



Církevní právo, 2. přepracované a doplněné vydání
[Church Law, the 2nd revised
and completed edition]

Eds. Jiří Rajmund TRETERA and Záboj HORÁK
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Church law is a field that is considered somewhat specific in the secularised Czech society. Although the Catholic Church is the most widespread church in this territory, the knowledge of its legal system is not much greater than that of other churches and religious societies. Therefore, any survey publication of these fields is welcome. In the Czech Republic, church law is taught at three Catholic theological faculties (the Catholic Faculty of Theology at Charles University, the Cyril and Methodius Faculty of Theology at Palacký University in Olomouc, and the Faculty of Theology at the University of South Bohemia in České Budějovice), usually in particular courses, divided according to the areas of canon law; non-Catholic theological faculties provide an overview of their own legislation, if they have it. However, canon law is also taught at some faculties of law (Prague, Pilsen, Olomouc, Brno: often in the departments of legal theory or legal history) to varying degrees, usually in the context of religion law or in comparison with secular law. The said topic was also comprehensively discussed in two monographs by Professor Tretera and Associate Professor Horák, which were published successively by the publishing house Leges (first *Konfesní právo* [Religion Law] in 2015, then *Církevní právo* [Church Law] in 2016). It was the latter publication that was promptly revised by the authors and its second, updated edition was published in 2021, which I would like to discuss here.

Professor Jiří Rajmund Tretera OP and Associate Professor Záboj Horák are teachers at the Faculty of Law of Charles University in Prague, who promote, develop, and teach to the students the knowledge on the subjects of church and religion law for many years. Professor Tretera was even among the founders of the teaching of church and religion law at the Prague Faculty of Law after the Velvet Revolution in the Czech Republic in 1989. Both authors are also the founders of the professional Society for Church Law, which was established in 1994, and of the peer-reviewed periodical *Revue církevního práva — Church Law Review*, published quarterly by the Society since 1995 (yet initially triannually). The aim of the Society is to promote research and the popularisation of church and religion law issues, which it achieves, among other things, by holding public lectures and discussions and by operating a website. The Society for Church Law is a collective member of the Czech Christian Academy, in which it operates as its legal section. It also maintains contacts with many foreign scholarly societies on church and religion law abroad (including Polish organisations Stowarzyszenie Kanonistów Polskich [Association of Polish Canon Law Scholars] and Polskie Towarzystwo Prawa Wyznaniowego [Polish Society for Religious Law]).

The reviewed monograph on Church law was published for the first time in 2016. The motive for updating the publication in 2021 was, of course, the numerous legislative changes that are taking place during the pontificate of Pope Francis (e.g. the comprehensive change in penal law by the Apostolic Constitution *Pascite gregem Dei* of 1 July 2021, which the publication considers). However, another reason for the update (as the authors themselves note in the preface) was also to take into account their pedagogical experience of using the textbook in teaching and in examining students, which led them to add, expand or shorten some parts of the text in a number of places. The book is presented as an overview not only for students or clergy, not only of the Catholic Church (which also gives it an ecumenical dimension), but also as a terminological platform for dialogue with other humanities disciplines or as an aid for lay lawyers entering into statutory or other (especially property) relations with ecclesial communities, for professional employed in the public media, teachers and others. The book cover depicts the Church of St. Lawrence in Slavice (Tachov district in West Bohemia near Pilsen), which — although it was in a state of near-demise not so long ago — has been restored to its present form and is thus a symbol of the renewal of Christian values in the Czech territory.

