9 March 2020, the Ministry of Health decided to ban visits to patients in inpatient health care facilities and residential social services facilities, and to ban visits to accused persons, convicts and inmates in detention facilities, prisons for the execution of custodial sentences and institutions for the execution of security detention, finally, restricting the free movement of persons, with the exceptions of travel to and from places of work and for the provision of necessary needs and acts, among which were also acts of occupation providing individual spiritual care and spiritual services.¹¹ A ban was issued on persons in social care facilities (homes for people with disabilities, homes for the elderly, homes with a special regime) from going outside the premises for the duration of the state of emergency.¹² It was also recommended at this stage that seniors over the age of 70 should not go outside their homes for the duration of the state of emergency, except to visit a medical facility for urgent medical care.¹³ The most important

¹⁰ Cf. P. JÄGER: “Čl. 16 — Právo svobodně projevovat své náboženství a autonomie církví [Article 16 — Right to the Free Exercise of Religion and Autonomy of Churches].” In: *Listina základních práv a svobod. Komentář* [Charter of Fundamental Rights and Freedoms. Commentary]. Eds. E. WAGNEROVÁ, V. ŠIMÍČEK, T. LANGÁŠEK, I. POSPÍŠIL. Praha 2012, pp. 411—412.

¹¹ VLÁDA ČESKÉ REPUBLIKY [Government of the Czech Republic]: *Usnesení vlády České republiky o přijetí krizových opatření č. 215 ze dne 15. března 2020 (zákaz volného pohybu obyvatel do 24. 3. 2020)* [Resolution of the Government of the Czech Republic on the adoption of emergency measures No. 215 of 15 March 2020 (ban on free movement of inhabitants until 24 March 2020)]. Published in the Collection of Laws under no. 85/2020 Sb.

¹² VLÁDA ČESKÉ REPUBLIKY: *Usnesení vlády České republiky o přijetí krizových opatření č. 239 ze dne 16. března 2020 (pokyny poskytovatelům sociálních služeb a jejich klientům)* [Resolution of the Government of the Czech Republic on the adoption of crisis measures No. 239 of 16 March 2020 (instructions to social service providers and their clients)]. Published in the Collection of Laws under no. 97/2020 Sb.

¹³ VLÁDA ČESKÉ REPUBLIKY: *Usnesení vlády České republiky o přijetí krizových opatření č. 240 ze dne 16. března 2020 (pokyny poskytovatelům sociálních služeb a jejich klientům)* [Resolution of the Government of the Czech Republic on the adoption of crisis measures No. 240 of 16 March 2020 (Instructions to social service providers and their clients)]. Published in the Collection of Laws under no. 98/2020 Sb.

measure was the introduction of a nationwide state of emergency,¹⁴ by government resolution of 12 March 2020, initially for a period of 30 days, and repeatedly extended virtually (except for a few interruptions)¹⁵ until 25 December 2021.

Restrictions on the movement of persons did not apply to the provision of individual spiritual care and ministry: it has always been legally possible for clergy (ordained and non-ordained = lay employees of churches) to go out to individual recipients of spiritual care and ministry, in fact while observing the regulations regarding hygienic protection (face masks, disinfection, etc.). It was not so, however, in the case of restrictions on visits to patients and clients of health and social institutions and prison facilities — here visits were only possible in the terminal stage of incurable diseases. In the first wave of the epidemic, this restriction of fundamental rights was not dealt with legally because the population was frightened. But with the length of the restrictions, ways began to be found to allow the exercise of individual but also collective religious freedom. Easter, the most important feast of the entire religious year for Christians, was around 11 April 2020 and no official opportunity for believers to participate in public worship was allowed. Further relaxations began to take place after these feasts: on 15 April 2020, by an extraordinary measure of the Minister of Health, marriages with up to 10 people in attendance were permitted, on 17 April 2020, by an extraordinary measure of the Minister of Health, public services with up to 15 people in attendance were permitted (effective from Monday 27 April 2020), with further relaxations taking place gradually,¹⁶ even if conditions for distances, use of disinfectants, face masks, etc. have been set. The Czech Bishops'

¹⁴ In the Czech Republic, a state of emergency is a state of crisis that is declared when natural disasters, environmental or industrial accidents, accidents or other hazards occur that threaten life, health or property values or internal order and security to a significant extent. Cf. Constitutional Act No. 110/1998 Coll., on the security of the Czech Republic. It is also declared if the resulting emergency cannot be overcome within the framework of the state of danger. Cf. Act No. 240/2000 Coll., on crisis management and on amendments to certain acts (Crisis Act). A state of emergency is declared in the Czech Republic by the Government or the Prime Minister on the basis of the authority granted by Constitutional Act No. 110/1998 Coll., on the security of the Czech Republic. In doing so, it may adopt emergency measures provided for by special laws.

