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Part One

Ecumenical
Juridical Thought



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Diocesan Synod from the Catholic and Lutheran Perspectives

Abstract: The aim of the article is to verify the hypothesis that the institutions of diocesan synod in the perspective of the Roman Catholic Church and that of the Evangelical Church of the Augsburg Confession in the Republic of Poland are very similar. The method to achieve the aim is the comparable analysis of the legal provisions of the fundamental laws of the Churches which refer to diocesan synod. The general conclusion is that the institutions of diocesan synod seen in the two perspectives are completely incompatible. They are different institutions.

Keywords: Roman Catholic Church, Evangelical Church of the Augsburg Confession in the Republic of Poland, diocesan synod, bishop

The identical term “diocesan synod” is used in the milieu of the two Christian Churches, that is, the Roman Catholic Church and the Evangelical Church of the Augsburg Confession in the Republic of Poland.

The aim of the article is to verify the hypothesis that the institutions of diocesan synod in the perspectives of the Churches in question are very similar institutions.

The method to achieve the aim will be the comparable analysis of the legal provisions which refer to diocesan synod. The regulations will be taken from the fundamental laws of the two stated Churches, that is, from the Roman Catholic Church side — *Codex Iuris Canonici* from 1983¹ — and from the Evangelical Church of the Augsburg Confession

¹ *Codex Iuris Canonici* auctoritate Ioannis Pauli PP. II promulgatus (25.01.1983). AAS 75 (1983) pars II, pp. 1—301. English translation: *Code of Canon Law Annotated*: Prepared under the Responsibility of the Instituto Martín de Azpilcueta. Eds. E. CAPAR-

(Lutheran) side — *Zasadnicze Prawo Wewnętrzne Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej* from 1996,² *Regulamin Diecezjalny Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej* from 2000,³ and *Pragmatyka Służbowa Kościoła Ewangelicko-Augsburskiego w Rzeczypospolitej Polskiej* from 1999.⁴

It is important to notice that, generally speaking, in the Christian Churches, legal regulations have their foundations, that is, justification for their existence and normative essence in the theological statements of the Churches.⁵ It is the case with the two Churches in question, but in less intensive manner with the Evangelical Church of the Augsburg Confession than the Roman Catholic Church.⁶

The following elements will be taken into consideration, which will be at the same time the parts of the paper: 1) Catholic and Lutheran views about the Church and diocese; 2) the general characteristics of diocesan synod; 3) the composition of diocesan synod, 4) the competences of the diocesan synod. All these subjects will be referred, first, from the Catholic perspective, and, next, from the Lutheran point of view.

1. Catholic and Lutheran views about the Church, diocese and office of bishop

The Catholic teaching about the Church is rich and deep. “The Church, in Christ, is like a sacrament — a sign and instrument, that is,

ROS, M. THÉRIEAULT, J. THORN, H. AUBÉ. 2nd ed., rev. and updated of the 6th Spanish language edition. Montréal 2004 (hereinafter: CIC).

² Taken from: <https://bik.luteranie.pl/files/Prawo/2017-01-01ZPW-tekstujednolicony.pdf> (accessed 2.04.2018). English title: *The Essential Inner Law the Evangelical Church of the Augsburg Confession in the Republic of Poland*. English translation of the law: the author (hereinafter: ZPW).

³ Taken from: <http://www.bik.luteranie.pl/files/Prawo/20150313RegulaminDiecezjalny.pdf> (accessed 12.03.2016). Title in English: *The Diocesan Regulations of the Evangelical Church of the Augsburg Confession in the Republic of Poland*. English translation of the law: the author (hereinafter: RD).

⁴ Taken from: <http://www.bik.luteranie.pl/files/Prawo/2015-04-11PragmatykaSubowav.pp.pdf> (accessed 20.01.2016). Title in English: *The Official Policy of the Evangelical Church of the Augsburg Confession in the Republic of Poland*. English translation of the law: the author (hereinafter: PS).

⁵ Cf. P. KROCZEK: *Prawo wewnętrzne związków wyznaniowych w perspektywie organów władzy publicznej. Klauzule generalne*. Kraków 2017, pp. 105—110.

⁶ P. KROCZEK: *Parafia w optyce katolickiej i luterskiej. Studium teologiczno-prawne*. Kraków 2017, p. 17.

of communion with God and of unity among all men (LG⁷ 1).”⁸ This sacramental dimension of the Church does not eliminate the institutional dimension of the Church. *The Catechism of the Catholic Church* from 1992⁹ in no. 1140 teaches that the Church is the holy people, united and organised under the authority of bishops. Among them, the supreme place occupies the bishop of Rome (the Roman Pontiff) who has full and supreme power in the Church (can. 332 §1 CIC). The presented theological teaching underlies the provisions of canon law which states that the one and only Church (*una et unica Ecclesia*) exists in (*subsistit in*) and is composed of the particular Churches (*Ecclesiis particularibus*). The particular Churches are principally dioceses (can. 368 CIC and LG 23). A diocese, in turn, is defined in can. 369 CIC as “a portion of the people of God, which is entrusted to a Bishop to be nurtured by him, with the cooperation of the presbyterium. The faithful and the presbyterium are remaining close to its pastor and gathered by him through the Gospel and the Eucharist in the Holy Spirit.” It means that the main *raison d’être* of diocese is the theological one.

The head of the diocese is the bishop (called: the diocesan bishop). In Catholic terms, the position of the bishop in the Church is inseparably connected with the ecclesiastical office. The powers associated with this office have their source in God’s law. In the diocese entrusted to the care of the bishop, he has all the ordinary, proper and immediate power required for the exercise of his pastoral office, except in those matters which the law or a decree of the Supreme Pontiff reserves to the supreme or to some other ecclesiastical authority (can. 381 §1 CIC).

Contrary to what was presented above, the Reformation did not emphasise explicitly the mission of the Church as the salvific institution.¹⁰ The important element for the Lutheran theology was the inner (or hidden) Church and it does not refer to any territory. The work of the Church is based on the work of the Holy Spirit. In this context, in the Lutheran understanding, the diocese is only local administrative unit of the Church (§42 ZPW; §1 item 1 RD). The unit consists of parishes located in a specific area (§42 ZPW; §1 item 2 RD). The task of the dio-

⁷ SACROSANCTUM CONCILIUM OECUMENICUM VATICANUM II: *Constitutio dogmatica “Lumen gentium” de Ecclesia* (21.11.1964). AAS 57 (1965), pp. 5—75. Translations of the Second Vatican Council documents are taken from: *Documents of Vatican II*, in a new and definitive translation, with commentaries and notes by Catholic, Protestant, and Orthodox authorities. Ed. W. M. ABBOTT. New York 1966.

⁸ The classical position on this subject is: O. SEMMELROTH: *Die Kirche als Ursakrament*. Frankfurt am Main 1978.

⁹ Revised edition, London 2011.

¹⁰ M. HINTZ: “Kościół jako wspólnota pastoralna.” *Gdański Rocznik Ewangelicki* 5 (2011), p. 204.

cese is to coordinate and control the activities of the parishes, and to organise the cooperation between them in its area (§ 43 ZPW), and also to conduct religious, educational, ecclesiastical, charitable activities and providing care, and other activities serving the parishes belonging to the diocese (§ 3 item 1 RD).

The Lutherans in Poland teach also that bishops “lead the entire People of God and serve the service of the Word and the Sacraments” (§ 10 item 1 PS), but although the evangelical diocese is headed by a diocesan bishop, he is mainly “a spiritual head” of the diocese (§ 24 item 1 RD; § 52 item 1 ZPW; § 16 item 1 PS). He is only one among many authorities of the Church (§ 10 item 1 point 3 letter c ZPW), but without real power to govern the diocese. In this respect, the Lutheranism remains based on conciliarism.¹¹

Two findings are necessary to emphasise at this point. First, diocese and its institutions in the Catholic Church have rich theological background and significance. The Lutheran approach is different. It is more about the effectiveness of acting as the administrative unity with little theological sense. Second, in the Catholic approach the indispensable element of diocese is bishop who is in charge of the diocese. It is not the case from the Lutheran perspective.

2. General characteristics of diocesan synod

The diocesan synod in the law of the Roman Catholic Church (i.e. canon law), and the law of Evangelical Church of the Augsburg Confession in Poland (i.e. Lutheran law) is the part of the internal order of the diocese in the two Churches. The results of the analysis of the characteristics of the institution in the two legal systems indicate that there are many differences between them. Three of them, that seem to be worth mentioning, are as follows.