The publication is accompanied by a brief guide by the authors on how to approach the text and the study, in which they present the structure of the publication, explain the use of trilingual or polysemous tech-

nical terms and the unusual way of referring to sources and literature. The text is divided into three main units (parts), further subdivided into chapters and subchapters. The first part explains terminology, legal theory, the interrelation between church and religion law and the position of churches and religious societies in the Czech legal system, as well as the relationship of church regulations to secular law. The second (the most extensive) part of the publication is devoted to the canon law of the Catholic Church currently in force — primarily the law of the Latin Church, but the authors also take into account, where appropriate, the particularities of the Eastern Catholic Churches. The first chapter of this part presents to the reader a brief overview of the sources of the Catholic Church from ancient times to the present and describes in detail the most important *fontes cognoscendi* of canon law (*Decretum Gratiani*, *Corpus iuris canonici*, *Codex iuris canonici* of 1917, *Codex iuris canonici* 1983 and *Codex canonum Ecclesiarum orientalium* of 1990). It refers in detail to foreign and Czech publications. The authors then systematically describe the canonical regulations according to the structure of the Code of Canon Law (its individual books) in the following nine subsections. In particular, the section on the hierarchical structure and governance of the Church, including the governance of the Eastern Catholic Churches *sui iuris*, is treated in detail. The text does not omit the basics of the law of religious orders (division of institutes and societies, as well as formation). The next subchapter deals with magisterial law and the teaching function of the Church. The following subchapter is extensive, recapitulating the various sacraments, sacramentals, sacred places, and times, etc., with the most detailed discussion of matrimonial law, including matrimonial procedural law. This is not, however, an exhaustive treatment, which is why the authors refer to special monographs here as well. The area of property law of the Church is not omitted, however, due to its relatively small scope in the CIC not much space is dedicated to it. The following subchapter is concerned with ecclesiastical penal law and thus presents the reader in a clear way with a new text, the amended 6th book of the CIC. The last subchapter of this section is then an overview of the procedural law of the Church (the course of contentious trial, some special processes, a description of the ecclesiastical judicial system). The third part of the publication also summarizes the principles of the church law of other churches. This part is divided into two subchapters: the first is devoted to churches with apostolic succession of the episcopate (Orthodox and ancient oriental churches) and the second to the Reformation churches: the different types of the Reformation, churches from Europe and from the Anglophone environment, and in more detail the own legal regulations of the Evangelical Church of Czech Brethren and the specific Czechoslovak Hus-

site Church (which emerged from Catholicism after the First World War). After the Catholic Church, these are the two most important church congregations in the Czech Republic.

The authors have prepared a comprehensive text, including legislative texts and amendments, taking into account also the case law of the church tribunals, professional foreign and domestic publications, which are referred to both in the notes and in summary at the beginning of the individual units of the text, which is not very usual, but is very practical. Thus, the book assigns specific sources and additional commentaries directly to the specific issue under discussion, not forgetting to include survey materials, sometimes even references to commentaries on the CIC/1917 text, to the study of sources, dictionaries, encyclopaedias and scholarly articles. At the end of the publication, a comprehensive list of sources and literature is included, together with a subject index, which facilitates a quick search for a particular issue, and an index of professional periodicals related to the fields of religion and church law.

The book under review in its second edition (2021) currently forms, together with the publications *Konfesní právo* (2015) and *Právní dějiny církvi* (Legal history of the Church 2019), a kind of corpus, presenting the entire material in a comprehensive, clear, and comprehensible way not only to students, but also to various experts and the general public. Thanks to this initiative, the teachers of these disciplines are able to provide students with clear textbooks, considering the legislative changes made during the pontificate of the last Popes, which have already changed the text of the 1983 Code of Canon Law in many places. In the Czech Republic, the Czech translation of the CIC, published by the Bishops' Conference in 1994, is still used, but it no longer takes into account the current regulations of canon law, and these monographs draw attention to the changes (in a systematic way). One may add that soon the new and up-to-date Czech translation of the Code of Canon Law itself will be completed and published, with the incorporated changes (direct and indirect), amendments, including notes and authentic interpretations, which is being worked on by a translation group under the direction of Professor Damián Němec, on behalf of the Czech Bishops' Conference, while the initial translations of the CIC/1983 and similar CCEO texts are being made by Associate Professor Jiří Dvořáček.

Monika Menke

 <https://orcid.org/0000-0002-2814-2524>