¹⁵ The state of emergency in the Czech Republic due to the pandemic during this time was not only in the period 18 May—4 October 2020 and 12 April 2021—25 November 2021 as can be found in the Collection of Laws of the Czech Republic, available from: <https://aplikace.mvcr.cz/sbirka-zakonu/> [accessed 25.10.2022].

¹⁶ Often also because of citizens' dissent or after their attempts to defend their rights, sometimes even in courts of law.

Conference reacted to this with gratitude by announcing a return to the original pre-epidemic liturgical practice in July 2020.¹⁷

State restrictions were followed by restrictions and recommendations from churches and religious societies. At the level of the entire Catholic Church, these were first the various messages of Pope Francis on the situation and his joining the Day of Prayer and Fasting proclaimed by the Roman Vicariate in March 2020. On March 20, the Apostolic Penitentiary issued a decree allowing people infected with coronavirus, their caregivers and all the faithful who pray for them to receive plenary indulgences. At the same time, a note was also issued reminding that in extreme situations it is possible to grant collective absolution in the case of grave emergency. The note also recalls the possibility of perfect contrition, as stated in the *Catechism of the Catholic Church* (no. 1452), in the case of a dying person who is not assisted by a priest.¹⁸ The Congregation for Divine Worship and the Sacraments, in consultation with the bishops' conferences, has issued general guidelines and instructions for bishops regarding the celebration of Easter during the COVID-19 epidemic in the Latin rite of the Catholic Church¹⁹: in countries where there are restrictions on the assembling and movement of people, bishops and priests should celebrate the rites of Holy Week without the presence of faithful, in an appropriate place, without concelebration and with the omission of the greeting of peace. The faithful could participate in the rites by means of communication only live, not recorded. In any case, it is important to devote adequate time to prayer and to appreciate especially the prayer of the breviary. The following is a brief description of the changes in the various celebrations of Holy Week. A similar decree has also been issued by the Congregation for the Eastern Catholic Churches.²⁰ In the Czech Republic,

¹⁷ ČESKÁ BISKUPSKÁ KONFERENCE [Czech Bishops' Conference]: *Sdělení ČBK k omezením v době pandemie ze dne 7. 7. 2020* [Communication of the CBC on pandemic restrictions of 7 July 2020], <https://www.cirkev.cz/cs/aktuality/200707sdeleni-cbk-k-zavedenym-omezenim> [accessed 24.10.2022].

¹⁸ PENITENZIERIA APOSTOLICA: *DECRETO circa la concessione di speciali Indulgenze ai fedeli nell'attuale situazione di pandemia* [19.03.2020], *Nota della Penitenziaria Apostolica circa il Sacramento della riconciliazione nell'attuale situazione di Pandemia* [19.03.2020], <http://www.penitenziaria.va/content/penitenziariaapostolica/it.html> [accessed 24.10.2022].

¹⁹ CONGREGAZIONE PER IL CULTO DIVINO E LA DISCIPLINA DEI SACRAMENTI: *DECRETO in tempo di Covid-19 (II)* [25.03.2020], http://www.vatican.va/roman_curia/congregations/ccdds/documents/rc_con_ccdds_doc_20200325_decreto-intempodicovid_it.html [accessed 25.10.2022].

²⁰ CONGREGAZIONE PER LE CHIESE ORIENTALI: *Indicazioni della Congregazione per le Chiese Orientali circa le Celebrazioni Pasquali nelle Chiese Orientali Cattoliche* [25.03.2020], <https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2020/03/25/0182/00412.html> [accessed 25.10.2022].

both the entire Bishops' Conference and individual diocesan bishops have responded to the reality of the situation in their statements.

At the level of the Czech Republic, these were statements by the Bishops' Conference or individual bishops. The first Statement on the risk of COVID-19 was issued by the Bishops' Conference on 6 March 2020, calling the faithful to responsibility.²¹ On 10 March 2020, it responded to the Ministry of Health's measure to limit the attendance of persons at religious services (up to 100 persons) with proposals on how to address this situation in practice.²² At the same time, recommendations were published for priests in parishes on how to behave in this situation, and lists of options for attending Mass via online streaming and other media began to be published. It presented the situation as quite extraordinary, requiring extraordinary steps, and therefore granted a dispensation to all the faithful from physically attending Sunday services for this reason until further notice, with the understanding that services could be viewed on the media and the Lord's Day could be celebrated with family. The possibility of individual reception of the sacraments in churches, which will remain open to the extent possible, will be maintained.²³