First, in the canon law the diocesan synod is a temporary institution. It can be called when circumstances suggest it in the judgment of the diocesan bishop after he has heard the presbyteral council (can. 461 § 1 CIC). Only the diocesan bishop can convoke a diocesan synod (can. 462 § 1 CIC), and his decision is final. It means that the diocese can exist and function without the synod. Contrary to this, the diocesan synod in the Evangelical

¹¹ T. KONIK: “*Kościół w paragrafach.*” In: R. BORSKI, T. KONIK, M. LIS: *Kościół w paragrafach. Projekty, studia, dyskusje.* Ed. TADEUSZ KONIK. Katowice 2007, p. 59.

Church is a constant organ which is an immanent part of the diocese (§ 44 item 1 ZPW; § 47 ZPW). The synod in question works on the conventions. The responsible organ for calling a convention is the diocesan council and it must be done at least once a year (§ 47 item 2 ZPW; §12 item 1 RD). Second, in canon law the diocesan bishop presides over a diocesan synod (can. 461 § 2 CIC). He can, however, delegate a vicar general or episcopal vicar to fulfill this responsibility for individual sessions of the synod. In the Lutheran Church, the work of the diocesan synod is led by the diocesan council elected by the diocesan synod at its first session (par. 48 item 1 ZPW, § 10 item 1 RD). The president of the diocesan synod is the diocesan bishop (par. 48 item 2 ZP, § 10 item 2 RD), and he may also authorise other member of the diocesan synod to lead the meeting.¹²

Third, in the Catholic diocese the synod is to offer assistance to the diocesan bishop, who has the highest authority in the diocese (can. 460 CIC in connection with can. 134 CIC), and he is *de iure divino* the only legislator in the diocese entrusted to his care. He may, within the scope of his powers, freely shape diocesan legislation (CD¹³ 8).¹⁴ The help given to the diocesan bishop is the form of collective consultation laid down in the specific form by law. As part of the consultations, the equal and the collegial faithful may express their opinions on the matters on which the diocesan bishop wishes to acquire knowledge (can. 465 CIC). The directory of the Congregation for the Bishops titled *Apostolorum successores*¹⁵ calls the diocesan synod “the advisory assembly” (*assemblea consultiva*).¹⁶ The way in which the synod formulates its opinions, postulates or prepares the (final) documents is to be defined by the statute of the synod. The law in question is to be given by the diocesan bishop. There are no legal nor theological obstacles that the way would be ruled by the principles of democracy.

In the Lutheran Church, the highest authority of the diocese is the diocesan synod itself (§ 44 item 1 ZPW; § 7 item 1 RD). The legislator (within the limits prescribed by law) is the synod itself, and the decisions are made by the rules of democracy. It means two things. First, that the quorum required for making decisions, that is, the minimum number of

¹² Commentary to § 10 of *Regulamin Diecezjalny*. In: *Prawo Kościoła Ewangelicko-Augsburskiego. Komentarz*. Ed. J. CEBULA. Warszawa 2017.

¹³ SACROSANCTUM CONCILIIUM OECUMENICUM VATICANUM II: *Decretum Christus Dominus de pastorali Episcoporum* (28.10.1965). AAS 58 (1966), pp. 673—696.

¹⁴ See CONGREGATIO PRO GENTIUM EVANGELIZATIONE: *Instructio de synodis dioecesis agendis* (19.03.1997). AAS 89 (1997), pp. 706—721 and *Additamentum ad Instructionem de synodis dioecesis agendis*, pp. 722—727.

¹⁵ CONGREGATIO PRO EPISCOPIS: *Direttorio Apostolorum Successores per il ministero pastorale dei vescovi*. Libreria Editrice Vaticana 2004.

¹⁶ *Apostolorum successores*, no. 168.

members of this body necessary to adopt resolution, is for more than a half of its members to be present in order to pass its resolutions effectively (§ 13 RD; § 13 ZPW). Second, that the decision to be made requires the adoption of an absolute majority of votes, that is, more than half of the votes validly cast. The absolute majority of votes is determined taking into account valid votes cast, that is, only those votes (“for” or “against” or “abstaining”) that have been formally cast (expressed) are counted. However, the votes of those present who have abstained from voting, that is, have not cast their votes or have cast invalid votes, shall not be taken into account (§ 13 item 2 ZPW). Only the resolutions of the diocesan synod in the financial matters specified in § 9 item 1 letter n RD must be approved by the consistory of the Church.

3. Competences of diocesan synod

The competencies of the synod of the Roman Catholic Church and the Evangelical Church are so different that it is impossible to present them simultaneously or find any connection between them. The differences are both in the subject matter and in the way in which the competencies are regulated in laws of the Churches.

The competencies of the diocesan synod in the Catholic Church are not *expressis verbis* enumerated or limited. Canon law describes the aim of the diocesan synod very generally. Diocesan synod is to “offer assistance to the diocesan bishop for the good of the whole diocesan community” (can. 460 CIC).

The competencies of the diocesan synod in the Evangelical Church are literally presented in the § 46 item 1 of ZPW and § 9 RD. They can be divided into the following groups: 1) the group of the judicial competencies; 2) the group of the supervisory and control competencies; 3) the group of competencies connected with the election.

To the first group one can ascribe strictly judicial competencies like: 1) settlement of the religious and ecclesial life-of-diocese disputes; 2) examination of appeals against disciplinary measures. It is practical to add to the group in question another competence, which is used in the conflict situation, that is: 3) submission of *ad hoc* requests for amendments to establish the boundaries between the parishes and to establish and maintain the rules of operation of the parish and its subsidiaries.

Among the second, that is, the supervisory and control competencies, one can count: 1) supervision over the management and the board

of directors of the institutions that are common to the whole diocese; 2) taking care of the cooperation between the parishes; 3) enactment of the financial estimates for the diocese and the collections or stipends for the diocese and the Church, collected in the diocese; 4) submission of the proposals to the consistory and the Church synod regarding the issues of diocese and the Church; 5) approval of the reports of the diocesan bishop, the diocesan council and the diocesan commission and granting discharge for the diocesan council; 6) votes on the resolutions on matters: giving a consent to the acquisition, disposal and exchange of diocesan property, and the construction of new buildings, except for the acceptance of donations in the form of unencumbered real estate, the disposal of movable property where this is of artistic, historic or scientific value, conducting business activity, establishment of or participation in foundations, encumbering property owned by the diocese, or renting or leasing it for a period longer than 5 years, borrowings if they are not covered by the regular revenue of the financial year, other matters of property, the realisation of which exceeds the financial capabilities of the diocese.

The third group of the competencies of the diocesan synods, which are connected with elections, contains such areas as: 1) election of the following organs: the diocesan bishop, the diocesan council, the audit commissions, and the diocesan commissions; 2) selection of candidates for the disciplinary judges; 3) election of the lay delegates to the synod of the Church and their alternates. The enumeration of the competencies is closed. It means that it exhausts the scope of them.

4. Members of diocesan synod

The canonical definition of the synod from can. 460 CIC gives simultaneously the list of the members of diocesan synod. “A diocesan synod is a group of selected priests and other members of the Christian faithful of a particular church.” The two basic groups of the faithful the Church enumerated in can. 207 § 1 CIC are represented, that is 1) the sacred ministers (*clericorum*), and 2) the lay people (*laicorum*). However, it should be noticed that can. 460 talks about the priests (*sacerdotum*), not clerics (*clericorum*). Deacons are excluded.

For clarity, it is expedient to add that the faithful drawn from both groups (the sacred ministers and the lay people) who are professing the evangelical counsels through vows or other sacred bonds recognised and

approved by the Church, belong to the state of people of consecrated life. Their state, although it does not belong to the hierarchical structure of the Church — only the two states mentioned above, does pertain to the Church's life and holiness.

Particularisation of the rough list of the members from can. 460 CIC was done by the Supreme legislator in can. 463 § 1 CIC. It strictly and precisely orders that the following persons must be called to a diocesan synod and as the members of the synod they are obliged to participate in it.

From the sacred ministers: 1) the coadjutor bishop and the auxiliary bishops; 2) the vicars general and episcopal vicars, and the judicial Vicar; 3) the canons of the cathedral church; 4) the members of the council of priests; 5) the rector of the major seminary of the diocese; 6) the vicars forane; 7) at least one priest from each vicariate forane to be elected by all those who have the care of souls there; another priest is also to be elected, to take the place of the first if he is prevented from attending (can. 463 § 1 no. 1—4 and no. 6—9 CIC).