However, already at this time, some people began to defend themselves against restrictions that interfered with fundamental human rights, and they did so in courts. On 23 April 2020, the Municipal Court in Prague issued a judgment on the annulment of four extraordinary measures restricting free movement (with effect from 27 April 2020).²⁴ The same verdict also found the emergency measures of the Ministry of Health (issued during the state of emergency) to be illegal and unconstitutional in the dimension of restricting religious freedom: the Ministry of Health

²¹ Cf. ČESKÁ BISKUPSKÁ KONFERENCE: *Prohlášení ČBK k riziku onemocnění COVID-19* [CBC statement on the risk of COVID-19 disease] [6.03.2020], <https://www.cirkev.cz/cs/aktuality/200306prohlaseni-cbk-k-riziku-onemocneni-covid-19> [accessed 24.10.2022].

²² ČESKÁ BISKUPSKÁ KONFERENCE: *Výzva ČBK v souvislosti s vyhlášením mimořádného opatření Ministerstva zdravotnictví ČR ohledně shromáždění osob* [Appeal of the CBK in Connection with the Announcement of the Emergency Measure of the Ministry of Health of the Czech Republic Regarding the Assembly of Persons] [10.03.2020], <https://www.cirkev.cz/cs/aktuality/200310vyzva-cbk-v-souvislosti-s-vyhlasenim-mimoradneho-opatreni-ministerstva-zdravotnictvi-cr-ohledne-shromazdeni-osob> [accessed 24.10.2022].

²³ ČESKÁ BISKUPSKÁ KONFERENCE: *Prohlášení českých a moravských biskupů k mimořádnému opatření vlády ze dne 12. března 2020* [Statement of the Czech and Moravian bishops on the government's extraordinary measure of 12 March 2020], <https://www.cirkev.cz/cs/aktuality/200312prohlaseni-ceskych-a-moravskych-biskupu-k-mimoradnemu-opatreni-vlady-ze-dne-12-brezna-2020> [accessed 24.10.2022].

²⁴ MĚSTSKÝ SOUD V PRAZE [Municipal Court in Prague]. *Rozsudek ke zrušení některých mimořádných opatření č. j. 14 A 41/2020* [Sentence on the Annulment of Certain Extraordinary Measures No. 14 A 41/2020] [23.04.2020], <https://www.fulsoft.cz/?uniqeid=gOkE4NvrWuMkmaNigtjQurEFgoiqcHeUDDulZX7UDBY> [accessed 24.10.2022].

acted outside its jurisdiction and competence. Neither the Government nor the Ministry of Health has the power to restrict religious freedom, as this can only be done by law, and moreover only in a situation where it is necessary for the protection of public safety and order, health and morals or the rights and freedoms of others (in this case, even the necessity condition was apparently not met). After a period of calm, lasting until September 2020, the restrictions began to reappear.

The impact of the restrictions on the religious sphere (which, in addition to the public celebration of services, meetings, the administration of the sacraments, visits to churches and places of worship, etc., can also include the sphere of hearings in church tribunals) was the most severe in the first wave until the end of May 2020, then again from October 2020 to May 2021, while the autumn wave of 2021 did not have such an impact. The church tribunals restricted discussions, meetings of judges to discuss judgments and hearings of parties and witnesses the most just in spring 2020 (almost completely stopped activity) and spring 2021 (efforts to consult online, but meetings limited). Church leaders were quite unapologetic at first in submission to government decisions, or actively narrowing the space left to the churches themselves. The faithful were also often afraid of larger meetings, including church attendance, which they perceived at the time as involving risk (albeit less than a visit to a supermarket), and they preferred not to take that risk (often out of some comfort).

By the beginning of the second (autumn) wave of the epidemic in 2020, it was already clear that alternative ways of holding services, catechesis, preaching and meetings would have to be found, as well as how to sustain the church community in times of constraint. How the church's tribunals have learned to deal with this situation will be set out in the next chapter. In this autumn wave, however, the CBC has already begun to comment on state measures with noticeably less caution than in the spring crisis, usually just announcing restrictions without accompanying comment or clarification. The bishops began (after receiving pressure from below from the faithful)²⁵ to look for possibilities and to try to explain the often inexplicable at the level of negotiations with state officials (that religious communities are different from other gatherings such as sports, culture, business galleries, and that the proportionality

²⁵ In March 2021, for example, an initiative of the laity in the parish of Třeboň (Třeboňská výzva) was created, addressed to church leaders, which drew attention to discriminatory provisions in the area of collective religious freedom, in the area of burial and others and demanded that the bishops appeal to the government in the direction of relaxing these restrictions. Cf. *Třeboňská výzva* [The Třeboň Challenge] [17.03.2021], trebon.farnost.cz/Trebonska-vyzva_Velikonoce-2021.pdf [accessed 25.10.2022].

and necessity of the measures chosen are not entirely adequate, etc.) and to seek at least partial possibilities for the realization of common external religious expressions for their members.²⁶ As there is still no valid concordat agreement with the Holy See in the Czech Republic, it was only necessary to refer to basic legal provisions such as the Constitution of the Czech Republic, the Charter of Fundamental Rights and Freedoms, Act No. 3/2002 Sb., on freedom of religion and the status of churches and religious societies and on the amendment of certain acts, or possibly to the decisions of the courts or the legal opinions of individual lawyers and jurists, and here the question was to what extent they would be generally accepted by the leadership of the Church in the Czech Republic.

Finally, in the autumn of 2020, a legal opinion was pushed through that argues that religious assemblies with the participation of the people are assemblies of persons held under the Act on the Right of Assembly²⁷ (which has been referred to as an exception not covered by the restrictions in many previous regulations), which can be said of any other kind of religious assembly if it can be considered a public manifestation of religion.²⁸ During 2021, in addition to calling for prayers to end the epidemic and publicizing state measures in the context of religious life, the bishops repeatedly promoted vaccination, presented as the main weapon to stop the epidemic, as did Pope Francis at the time.²⁹ All restrictions affecting the religious sphere then ended in mid-March 2022, when the bishops re-invited even those faithful who had not done so to return to physical participation in worship, restoring the greeting of peace, bringing offerings,

²⁶ This situation, however, was not unique: even countries with a greater Christian tradition, such as Poland (or Slovakia, where the situation was even worse than in the Czech Republic), were unable to appreciate the importance of believers' access to spiritual goods through the sacraments or to conduct a mutually intelligible dialogue for the benefit of the general good of society and the particular spiritual good of the individual. Cf. J. KRZEWICKI: "Relacje Kościoł-Państwo w Polsce wobec Covid-19 [Church-State Relations in Poland vis-à-vis COVID-19]." *Kościół i Prawo* 9/22 (2020), pp. 94, 96–97.

²⁷ Cf. Act No. 84/1990 Sb., on the right of assembly.

²⁸ For the first time, the possibility of holding religious services as an exception to the prohibitions of the Ministry of Health with reference to the Law on the Right of Assembly appeared explicitly in Government Resolution No. 1200 of 20 November 2020, point IV. See VLÁDA ČESKÉ REPUBLIKY: *Usnesení vlády České republiky o přijetí krizových opatření č. 1200 ze dne 20. listopadu 2020 (omezení volného pohybu osob)* [Resolution of the Government of the Czech Republic on the adoption of crisis measures No. 1200 of 20 November 2020 (Restrictions on the free movement of persons)]. Published in the Collection of Laws under no. 486/2020 Sb.

²⁹ All statements of the Czech Bishops' Conference could be found here: <https://www.cirkev.cz/cs/koronavirus> [accessed 24.10.2022]. Unfortunately, this page no longer exists.

and allowing all who wish to receive the Eucharist into their mouths.³⁰ In retrospect, however, these measures are easier to evaluate than in an acute situation perceived as a threat.

3. The impact of the restrictions on the activities of the church courts and the search for alternative options for hearing cases

As we have already noted, the greatest restrictions on the activities of the church courts in the Czech Republic in relation to the restrictions of the COVID-19 epidemic were in the two spring waves in the spring of 2020 and the spring of 2021. These were two extended periods when there was no personal questioning, members of the tribunals did not meet, there was no discussion over sentences, and therefore no sentences were handed down. The autumn wave of 2021, while arguably the most severe in terms of health consequences, did not so much affect the work of the tribunals, particularly as over a long period of restriction the tribunals had usually already set up mechanisms to ensure that they were not restricted in their activities for a prolonged period of time and across the board. Thus, when face-to-face meetings did take place, they were held under increased epidemiological precautions (use of face masks, ventilation, disinfection, social distancing) or by people who had currently suffered from the disease or had been vaccinated and were assumed to be sufficiently immunized, at least for some time.