From members of the consecrated life the law orders to call some superiors of religious institutes and of societies of apostolic life which have a house in the diocese. These are to be elected in the number and the manner determined by the diocesan Bishop (can. 463 § 1 no. 9 CIC).

The rest of the members are chosen from the lay people. The individuals are not named or in any other way indicated. But to the group can belong also the members of institutes of consecrated life, to be elected by the pastoral council in the manner and the number to be determined by the diocesan Bishop or, where this council does not exist, on a basis determined by the diocesan Bishop.

The legislator in can. 463 § 2 CIC opens a little bit the list of the members of the synod and allows the diocesan bishop to invite others to be members of the diocesan synod, whether clerics or members of institutes of consecrated life or lay members of the faithful.

Canon law provides also an ecumenical dimension of the activity of the Catholic Church. If the diocesan Bishop considers it opportune, he may invite to the diocesan synod some ministers or members of Churches or ecclesial communities which are not in full communion with the Catholic Church. They are to act only as observers (can. 463 § 3 CIC).

The following conclusion can be noticed from the list: although the entire spectrum of Christ's faithful must be represented in the diocesan synod (see can. 207), the main core of the members of the synod are the clergy who are responsible for an important element of diocese. One can say that the teaching of the Second Vatican Council about promoting the laity expressed, for instance, in the Decree *Apostolicam actuositatem* on

the Apostolate of Lay People,¹⁷ was not fully absorbed by the code at this point. Although can. 275 § 2 CIC states that “Clerics are to acknowledge and promote the mission which the laity, each for his or her part, exercises in the Church and in the world.” The explanation or justification for such unbalanced representation cannot be the theologically supported rule from can. 129 § 1 CIC that only those who are in sacred orders are capable of the power of governance in the Church. It because the synod has no power at all.

Lutheran law in § 44 item 1 ZPW provides that the members of diocesan synod are: 1) all the priests who belong to the Diocesan Conferences of the Clerics; 2) supervisors of the deacon orders who the subject of supervision of diocesan bishop are; 3) the representative of the ecclesiastical educators, 4) the lay delegates (in the number from 30 to 60) who are elected by the parishes, 5) secular members of the consistory who live in the territory of the diocese, 6) the independent academic employees of the Christian Academy of Theology in Warsaw of the Evangelical-Augsburg denomination who are living in the diocese, 7) the persons (up to 5) elected by the diocesan Synod at the request of the diocesan council, because of their special authority or important competences for the functioning of the Church.

The exact number and allocation of the seats of the secular delegates is determined by the diocesan council. It is regulated according to principle that one seat is granted to each parish and the remaining seats are distributed according to the number of voters in each parish (§ 44 item 2 ZPW). The rules and procedures for the election of delegates to the diocesan synod shall be laid down in the Diocesan Rules of Procedure, which is a separate law (§ 44 item 2 ZPW).

It should be noted that an *ex officio* member of the diocesan synod may also be elected in the course of the election process. The commentary to ZPW explains that in such a case, the basis of the mandate is the election, not the entry into the diocesan synod *ex officio*.¹⁸

The problem that can arise from the list of members of diocesan synod presented above is that some of the members of the synod are, allegedly, “the permanent ones” due to their features like education or the offices they hold (like the clerics). At the same time § 45 ZPW states clearly that the term of office of the diocesan synod, that is, of all the members is five years. Does it mean that the mandate of members in question is really a permanent one until the key feature expires or with the end of the period

¹⁷ SACROSANCTUM CONCILIUM OECUMENICUM VATICANUM II: *Decretum “Apostolicam actuositatem” de apostolatu laicorum* (15.11.1965). AAS 58 (1966), pp. 837—864.

¹⁸ Commentaty to § 44 *Zasadnicze Prawo Wewnętrzne*. In: *Prawo Kościoła Ewangelicko-Augsburskiego. Komentarz*. Ed. J. CEBULA. Warszawa 2017.

of five years they lose their mandate and gain it automatically with the next term of the diocesan synod?

Conclusions

The research hypothesis stated at the beginning of the article is negatively verified. The institutions of diocesan synod in the perspectives of the Roman Catholic Church and the Evangelical Church of the Augsburg Confession in the Republic of Poland are not the same institutions. Actually, they are completely different ones. The identical names of the two institutions can be misleading. There are only a few characteristics that can be found as similar. One of them is the wide spectrum of members of the synod. This solution is to show the complete picture of all the faithful in the diocese. But the feature cannot change the general conclusion.

The foundation of the differences can be found in the different theological conceptions of the Church, diocese, and Church office of the bishop. Also, the attachment of the Lutheran Church to the rule of democracy has greater meaning for the Lutheran law than it has in case of the Roman Catholic Church.

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PIOTR KROCZEK

Synode diocésain des points de vue catholique et luthérien

Résumé

Le but de l'article est de vérifier l'hypothèse selon laquelle, en République de Pologne, la perspective de l'Église catholique romaine et celle de l'Église évangélique d'Augsbourg concernant l'institution du synode diocésain sont similaires. La manière d'atteindre cet objectif consiste à proposer une analyse comparative des dispositions des règles fonda-

mentales de ces Églises qui s'appliquent au synode diocésain. La conclusion générale est que l'institution du synode diocésain présentée des deux points de vue est totalement incompatible. Ce sont des institutions différentes.

Mots clés: Église catholique romaine, Église évangélique d'Augsbourg en République de Pologne, synode diocésain, évêque

PIOTR KOROCZEK

Sinodo diocesano dalla prospettiva cattolica e luterana

Sommario

Lo scopo del presente articolo è di verificare l'ipotesi che nella Repubblica di Polonia, la prospettiva della Chiesa cattolica romana e di quella evangelica-augusta riguardante l'istituzione del sinodo diocesano siano simili. La via per raggiungere questo obiettivo consiste in un'analisi comparata delle disposizioni delle regole fondamentali di queste Chiese che si applicano al sinodo diocesano. La conclusione generale della ricerca svolta è che l'istituzione del sinodo diocesano presentata da entrambe le prospettive è del tutto incompatibile. Sono istituzioni diverse.

Parole chiave: Chiesa cattolica romana, Chiesa evangelica-Augusta nella Repubblica di Polonia, sinodo diocesano, vescovo



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Synods and Synodal Processes in Germany since the Second Vatican Council

Abstract: The present article provides an overview of the particular synods that have been conducted since the Second Vatican Council in Germany. It also takes into account those counseling processes that cannot be qualified as canonical synods.

Keywords: Catholic Church, synods in Germany from 1965 to 2016

1. Introduction

Pope Francis has repeatedly spoken about it and declared it as his desire that the synodal organs and generally the synodal process¹ in the Church should gain a broader scope and greater importance. The pope has not thereby spoken of a new structural element in the Church as if it were/had been a new development or even a new idea for him. On the

¹ Cf. N. WITSCH: entry “Synodalität.” In: *Lexikon für Kirchen- und Staatskirchenrecht*. Vol. 3. Paderborn 2004, pp. 642–644; W. AYMANS: entry “Synodales Prinzip.” In: *Lexikon des Kirchenrechts*. Freiburg—Basel—Wien 2004, col. 929–930; M. AUGUSTO SANTOS: entry “Sinodalidad.” In: *Diccionario general de derecho canónico*. Vol. 7, Cizur Menor 2012, pp. 341–345; S. HAERING: “Autorität und Synodalität im Gesetzbuch der lateinischen Kirche.” In: *Autorität und Synodalität. Eine interdisziplinäre und interkonfessionelle Umschau nach ökumenischen Chancen und ekklesiologischen Desideraten*. Eds. C. BÖTTIGHEIMER, J. HOFMANN. Frankfurt am Main 2008, pp. 297–320; M. GRAULICH: “Synodalität als Kennzeichen einer missionarischen Kirche” In: *Ius semper reformandum. Reformvorschläge aus der Kirchenrechtswissenschaft*. Eds. T. MECKEL, M. PULTE. Paderborn 2018 (= Kirchen- und Staatskirchenrecht 28), pp. 115–127.

contrary, the synods belong to the oldest institutions of the Church. Historically, they appeared in different forms and have also been of varied importance in the life of the Church.