As a concrete example, we take the situation of the Olomouc Church Tribunal (the Interdiocesan Tribunal in Olomouc, hereinafter: ITO), which is a court of first instance for the Olomouc Archdiocese and the Ostrava-Opava Diocese. It is also the second instance tribunal of appeal for the first instance tribunals of the Diocese of Brno and the Archdiocese of Prague (the Metropolitan Tribunal of Prague is the first instance tribunal for the Archdiocese of Prague, the Diocese of České Budějovice and the cases of the Apostolic Exarchate established for Eastern Catholics of the Byzantine Rite). At the beginning of the restrictions of COVID-19 in spring 2020, the ITO had 17 members (1 official, 3 vice-officials, 9 judges,

³⁰ Cf. ČESKÁ BISKUPSKÁ KONFERENCE: *Slovo biskupů k uvolňování pandemických opatření* [Word of the bishops on the release of pandemic measures] [11.03.2022], <https://www.cirkev.cz/cs/aktuality/220311slovo-biskupu-k-uvolnovani-pandemickych-opatreni> [accessed 25.10.2022].

3 defenders of the bond, 1 notary), as well as several auditors, lawyers and prosecutors.³¹ Regularly once a month, the tribunal met for sessions, during which, among other things, discussions were held and judgments were handed down. Outside of these sessions, there were pre-trial and other consultations, meetings with parties, witnesses, depositions, disclosures and other acts requiring personal interaction. This opportunity was abruptly limited by measures that began to be introduced in the Czech Republic in mid-March 2020 and continued with variable intensity until the spring of 2022.

We will now assess the concrete effects on the limitation of the activities of the tribunals. Going through the various procedural steps of the matrimonial trial, we see that those where personal contact occurs have been most affected (and unfortunately often made impossible). Some principles of canonical trial procedure, on the other hand, make this situation easier. This is primarily the principle of the writ,³² which practically excludes only discussions; furthermore, the principle of non-publicity of the proceedings,³³ which guarantees confidentiality, especially in cases of nullity of marriage. On the other hand, the procedural principle of the senate's decision-making process can be a hindrance in times of restrictions.³⁴ In any situation, the court should ensure that procedural principles are not violated even in these difficult situations and that the principle of the right of defence is upheld,³⁵ because the violation of this right constitutes an irreparable defect in the verdict,³⁶ the principle of equality of parties or the principle of free evaluation of evidence according to the judge's conscience.³⁷ The first problematic area was the impossibility of pre-trial consultations and drafting of claims with clients in a situation where normal contact was very limited. In the first wave in the spring of 2020, consultations did not take place at all and clients were referred at a more favourable time. As this time lengthened, the practice of consultation by electronic means (Skype, Zoom), telephone or e-mail began to be used: after an initial introduction to how the process works, the applicant usually wrote a report on the course of the acquaintance and mar-

³¹ TRIBUNALE INTERDIOECESANUM OLOMOUC: *Relatio de statu et activitate tribunalis (pro Ecclesia latina) pro anno 2019 redacta*. Archive of the Interdiocesan Tribunal Olomouc, pp. 3—4.

³² Cf. CIC/1983, can. 1472.

³³ Cf. CIC/1983, can. 1470 § 1.

³⁴ Cf. CIC/1983, can. 1425, 1°, b.

³⁵ Cf. CIC/1983, can. 1593 § 1.

³⁶ Cf. CIC/1983, can. 1620 7°; further Cf. I. A. HRDINA: *Kanonické právo: dějiny pramenů, teorie, platné právo* [Canon Law: History of Sources, Theory, Valid Law]. Plzeň 2011, pp. 383—386.

³⁷ Cf. CIC/1983, can. 1608 § 3.

riage, which was sent to the consultant, sponsor or other member of the court, who advised him to fill in what was missing, to obtain the required annexes and certificates (on the baptism of the parties, on the church marriage, a copy of the divorce decree of the civil court, etc.), which was usually done electronically, and then send everything to the appropriate church tribunal to hear the matter. The parties were then served classically by mail, although during the short period of the first wave of COVID-19, when the Czech Post Office also had problems delivering the documents, the parties were also served by e-mail. This usually sped up negotiations and reduced procedural times, as the parties responded more quickly to electronic communications.

The defender of bond in a particular case is electronically notified by the Olomouc tribunal at the opening of the proceedings on a regular basis because the tribunal has created an internal repository of cases to which every member of the tribunal has access through his or her secure account. Essential substantive matters such as the application, decrees, depositions of parties and witnesses, animadversions of the defender of bond, etc. are stored in this repository; of course, the judges' vetoes and usually the judgment are not shared here, as it is a working tool. Cases are still archived in the classic way — by storing the physical file in the archive of the tribunal (and the electronic working repository is periodically deleted).