The most important event in the 20th-century Church was surely a synod, namely the Second Vatican Council (1962—1965).² This council was the beginning of an important momentum for a renewed appreciation of the synodal process in the Church and the basis for a boom in the synodal ideas.

In line with this, the pope made the following remarks in his speech on the occasion of the 50th anniversary of the synod of bishops on 17 November 2015: “a synodal Church is a listening Church, conscious of the fact that to listen to something is more than just to hear it. It is an interactive listening to one another, where everybody has something to learn. The faithful people of God, the college of bishops, the bishop of Rome: each one listens to the other one and together they listen to the Holy Spirit, the Spirit of truth (John 14, 27), so that they will be able to understand what He is saying to His Church (Acts of the Apostles 2, 7).”³

It is the intention of this article to investigate the particular kind of development that the synodal element in Germany has gone through after almost half a century since the end of the Second Vatican Council. Considering the said thematic scope, it cannot however be anything more than just a brief overview. Such an assurance might also be valuable and important in facilitating the synodal elements as desired by Pope Francis; it can contribute towards a sustained implementation of this intention of the pope.⁴

When discussing Germany, it has to be pointed out right from the onset that it is only since 1990 that Germany as a unified country can be taken into account. A quarter of a century prior to this, that is, from the end of the council in 1965 until the re-unification of Germany, we

² See: G. ALBERIGO, K. WITTSTADT (vols. 1—3), G. WASSILOWSKY (vols. 4—5) (eds.): *Geschichte des Zweiten Vatikanischen Konzils (1959—1965)*. 5 vols., Mainz resp. Ostfildern / Leuven 1997—2009; A. MARCHETTO: entry “Concilio Vaticano II.” In: *Diccionario general de derecho canónico*. Vol. 2. Cizur Menor 2012, pp. 400—406 (bibl.).

³ *Acta Apostolicae Sedis* 107 (2015), pp. 1138—1144, here: p. 1140: “Una Chiesa sinodale è una Chiesa dell’ascolto, nella consapevolezza che ascoltare «è più che sentire». È un ascolto reciproco in cui ciascuno ha qualcosa da imparare. Popolo fedele, Collegio episcopale, Vescovo di Roma: l’uno in ascolto degli altri; e tutti in ascolto dello Spirito Santo, lo «Spirito della verità» (Gv 14, 17), per conoscere ciò che Egli «dice alle Chiese» (Ap 2, 7).”

⁴ Cf. also S. DEMEL: “Synoden — synodale Prozesse — Synodalität. Die nachkonziliare Entwicklung im Bereich der Deutschen Bischofskonferenz.” In: *Unverbindliche Beratung oder kollegiale Steuerung? Kirchenrechtliche Überlegungen zu synodalen Vorgängen*. Eds. W. REES, J. SCHMIEDL. Freiburg—Basel—Wien 2014, pp. 68—86.

had had two very different, separate states: the Federal Republic of Germany (BRD, West Germany) and the Democratic Republic of Germany (DDR, East Germany). In both of them, the states belonging to different socio-political systems, the Catholic Church had to obviously grapple with divergent pre-existing requirements and conditions for her existence and mission.

Another preliminary remark concerns the concept of “synod,” which forms the basis of this article. Here we are not dealing with the notion of synod in the strict sense, as it is found in the church tradition and canon law, wherein it is understood as episcopal collegial organs with, if need be, the participation of individuals who are not bishops, that is both, clerics and lay faithful.⁵ We are rather talking about all the legal institutions of the Church which serve the collective consultation of the faithful and which do not have permanent, but rather temporary character. This broad distinction is to the extent justified, as the law book of the Latin Church, the *Codex Iuris Canonici* (CIC) used the expression “synod” for the institutionalised assembly in a diocese under the leadership of the bishop, namely the diocesan synod (c. 460—468). To distinguish between synods in the strict sense, the canon law of the Catholic Eastern Churches, which (not only) in this regard is more precise as the CIC in legal terms, correctly calls the correspondent institutions of the dioceses of the Eastern Churches “Eparchial Convent” (cc. 235—242 CCEO).

Not taken into consideration is the activity of the conferences of bishops, that is, the German Bishops’ Conference, which was established as a juridical body in 1966, and the Berlin Bishops’ Conference, which existed from 1976 till 1990 before the reunification of Germany.⁶ In a wider sense, this form of episcopal collegial activity can be grouped under the synodal element in the Church, but the conferences of bishops are nevertheless permanent establishments and fit less to the fixed definition like the permanent advisory organs at the different levels in the Church.

⁵ Cf. W. AYMANS: *Das synodale Element in der Kirchenverfassung*. München 1970 (= Münchener Theologische Studien. Kanonistische Abteilung 30).

⁶ Cf. H. HALLERMANN: entry “Deutsche Bischofskonferenz.” In: *Lexikon für Kirchen- und Staatskirchenrecht*. Vol. 1. Paderborn 2000, pp. 408—410; H. SCHMITZ: entry “Deutsche Bischofskonferenz.” In: *Lexikon des Kirchenrechts* (see footnote 1), col. 117—122.

2. Joint Synod of the Dioceses in the Federal Republic of Germany (Würzburger Synode)

In the years following the Second Vatican Council there was an increase in the desire of many people in authority in the Catholic Church in Germany, to take up and concretise the proposals and ideas outlined by the council, not only at the diocesan, but also at the national level. This objective was implemented through a variety of events. Already in 1966, a pastoral council was opened in the neighbouring country of the Netherlands in order to continue the ideas and decisions of the Second Vatican Council and to implement them in the country.⁷ In West Germany, it became evident through the discussions taking place at the Catholic Congress in Essen in 1968 and through the awakening throughout the society, which was linked to the event of the year 1968, that people had to talk with one another in the Church and agree on the way forward in the future.⁸

The German Bishops' Conference decided in 1969 to hold a General Synod of all the Dioceses. The preparation was rapidly and vigorously undertaken by a special commission which was set up in 1969 by the German Bishops' Conference for this purpose. An attempt was made through questionnaires distributed among the German Catholics to get the entire Catholic population involved in the said preparations. A bylaw was drafted which formed the basis upon which an intensive canonical discussion was developed.⁹

In January 1971, the inaugural plenary assembly of the synod was held in Würzburg. Subsequently, a total of eight plenary assemblies were held before its conclusion in 1975. In addition to this, several commissions of the synod held their respective meetings to discuss special areas

⁷ Cf. J. B. M. WISSINK: "Die Organisation des Niederländischen Pastorkonzils." In: *Unverbindliche Beratung oder kollegiale Steuerung?* (see footnote 4), pp. 121–126.

⁸ For more information on the preparation and celebration of this synod, cf. K. LEHMANN: "Allgemeine Einleitung." In: *Gemeinsame Synode der Bistümer in der Bundesrepublik Deutschland. Beschlüsse der Vollversammlung. Offizielle Gesamtausgabe I*. 7th ed., Freiburg—Basel—Wien 1989, pp. 21–67.

⁹ Cf. H. HALLERMANN: "Die Würzburger Synode — ein Maßstab für synodale Prozesse?" In: *Recht — Bürge der Freiheit. Festschrift für Johannes Mühlsteiger SJ zum 80. Geburtstag*. Eds. K. BREITSCHING, W. REES. Berlin 2006 (= Kanonistische Studien und Texte 51), pp. 621–644; IDEM: "Das Statut der Gemeinsamen Synode der Bistümer in der Bundesrepublik Deutschland." In: *Unverbindliche Beratung oder kollegiale Steuerung?* (see footnote 4), pp. 87–104; P. LEIBINGER: "Gemeinsame Synode der Bistümer in der Bundesrepublik Deutschland 1971–1975." In: *Synodale Prozesse in der katholischen Kirche*. Eds. W. REES, L. MÜLLER. Innsbruck 2016, pp. 97–124.

and topical issues, which were of great importance to the synod and which contributed immensely in the preparation of its final resolutions. The synod produced a total of 18 resolutions and documents touching on the various areas on the life and mission of the Church.