After the party or parties responded, or the non-participation of the non-plaintiff was resolved, again the defender of bond drafted questions for the plaintiff's deposition, and the plaintiff was either physically summoned, if that was already possible, or several depositions were conducted via the Zoom platform, with one copy then sent to the party for signature, then returned to the tribunal and additional signatures of the other participants in the deposition (judge, notary, or patron) were added. Witness interviews were conducted in a similar manner.

Then the defender of bond elaborated his *animadversiones* — again thanks to access to the electronic version of the file. The disclosure was again electronic for a long time: if the parties and their lawyers insisted on physically studying the case at the seat of the tribunal, they had to wait for a time when contacts, albeit with limitations, were allowed. If they did not insist on this necessity, to them were sent the *animadversiones* of the defender of bond which usually summarized the essential facts of the hearings and the course of the entire investigation so far, and finally expressed his conclusion as to whether he was defending the validity of the marriage or whether he was entrusting himself to the justice of the judges in a particular case. The parties had the opportunity, not the obligation, to comment on this statement of

the defender of bond within a specified time. Thereafter, the investigative part of the inquiry was concluded and the cases were either physically handed to the judges for the preparation of their votes or, if this was not possible, the judges were encouraged to review the electronic version of the case file in the court's secure repository via personal secure remote access.

After the study and drafting of the votes, the most problematic part came, namely the discussion of the case before the sentencing, which cannot and could not be done except by a personal meeting. Here again there was another lengthy period of delay. As regards the possibility of being heard electronically: we have reached a situation where either the proceedings have been unduly prolonged or the possibility has sometimes been used. As can be seen from the literature, other courts have done so. Referring to canons 1528, 1558 § 3 and 1691 § 1 in the context of this exceptional situation, the Italian author Paolo Palumbo states directly that in the case of a legitimate reason (impossibility, serious inconvenience, urgency...) remote hearing is certainly allowed, referring to the various authorizations of the Apostolic Signatura.³⁸

Thus, the activities of the Olomouc court were effectively paralysed only in the two spring waves (2020 and 2021), otherwise the aforementioned means were used to at least partially enable the proceedings to continue. At the same times, the judges also did not meet in regular sittings, nor did they meet over the sentencing. Consequently, delays in judicial activity occurred (especially in the hearings, and more importantly in the discussions and sentencing) and it was not until early 2022 that most (but by no means all) of the backlogs were caught up on.

Other church tribunals in the Czech Republic had similar problems. As far as we know, only the diocesan tribunal in Brno addressed the Apostolic Signatura directly, proposed possible solutions and expected some of them to be approved. The judicial vicar suggested, for example, that the votes of the judges should be sent to the president of the tribunal, who would forward them to the individual judges before the sentencing, which would be given via videoconference. If the vote was unanimous, the judges could be dispensed from the discussion; if dissenting, the discussion would be moved to a more appropriate time after the epidemiological measures. Or, in the case where the defender of the bond entrusts the justice of the court, there would be no need for discussion and only the sending of the courts' votes would suffice.

³⁸ Cf. P. PALUMBO, "Marriage and canonical process in the digital era." *Stato e chiesa* (2022), p. 128, fn. 110, which refers to the decision of SUPREME TRIBUNAL OF THE APOSTOLIC SIGNATURA: *Letter*, 5 October 2020, Prot. n. 4036/20 SAT; *Letter*, 18 March 2021, Prot. n. 3356/21 SAT.

Another option suggested was for only the President of the Tribunal to meet with the reporting judge, with a third judge joining the discussion by video conference, etc. The Apostolic Signatura responded to the Brno official on 5 October 2020, saying that it does not grant a dispensation from the prescription of canon 1609 CIC, that is, the judges must meet at the seat of the tribunal to discuss the case. However, the Signatura also confirmed the possibility of holding the interrogations online while ensuring confidentiality and the relevant regulations regarding the interrogation. This position of the Apostolic Signatura reaffirms the importance of the discussion of the courts prior to sentencing, even in a situation of limited meeting possibilities due to the epidemic. On the basis of communication with the Apostolic Signatura, the judicial vicar of Brno then developed criteria for conducting interviews by telematic means via the Internet.³⁹