The synod was composed of around 300 members. Besides the bishops, other clerics, the religious and the laity were represented with voting rights. The proportional participation of the lay faithful was around 140 members. Apart from the automatic members of the synod which in most part were bishops, the members were chosen by the different councils and associations through election.¹⁰ A distinctive feature was the equal voting right of all the participants, a provision that was unknown in canon law in this form. Different elements of the synodal rules provoked very strong canonical criticisms.¹¹

The joint synod appeared to have been influenced in its structure and method strongly by the democratic parliamentary practices rather than by the classical synodal tradition. The Constitution of the joint synod as approved by the Holy See provided in its Article 13 that no decision can be taken on any issue if the German Bishops' Conference declares that it cannot support such a decision on grounds of faith and moral or if it refuses to guarantee the canonical implementation of decisions with legal contents. It merely refers to veto clauses, which does not basically negate the magisterial and legislative competence of the joint synod.

In the first years following the conclusion of the Würzburg Synod, its resolutions were very quickly published and also assimilated in the theological discussions and to some extent in the ecclesiastical practice. Gradually however, nothing was heard again about the joint synod and its documents. A variety of reasons contributed probably to this development. The process of adaptation of the documents of the Second Vatican Council itself was far from being completed and the teachings of the council simply drew more attention to itself than the resolutions of the particular synod. Pope John Paul II (1978—2005) presented important personal magisterial documents which in turn continued and developed the doctrine of the council. The revised Code of Canon Law — the *Codex*

¹⁰ See the list of the members in: *Gemeinsame Synode der Bistümer in der Bundesrepublik Deutschland. Ergänzungsband: Arbeitspapiere der Sachkommissionen. Offizielle Gesamtausgabe II*. 4th ed. Freiburg—Basel—Wien 1985, pp. 266—299.

¹¹ Cf. W. AYMANS: "Synode 1972. Strukturprobleme eines Regionalkonzils." *Archiv für katholisches Kirchenrecht* 138 (1969), pp. 363—388; IDEM: "Ab Apostolica Sede recognitum. Erwägungen zu der päpstlichen Bestätigung des Statutes für die Gemeinsame Synode der Bistümer in der Bundesrepublik Deutschland." *Archiv für katholisches Kirchenrecht* 139 (1970), pp. 405—427; IDEM: "Synodalstatut — Kritik einer Verteidigung." *Archiv für katholisches Kirchenrecht* 140 (1971), pp. 136—146.

Iuris Canonici, which was promulgated and came into effect in 1983, also attracted attention in the same way and forced the resolutions of the joint synod, which were by no means only temporary, rather to the contrary.¹²

At the commemoration of the 50th anniversary of the beginning of the Second Vatican Council, a new edition of all the documents of the joint synod was published, not least at the suggestion of Cardinal Karl Lehmann (1936—2018).¹³ Lehmann, who himself as a young theology professor was a committed member of the synod and saw to the publication of the synodal acts, wanted to draw a renewed attention to that event and resolutions passed at the time. Actually, the joint synod received a certain new attention in the context of the jubilee celebration of the council.

3. Pastoral Synod in East Germany (Democratic Republic of Germany)

On the opposite side the Iron Curtain, in the Democratic Republic of Germany (DDR), a joint synod for all the areas of jurisdiction was held similar to the one held in the Federal Republic of German (BRD). The Berlin Conference of Ordinaries which was a merger of the heads of the dioceses and other areas of ecclesiastical jurisdictions within the territory of the DDR resolved in 1971 to hold a pastoral synod. This synod took place in Dresden from 1973 to 1975 and met in seven sessions. The members included the Bishops of East Germany and 142 other synod participants, of which up to 50% were lay people in accordance with the bylaw of the synod. The pastoral synod passed a resolution on nine decrees as recommendations for the Berlin Conference of Ordinaries.

The coming into being of this synod was occasioned and facilitated by various factors. Of particular importance was the preceding diocesan synod of the diocese of Meissen, which was supposed to help in the implementation of the decisions of the Second Vatican Council. Nevertheless, the West German model of a national synod comprising all the dioceses certainly played an important role, too.

¹² Cf. R. ALTHAUS: *Die Rezeption des Codex Iuris Canonici von 1983 in der Bundesrepublik Deutschland unter besonderer Berücksichtigung der Voten der Gemeinsamen Synode der Bistümer in der Bundesrepublik Deutschland*. Paderborn 2000 (= Paderborner Theologische Studien 28).

¹³ *Gemeinsame Synode der Bistümer in der Bundesrepublik Deutschland. Beschlüsse der Vollversammlung. Offizielle Gesamtausgabe*. Mit einem Vorwort zur Neuausgabe von KARL KARDINAL LEHMANN. Freiburg—Basel—Wien 2012.

The bylaw of the synod safeguarded the decisive leverage of the bishops in the decision-making process.¹⁴ The synodal resolutions were ultimately recommendations for the attention of the episcopate. Under the provisions of a hostile regime to the Church as was the case in East Germany, it appeared particularly wise to preclude undesirable political interferences through appropriate jurisdictional provisions.

4. Diocesan synods

The diocesan synod has a very long canonical tradition and belongs to the classical consultative organs of the bishop. In some German dioceses regular diocesan synods were held within the relevant spaces of time as laid down by the Code of Canon Law.¹⁵ Prior to the joint synod project for the Federal Republic of Germany, a diocesan synod was already held in 1968–1969 in the diocese of Hildesheim. Understandably, after the joint synod, there was for some time no need to hold a separate synod in the German dioceses.

It was not until about a decade later and after the Code of Canon of 1983 had already come into effect that diocesan synods were convened again.¹⁶ In the diocese of Rottenburg-Stuttgart a synod was held in

¹⁴ Cf. DOMINICUS M. MEIER: *Das Statut der Pastoral synode der Jurisdiktionsbezirke in der DDR: Unverbindliche Beratung oder kollegiale Steuerung?* (see footnote 4), pp. 105–120.

¹⁵ Cf. H. PAARHAMMER: “Die Diözesansynode in ihrer gegenwärtigen Rechtsgestalt. Anmerkungen zum geltenden Recht und zu partikulären Neuentwicklungen des kirchlichen Synodalwesens auf Diözesanebene.” In: *Neue Positionen des Kirchenrechts*. Eds. K. LÜDICKE, H. PAARHAMMER, D.A. BINDER. Graz 1994, pp. 81–117; J. HIRNSPERGER: “Die Diözesansynode. Bemerkungen zu den einschlägigen Normen des CIC unter besonderer Berücksichtigung der Instruktion vom 19. März 1997.” In: *Dem Staate, was des Staates — der Kirche, was der Kirche ist. Festschrift für Joseph Listl zum 70. Geburtstag*. Eds. K. LÜDICKE, H. PAARHAMMER, D.A. BINDER. Berlin 1999 (= Staatskirchenrechtliche Abhandlungen 33), pp. 855–873 (reprinted: *Synodale Prozesse in der katholischen Kirche* [see footnote 9], pp. 55–75); A. VIANA: entry “*Sínodo diocesano*.” In: *Diccionario general de derecho canónico*. Vol. 7, Cizur Menor 2012, pp. 350–354; C. OHLY: “Diözesansynode. Kirchenrechtliche Streiflichter zu einer traditionsreichen Kirchenversammlung.” *Trierer Theologische Zeitschrift* 122 (2013), pp. 239–257; H. SCHMITZ: “Die Konsultationsorgane des Diözesanbischofs.” In: *Handbuch des katholischen Kirchenrechts*, 3rd ed. Eds. S. HAERING, W. REES, H. SCHMITZ. Regensburg 2015, pp. 620–637, here: pp. 622–626; M. VISIOLI: “Una forma privilegiata di produzione normativa nella chiesa locale: il sinodo diocesano.” *Ephemerides Iuris Canonici* 57 (2017), pp. 73–103.

¹⁶ Cf. T. SCHÜLLER: *Die Rezeption der Würzburger Synode auf diözesaner Ebene. Diözesansynoden in deutschen Diözesen von 1975 bis heute: Unverbindliche Beratung oder kollegiale Steuerung?* (see footnote 4), pp. 283–295.

1985—1986, in Hildesheim in 1989—1990, and in Augsburg in 1990. Thereafter there was another period of inactivity for around two decades during which there were no diocesan synods in Germany. Instead of holding synods, other forms of diocesan assembly and consultation were conceived and implemented; we shall elaborate on that in a moment. The diocese of Trier eventually ventured to hold a diocesan synod, which held its meetings in different sessions from 2013 to 2016.¹⁷ This synod passed a resolution on a final document titled: “Called out — moving towards the future with courage”. In this document, new approaches in the pastoral ministry were posited and concrete proposals given for their implementation.