Formation meetings of judges were also not held for some time. The conferences, which in the Czech Republic and Slovakia serve for formation, meeting and exchange of experience, especially for those working in the ecclesiastical justice system, have been limited or cancelled since spring 2019. In 2019, for the time being, the IV Symposium on Canon Law was held for the last time in Vranov at Brno (the central topic was canon 1095 CIC, which is the most frequently discussed ground for nullity of marriage in the Czech and Moravian church tribunals).⁴⁰ There would be no next annual conference in 2021 (and no conference yet). The traditional biennial symposium of canon law, held in Spišské Podhradí, Slovakia, was last held as the XIXth edition on 27—31 August 2018; there was no conference in 2020 (or 2022). The Seminar on Canon Law for the staff of the tribunals of the Czech and Moravian ecclesiastical provinces, usually held annually in spring by the Olomouc church tribunal, was postponed to autumn and held in Olomouc on 14 September 2020 on the topic of offences against the 6th commandment of the Decalogue. The next annual event in 2021 was held online only as a Conference on Canon Law for the staff of the tribunals of the Czech and Moravian Ecclesiastical Province on 24 May 2021 (topic: Particular Law in the Roman Catholic Church with regard to the specifics and needs of the Czech Church and the principles of drafting legislative texts). In 2022,

³⁹ Cf. K. ORLITA: “Diskuze soudců k vynesení rozhodnutí o platnosti manželství v době pandemie [Discussion of the judges’ decision on the validity of marriage in a time of pandemic].” *Adnotatio iurisprudentialae* 1 (2020), pp. 113—118. The article contains as an appendix the criteria for conducting interviews online.

⁴⁰ Cf. *Symposium kanonického práva — informace* [Symposium on Canon Law — Information], <https://www.akademiekp.cz/symposium-kanonickeho-prava-2019/> [accessed 25.10.2022].

this conference was held in late August on the topic of investigations of sexual offences by clerics.⁴¹

Last but not least, the COVID-19 epidemic also caused staffing problems. There are still a lot of older officials working in the church tribunals in the Czech Republic. As the COVID-19 epidemic has had a more dramatic impact on the elderly and sick population, some courts have not escaped this impact. The diocesan tribunal in Hradec Králové was the most affected. Two senior judges left the court at this time due to age and two more judges died as a result of COVID-19; two female notaries also left. The tribunal therefore had to be restructured by decision of the diocesan bishop in the spring of 2021, which was resolved both by the appointment of the official of the tribunal, Dr. Karel Orlita, who is also the official of the Diocesan Tribunal in Brno, and by the partial loan of some court officers, notaries or judges from the Diocesan Tribunal in Brno, who now act as staff of both appointed tribunals. The Diocesan Tribunal in Plzeň and the Diocesan Tribunal in Litoměřice are also facing a shortage of judges and are borrowing staff mutually. The ITO has not been permanently affected by the COVID-19 staffing situation. One judge left due to age and the majority of the members of the tribunal gradually suffered from the disease, which limited the activities of the tribunal only at the moment. The Prague Metropolitan Tribunal was also not significantly affected by staffing.

The statistics of the Olomouc tribunal for the judicial years 2020 and 2021 show that although the epidemic has ultimately slowed down the activities of the tribunal, alternative solutions and efforts to catch up with the hearing of individual cases are slowly succeeding. In 2020, the court heard a total of 113 cases in the first instance from previous years, accepted 48 new cases in 2020 (for a total of 161 cases), found marriages invalid in 39 cases, declared 2 marriages valid, and carried over 120 cases to 2021. In the second instance, the court heard 31 cases from earlier, accepted 7 new cases in 2020 (a total of 38 cases), affirmatively terminated 5 cases, declared 2 marriages valid, and transferred 24 cases to 2021, other cases were revoked before sentencing.⁴² In the judicial year 2021⁴³ the ITO heard a total of 166 cases at first instance (120 former,

⁴¹ Cf. *Konference sexuální delikty — informace* [Sexual Offences Conference — Information], https://zpravy.cirkev.cz/konference-na-tema-setreni-sexualnich-deliktu-v-cirkvi-se-uskutecni-v-olomouci_11822 [accessed 8.11.2022].

⁴² TRIBUNALE INTERDIOECESANUM OLMOUC: *Relatio de statu et activitate tribunalis (pro Ecclesia latina) pro anno 2020 redacta*. Archive of the Interdiocesan Tribunal Olomouc.

⁴³ TRIBUNALE INTERDIOECESANUM OLMOUC: *Relatio de statu et activitate tribunalis (pro Ecclesia latina) pro anno 2021 redacta*. Archive of the Interdiocesan Tribunal Olomouc.

46 newly admitted), found the marriage null in 43 cases, two marriages were declared valid and 4 cases were revoked by the parties before sentencing. Finally, the court also dealt with one case, originally heard as a summary proceeding *coram Episcopo*, which was referred by the bishop for a proper hearing. There are 120 first instance cases moving into the 2022 judicial year. In the second instance, the ITO handled a total of 34 cases (24 formerly, 10 newly admitted in 2021), finding nullity of marriage in 12 cases, validity in three, and 19 cases carrying over to 2022.

Conclusions

We can conclude that the experience of the Church in general and the church tribunals in particular expanded after this period of restrictions. We have learned to make use of what were, until then, rather unconventional electronic means of communicating the Church's message, celebrating worship, and contacting the faithful. We also learned to communicate in a new way in the procedural matters of marriage trials, in an extraordinary situation when it was not possible to use the traditional means of meeting and communication. The Church has remembered again the need to defend its rights and freedoms in a space and time of constraints, albeit primarily aimed at the "greater good," that is, the protection of health. However, Church leaders and authorities were also confronted with what Pope John Paul II had already spoken about in 2002, namely that "electronically mediated relations can never replace direct human contact."⁴⁴

Some authors⁴⁵ also recall the necessity or advisability of establishing official rules for the computerization of the ecclesiastical marriage trial and the need to train the staff of the ecclesiastical tribunals in the use of this type of communication in order to ensure the legitimate and legal acquisition of evidence in this way. It would be possible to draw on experience in this area, for example, from secular civil and similar proceedings, or to set up a commission in the church environment to address this issue. Then the matrimonial trial can again become closer to the clients of the tribunals or to their witnesses, thus facilitating access to judicial jus-

⁴⁴ GIOVANNI PAOLO II: *Messaggio del Santo Padre per la XXXVI giornata mondiale delle Comunicazioni sociali* de die 12 maggio 2002, n. 5, https://www.vatican.va/content/john-paul-ii/it/messages/communications/documents/hf_jp-ii_mes_20020122_world-communications-day.html [accessed 25.10.2022].

⁴⁵ Cf. P. PALUMBO: "Marriage and canonical process in the digital era..." p. 131.

tice in general, as Pope Francis envisaged in his 2015 reform. The Pope's reform itself caused a sharp increase in the number of cases in our courts at first, but around 2017 the situation calmed down and stabilized at current levels. Thanks to the now no longer necessary sending of affirmatively decided cases to the second instance, judicial investigations have been accelerated. The possibility of abbreviated trial *coram Episcopo* has practically not affected the speed of the courts in the Czech Republic due to the negligible number of such cases. One can only hope that even after several waves of epidemic restrictions, the courts will quickly get back to dealing with matrimonial and other matters more rapidly.

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MONIKA MENKE, DAMIÁN NĚMEC

Tribunaux ecclésiastiques en République tchèque pendant l'épidémie de COVID-19

Résumé

L'article vise à résumer la situation du système judiciaire ecclésiastique sous deux aspects. Il évalue brièvement, à quelques années de distance, l'application des normes de la réforme de 2015 du droit procédural matrimonial de l'Eglise catholique (augmentation spectaculaire du nombre de causes après la réforme, stabilisation de la situation après les premières années, faible recours à la possibilité d'une procédure simplifiée, etc.) Il estime l'impact des contraintes épidémiques (et des craintes de la population) dans la société tchèque pendant l'épidémie de COVID-19 sur les activités des tribunaux ecclésiastiques

et la recherche de modes alternatifs de traitement des affaires (en utilisant l'exemple du tribunal interdiocésain d'Olomouc).

Mots-clés : tribunaux ecclésiastiques, République tchèque, nullité de mariage, *Mitis Iudex Dominus Iesus*, liberté religieuse, restriction des droits, Eglise catholique, COVID-19

MONIKA MENKE, DAMIÁN NĚMEC

I tribunali ecclesiastici nella Repubblica Ceca durante l'epidemia di COVID-19

Sommario

L'articolo si propone di sintetizzare la situazione del sistema dei tribunali ecclesiastici sotto due aspetti. A distanza di qualche anno, valuta brevemente l'applicazione delle norme della riforma del 2015 del diritto processuale matrimoniale della Chiesa cattolica (forte aumento del numero delle cause dopo la riforma, stabilizzazione della situazione dopo i primi anni, scarso ricorso alla possibilità di procedimenti abbreviati ecc.). Valuta l'impatto delle restrizioni epidemiche (e dei timori dell'opinione pubblica) nella società ceca durante l'epidemia di Covid-19 sull'attività dei tribunali ecclesiastici e la ricerca di modalità procedurali alternative (in base all'esempio del Tribunale interdiocesano di Olomouc).

Parole chiave: tribunali ecclesiastici, Repubblica Ceca, nullità del matrimonio, *Mitis Iudex Dominus Iesus*, libertà religiosa, restrizione dei diritti, Chiesa cattolica, COVID-19