As for the territory of East Germany, what has to be mentioned here is the already cited diocesan synod of the diocese of Meissen, which Bishop Otto Spuelbeck (1904—1970) convoked and which lasted from 1969 to 1971. This synod also formed a point of departure for the national pastoral synod.

5. Other synod-related Institutions at the diocesan level: Forums, pastoral consultations

In a number of German dioceses, temporary consultative procedures were undertaken during the two decades before the end of the millennium, which were more or less analogical to a diocesan synod. The decision to create such new synodal institutions was motivated by the fact that the diocesan synod was considered to be too rigid and anachronistic. The new forms were supposed to allow for a greater flexibility and not least a greater participation of the laity.¹⁸

For the conduct of these diocesan quasi-synods, which came under various descriptions, specific regulations were issued in each of the respec-

¹⁷ Cf. C. OHLY: “Die Diözesansynode im Bistum Trier (2012—2016). Anmerkungen aus kirchenrechtlicher Perspektive.” In: *Synodale Prozesse in der katholischen Kirche* (see footnote 9), pp. 207—235.

¹⁸ Cf. R. P. KLEIN: *Diözesansynode — Forum — Pastoralgespräch: Kirchliches Recht als Freiheitsordnung. Gedenkschrift für Hubert Müller*. Würzburg 1997 (= Forschungen zur Kirchenrechtswissenschaft 27), pp. 117—141; S. HAERING: ““Wege suchen im Gespräch’. Kirchenrechtliche Überlegungen zur synodalen Mitverantwortung der Gläubigen.” *Stimmen der Zeit* 216 (1998), pp. 689—699; F. LAPPEN: *Vom Recht zu reden und vom Recht gehört zu werden. Synoden und Foren als Mittel der Teilhabe der Gläubigen an den Leitungsfunktionen der Kirche in Deutschland*. Essen 2007 (= Münsterischer Kommentar zum CIC. Beihefte 46).

tive dioceses. A diocesan forum was held in the archdiocese of Freiburg in 1990, in 1994—1995 in the diocese of Regensburg, and in 1996—1997 in the diocese of Munster. The archdiocese of Munich and Freising organised a “pastoral forum” from 1991 to 1994.

Other forms somehow deviated strongly in their character from the canonical diocesan synod. Archbishop Joachim Meisner of the archdiocese of Cologne initiated in 1993 a pastoral dialogue in his diocese, which resulted in a final assembly in 1996. A similar process was conducted in 1997—1998 in the archdiocese of Bamberg. From 1993 to 1996 a “pastoral dialogue” was held in the diocese of Würzburg.

The observable tendency not only in Germany, to — so to speak — a new temporary para-canonical institutions of consultations at the diocesan level was responsible for the issuance of a separate instruction by the Apostolic See in 1997 on the convocation and execution of the diocesan synod.¹⁹ On the one hand, this document aimed to be positively supportive of the bishops by giving them assistance for the diocesan synod, but on the other hand, it also repressed the diverse para-canonical forms of diocesan (organs of) consultation. The diocesan synod was supposed to be strengthened as the classical forum of consultation for all those in authority in the diocese.

Nevertheless, further diocesan consultative processes were still conducted even later in some German dioceses, which of course in their conception tried to contrast from a diocesan synod. We are talking here of the “Consultations on the future of the pastoral ministry,” which was held in the diocese of Osnabrück from 1997 to 2000 and in the diocese of Magdeburg from 2000—2006, as well as the Forum for the future of the archdiocese of Munich and Freising from 2008 to 2010.

With regard to the content, these institutions were concerned primarily with concrete issues regarding the pastoral plan and cooperation in the diocese, in particular the cooperation between the clergy and the laity. In this connection, it must be remembered that there are also many qualified lay theologians in Germany who are actively involved in the pastoral ministry on full-time basis as pastoral assistants and parish consultors. For this reason, there was need for a deep rooted clarification of pastoral issues, which arise not least from the increasingly noticeable dearth of priests. The results of the consultations led to the structural plans of the respective dioceses on the future of the pastoral ministry.

During these synodal proceedings, but also during the diocesan synods, specific sensitive topics in the Church that were mainly discussed in

¹⁹ *Acta Apostolicae Sedis* 89 (1997), pp. 706—727; cf. J. HIRNSPERGER: “Die Diözesan-synode...” (see footnote 15).

western countries, but which could not at all be decided at the diocesan level repeatedly came up for discussion. There were particular issues like the admission to the priesthood, celibacy, the ordination of women to the diaconate or the situation of divorced and remarried members of the Church.²⁰

6. “Consultative process” of the German Bishops’ Conference (2011—2015)

As the Catholic Church in Germany was enjoying a higher level of attention and sympathy in the society following the election of Cardinal Joseph Ratzinger in 2005 as the bishop of Rome and the Shepherd of the Universal Church, the World Youth Day in Cologne in the same year and the visit of Pope Benedict XVI (2005—2013) to his Bavarian native home in September 2006,²¹ there was a noticeable backlash against the papacy around the middle of the pontificate of Benedict XVI, as can be said today in the hindsight. The Church now came under enormous pressure from the German public, particularly in the media and lost her reputation. Two recent reasons were primarily decisive in this respect.

On the one hand, there was the attempt by Pope Benedict to revoke the excommunication of the four bishops belonging to the Society of St. Pius X founded by Archbishop Marcel Lefebvre, thereby encouraging the reconciliation with this schismatic group.²² This action of the pope which was taken in 2009 was in Germany practically reported and commented by the media only under the headline “the rehabilitation of the holocaust denier Williamson.” This was because one of the bishops, a Briton Rich-

²⁰ Cf. G. MAY: “Der Ruf nach mehr Synodalität.” In: *Theologia Iuris Canonici. Festschrift für Ludger Müller zur Vollendung des 65. Lebensjahres*. Eds. C. OHLY, W. REES, L. GEROSA. Berlin 2017 (= Kanonistische Studien und Texte 67), pp. 223—248.

²¹ Cf.: *Apostolische Reise Seiner Heiligkeit Papst Benedikt XVI. nach München, Altötting und Regensburg. Predigten, Ansprachen und Grußworte*. Ed. by SEKRETARIAT DER DEUTSCHEN BISCHOFSKONFERENZ. Bonn 2006 (= Verlautbarungen des Apostolischen Stuhls 174).

²² Cf. W. BEINERT (ed.): *Vatikan und Pius-Brüder. Anatomie einer Krise*. 2nd ed., Freiburg—Basel—Wien 2009; S. HAERING: “Rom und die Piusbruderschaft. Ein kirchenrechtlicher Blick auf die Vorgänge des ersten Halbjahres 2009.” *Münchener Theologische Zeitschrift* 60 (2009), pp. 247—257; IDEM: “Der Apostolische Stuhl und die Priesterbruderschaft St. Pius X.” *Trierer Theologische Zeitschrift* 119 (2010), pp. 287—308; B. DENNEMARCK, H. HALLERMANN, T. MECKEL: *Von der Trennung zur Einheit. Das Bemühen um die Pius-Bruderschaft*. Würzburg 2011 (= Würzburger Theologie 7).

ard Williamson, who was by then excommunicated, had doubted in an interview the reality of the murder of about six million Jews by the Nazi regime. This influenced negatively the public perception of events so much that the pope's intention to work for the unity of the Church remained largely unnoticed. The Church or the pope respectively, were depicted either as politically naive or at most as affectionately anti-Semitic. Even the German Chancellor Angela Merkel joined the discussion and called on the pope for clarification.

The second reason for the significant deterioration of the reputation of the Church among the German public was the disclosure in 2010 to the public of cases of sex abuse of children and youth by the clerics or in ecclesiastical quarters.²³ Even though it became quickly clear that such misconducts and crimes were also found in all other social contexts and that it was here by no means an exclusively peculiar problem of the Church, public attention was still directed mainly towards real or supposed church offenders. The clumsy approach of some bishops in handling the matter gave the disastrous impression as if it had been all about a problem occurring specifically in the Church.

In any case the Church was under external pressure, but also under intense criticism from some groups of the faithful. It became visible that there was a significant potential of skepticism and even resentment towards the Catholic Church in the German society, which could be easily activated through scandalous events and their concentrated medial presentation. The result was a huge loss of respect and trust for the Church. The number of those who left the Catholic Church through their official declaration before the state authorities increased significantly.

Against this pressing backdrop, in the face of a serious crisis in the Church, and given the palpable general dissatisfaction among the faithful, the German Bishops' Conference initiated in the Fall of 2010 a special "process of consultation," that is, a totally different and new synodal procedure. It was titled "Believing in the present day."²⁴ At various events in the dioceses and at the entire national level in Germany, the situation in the Church was to be discussed and the consciousness of her mission

²³ Cf. S. HAERING: "Die Kirche und die Erfahrungen des Jahres 2010." *Archiv für katholisches Kirchenrecht* 180 (2011), pp. 133—149; H. HALLERMANN, T. MECKEL, S. PFANNKUCHE, M. PULTE (eds.): *Der Strafanspruch der Kirche in Fällen von sexuellem Missbrauch*. Würzburg 2012 (= Würzburger Theologie 9); R. Rieger (ed.): *Auf dem Weg zu Heilung und Erneuerung. Das Symposium zum sexuellen Missbrauch Minderjähriger, Päpstliche Universität Gregoriana, 6.—9. Februar 2012*. München 2012.

²⁴ M. KIRSCHNER, J. SCHMIEDL (eds.): *Der Dialog geht weiter. Ergebnisse und Perspektiven des Gesprächsprozesses*. Freiburg—Basel—Wien 2016 (= Katholische Kirche im Dialog 4).

reawaken. The process was to last over a period of five years, beginning in 2011 through 2015 before coming to a conclusion. Each of the years was respectively assigned a particular topic, namely:

- 2011: Believing in the present day — Where do we stand?
- 2012: *Diakonia*: Our responsibility in the free society
- 2013: *Liturgia*: The worship of God in the present time
- 2014: *Martyria*: Bearing witness to the faith in the world of today
- 2015: Believing in the present day — Where there is God, there is the future.

This process of consultation did not take place in the form of definite legal organs with a well-defined set of members, but was rather widely open for those persons, who were interested in participating in it. Forums were organized in each year, where the respective yearly topics were discussed. Each of these forums, which took place in different respective venues, brought around 300 persons together. The participation was not completely stable. There were participants who were present at all the forums, thereby giving the process a certain sense of continuity, while others, taking into consideration the respective topics and their specific competence to the topics, only featured in one or two congresses. The Conference of Bishops itself issued separate invitations only to 15 participants, while most of the participants were sent by the dioceses according to their respective sizes.

The central committee of Catholics in Germany, the German Conference of Religious Superiors, the German Caritas Organization, the Congress of Catholic-theology Faculties, the Spiritual Communities and other associations in the Church were also allowed to send their delegates.

The consultation process was not designed to pass resolutions, but to collectively promote mutual communication and renewal within the Church. And this is precisely the objective and the purpose of synods. The description of the consultation process as a spiritual process stands also in agreement with that of the synod, which always has a spiritual and liturgical character.

Taken as a whole, concrete results and effects of the consultation process are elusive. Doubtlessly the initiative helped people to increasingly engage each other in dialogue within the Church, in the knowledge that doing so is the best way to bring about dialogue between God and the faithful. At the end the nationwide consultation forum that took place from 11 to 12 September 2015 in Würzburg, the Conference of Bishops presented a concluding report, which could, however, only describe the event in general terms.²⁵

²⁵ *Überdiözesaner Gesprächsprozess „Im Heute glauben“*. Abschlussbericht. Ed. by SEKRETARIAT DER DEUTSCHEN BISCHOFSKONFERENZ. Bonn [2015].

7. Concluding remarks

The presented overview of the synods and synodal processes which have been conducted in the Germany since the Second Vatican Council reveals first of all that the synodal element in Germany in these decades has received quite a remarkable attention. Synods and synod-related assemblies in their various forms were conducted, which were supposed to be of benefit to the life and witness of the Church.²⁶

With reference to the multiplicity of the various forms, the classical institutions of canon law play noticeably a rather minor role. Provincial councils according to c. 440 CIC never took place at all. Only a few diocesan synods within the relevant period under consideration were organized and conducted in accordance with the provisions of the Code of Canon Law. But nevertheless, this brought about many para-canonical synodal processes at the diocesan level. Even the joint synod of the dioceses in the Federal Republic of Germany (BRD) and the pastoral synod of the districts under the jurisdiction of the Democratic Republic of Germany (DDR) were no classical plenary councils in accordance with canonical regulations. The consultative process of the German Bishops' Conference which was organized between 2001 and 2015 is only faintly a reminiscent of a synod.

Strictly seen from the juridical point of view, neither the real synods nor the alternative consultative organs were actually of great importance. The lawmaker and the policy maker were the bishops or the Bishops' Conference respectively. Indirectly however, the synodal organs may have had some influence on episcopal legislation. But on the whole, they were concerned above all about the promotion of internal synergy in the church in the form which the faithful have known it from the democratic organs of the civil government.

The limited significance of the synodal organs in Germany may also be associated with the fact that existing councils and committees that were involved in shaping the life of the church were constantly established at all levels of the church. There exists the central committee of the German Catholics²⁷, which operates nationwide and the respective Committees of

²⁶ Cf. L. MÜLLER: "Konzilien, Synoden, Räte. Thesen zu ihrem Ort in der Kirche und zu ihrer Aufgabe." In: *Synodale Prozesse in der katholischen Kirche* (see footnote 9), pp. 169—180.

²⁷ Cf. T. GROSSMANN: entry "Zentralkomitee der deutschen Katholiken: Lexikon des Kirchenrechts" (see footnote 1), col. 1019—1021; S. VESPER: entry "Zentralkomitee der deutschen Katholiken." In: *Handbuch Pfarrgemeinderat*. Ed. by LANDESKOMITEE DER KATHOLIKEN IN BAYERN. Freiburg—Basel—Wien 2012, pp. 246—248; further information and sources: www.zdk.de.

Catholics in the individual states like Bavaria, North Rhine Westphalia and Lower Saxony.²⁸ In every diocese there are Catholic Councils²⁹ as well as Deanery and Parish councils³⁰ at other ecclesiastical levels which are regularly active. In these organs interested lay people and the church associations have constantly the possibility to articulate themselves and contribute responsibly in shaping the life of the church. In the light of this, it appears explicable that the overall desire to hold synods in Germany remained rather limited.

²⁸ Cf. K. EDER: entry “Landeskomitee der Katholiken in Bayern.” In: *Handbuch Pfarrgemeinderat* (see footnote 27), pp. 180—182; K. STIENECKE: entry “Landesarbeitsgemeinschaft der Diözesanräte in Nordrhein-Westfalen,” In: *ibid.*, pp. 176—177; H. NIEPÖTTER: entry “Landeskatholikenausschuss in Niedersachsen.” In: *ibid.*, pp. 177—179.

²⁹ Cf. H. KÜNZEL: *Apostolatsrat und Diözesanpastoralrat. Geschichte, kodikarische Vorgaben und Ausgestaltung in Deutschland*. Essen 2002 (= Münsterischer Kommentar zum CIC.B 36); IDEM: “Diözesan- und Pastoralräte in Deutschland — eine Bestandsaufnahme.” *Forum Katholische Theologie* 20 (2004), pp. 282—292.

³⁰ Cf. F. KALDE: “Pfarrpastoralrat, Pfarrgemeinderat und Pfarrvermögensverwaltungsrat.” In: *Handbuch des katholischen Kirchenrechts...* (see footnote 15), pp. 737—745, here: pp. 737—742.

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STEPHAN HAERING

Synodes et processus synodal en Allemagne depuis le Concile Vatican II

Résumé

Cet article donne un aperçu des synodes particuliers qui ont eu lieu en Allemagne depuis le Concile Vatican II. Sont également inclus les processus consultatifs qui ne peuvent pas être qualifiés de synodes canoniques.

Mots-clés: Église catholique, synodes en Allemagne de 1965 à 2016

STEPHAN HAERING

Sinodi e processo sinodale in Germania dal Concilio Vaticano II

Sommario

Questo articolo fornisce una panoramica dei sinodi particolari che hanno avuto luogo in Germania dal Concilio Vaticano II. Sono inclusi anche quei processi consultivi che non possono essere qualificati da sinodi canonici.

Parole chiave: Chiesa cattolica, sinodi in Germania dal 1965 al 2016



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Synods and Synodality in the Austrian Church after the Second Vatican Council

Abstract: Synods have a long tradition in the ecclesiastical history, though their significance varied in different epochs of the Roman Catholic Church. Within the European area, synods gained in importance after the Second Vatican Council, although they appeared in a new or rather modified form. This also applies to the diocesan synods and the Austrian Synodal Process (1973/1974), which took place after and has been celebrated by the supporters of the Second Vatican Council.

Keywords: Synodality, canon law, the Second Vatican Council, the Republic of Austria, *Codex Iuris Canonici*

1. Impulses of the Second Vatican Council regarding church law applicable at the time

A glance at the texts of the Second Vatican Council reveals the intention to revive synodal structures¹ (cf. Art. 36 Abs. 1 VatII

¹ On the history of diocesan synod, see H. E. FEINE: *Kirchliche Rechtsgeschichte, Volume I. Die Katholische Kirche*. Köln ⁵1972, pp. 215, 375 f., 713, 722; E. CAPPELLINI, G. C. S. SARTORI: *Il sinodo diocesano. Storia, normativa, esperienza*. Milano 1994; H. MONCEAU: *Les synodes diocésains*. Paris 1994; T. ROZKRUT: *La natura teologico-giuridica del sinodo diocesano (= Ponticium Athenaeum Sanctae Crucis Facultas Iuris Canonici)*. Roma 1996; K. NIKOLAKOPOULOS: „Neutestamentliche Wurzeln der Synodalität.“ In: *Autorität und Synodalität. Eine interdisziplinäre und interkonfessionelle Umschau nach ökumenischen Chancen und ekklesiologischen Desideraten*. Eds. C. BÖTTIGHEIMER, J. HOFMANN. Frankfurt am Main 2008, pp. 237–251; H. PAARHAMMER: “Die Diözesansynode

CD).² In detail the Council desires “that the venerable institution of synods and councils flourish with fresh vigour. In such a way faith will be deepened and discipline preserved more fittingly and efficaciously in the various churches, as the needs of the times require” (Art. 23 Abs. 2 VatII CD). Yet, Council did not instruct in detail how the revival should be implemented, “after a period of actual insignificance, which has primarily been caused by Roman centralism becoming more absolute,” it resembles “*expressis verbis* a necessary extension of ecclesiastical hierarchy to the faithful.”³ Furthermore, implied suggestions as well as the realignment of ecclesiology coming along with a new view of the Church has been important to synodal practice. More precisely, the Church is described as the “People of God” (Art. 9—17 VatII LG; Art. 32 VatII LG).⁴ The Second Vatican Council also emphasises common priesthood (Art 10. VatII LG),⁵ proper position of the laity (Art. 30—38 VatII LG) as well as their participation in the three-fold office of Jesus Christ as Priest, Prophet, and King (cf. Art 34 VatII LG; Art. 10 Abs. 1 VatII AA) and the specific role of religious members (Art. 43—47 VatII LG). Moreover, the Church is seen as *Communio*⁶ (*communio fidelium, communio hierarchia, communio eccle-*

in ihrer gegenwärtigen Rechtsgestalt. Anmerkungen zum geltenden Recht und zu partikulären Neuentwicklungen des kirchlichen Synodalwesens auf Diözesanebene.” In: *Neue Positionen des Kirchenrechts*. Eds. K. LÜDICKE, H. PAARHAMMER, D. A. BINDER. Graz 1994, pp. 81—117, esp. pp. 85—91.

² Cf. G. BAUSENHART: “Theologischer Kommentar zum Dekret über das Hirtenamt der Bischöfe in der Kirche.” In: *Herders Theologischer Kommentar zum Zweiten Vatikanischen Konzil*. Vol. 3. Freiburg—Basel—Wien 2005, pp. 225—313, esp. pp. 287.

³ K. HARTELT: *Die Diözesan- und Regionalsynoden im deutschen Sprachraum nach dem Zweiten Vatikanum. Rechtshistorische und rechtstheologische Aspekte der Verwirklichung des Synodalprinzips in der Struktur der Kirche der Gegenwart (= Erfurter Theologische Studien, Volume 40)*. Leipzig 1979, p. 69; see also N. WITSCH: entry “Synodalität.” In: *LKStKR*, Vol. 3 (2004), pp. 642—644. Secondary literature unavailable in English is translated to the best of our knowledge.

⁴ Cf. N. WITSCH: entry “Volk Gottes.” in: *LKStKR*, Vol. 3 (2004), pp. 840—842; P. ERDÖ: “Die Kirche als rechtlich verfaßtes Volk Gottes.” In: *HdbKathKR*², pp. 12—20; F. LAPPEN: *Vom Recht zu reden und vom Recht gehört zu werden. Synoden und Foren als Mittel der Teilhabe der Gläubigen an den Leitungsfunktionen der Kirche in Deutschland (= Münsterischer Kommentar zum Codex Iuris Canonici, Beiheft 46)*. Essen 2007, pp. 4—9; W. AYMANS: “Die Kirche — Das Recht im Mysterium Kirche.” In: *HdbKathKR*³, pp. 32—41, esp. pp. 33—35.

⁵ I. RIEDEL-SPANGENBERGER: entry “Gemeinsames Priestertum. II. Kath.” In: *LKStKR*, Vol. 2 (2002), pp. 44—45; T. MECKEL: entry “Allgemeines bzw. Gemeinsames Priestertum — Katholisch.” In: *LKRR*, Vol. 1, pp. 83—87.

⁶ Cf. I. RIEDEL-SPANGENBERGER: entry “Communio.” In: *LKStKR*, Vol. 1 (2000), pp. 355—357; H. HALLERMANN: entry “Communitas fidelium.” In: *LKStKR*, Vol. 1 (2000), pp. 357—359; T. MECKEL: entry “Communio — Katholisch.” In: *LKRR*, Vol. 1, pp. 518—520; H. HALLERMANN: entry “Gemeinde — Katholisch.” In: *LKRR*, Vol. 2, pp. 162 f.

siarum). That kind of “theological characterisation is,” as Hubert Müller mentions “of particular importance, because it forms the basis for ecclesiastical discipline on the one hand and for participation and joint responsibility at all levels on the other hand.”⁷ The new view of the Church formed by the Second Vatican Council requires participation of all the people, in other words: of all the faithful in processes of decision making. The laity as members of the Church can and must not be excluded. Karl Rahner even mentions that “it is dogmatically possible to give an actual right of decision making binding Bishops Conferences as well as each bishop to Synod as such.”⁸

According to the view of the Church of CIC 1917, “the bishops build the second pillar of ecclesiastical constitution willed by God just behind the Pope, who carries full and supreme power over the entire Church (c. 218 connected with cc. 108 § 3, 196).”⁹ However, Norbert Witsch also mentions that there is a “varied network of synodal processes and institutions within the old CIC.”¹⁰ That CIC/1917 with its regulations on diocesan synods (cf. cc. 356—362 CIC/1917) and plenary- as well as provincial-councils (cc. 281—292 CIC/1917) as applicable law at the time was the basis for the Post-Conciliar Diocesan Synod as well as for the Austrian Synodal Process.¹¹ There could and can only be a plenary council if “the Apostolic See gives its authorisation” (c. 439 § 1 CIC/1983). As Stephan Haering critically remarks, “it is clearly noticeable that the development

⁷ H. MÜLLER: “Kirchliche communio und Struktur der Mitverantwortung in der Kirche. Vom Zweiten Vatikanischen Konzil zum Codex Iuris Canonici.” In: AfKKR, Vol. 159 (1990), pp. 117—131, in here p. 118.

⁸ K. RAHNER: „Zur Theologie einer ‘Pastoralsynode’.“ In: *Theologisches Jahrbuch* 1973. Ed. S. HÜBNER. Leipzig 1983, pp. 507—518, in here p. 513.

⁹ N. WITSCH: *Synodalität auf Ebene der Diözese. Die Bestimmungen des universalkirchlichen Rechts der Lateinischen Kirche* (= KStKR 1). Paderborn—München—Wien—Zürich 2004, p. 29; S. N. WITSCH: entry “Diözesansynode — Katholisch.” In: LKKR, Volume 1, pp. 644—646.

¹⁰ N. WITSCH: *Synodalität* (FN 9)..., p. 31; see R. PUZA: “Le principe synodale et les deux types des synodes entre le Code de 1917 et le Code de 1983.” In: *Synod and Synodality. Theology, History, Canon Law and Ecumenism in new contact. International Colloquium Bruges 2003* (= Christianity and History Vol. 1). Eds. A. MELLONI, S. SCATENA. Münster 2005, pp. 647—662.

¹¹ Cf. in detail *Lehrbuch des Kirchenrechts auf Grund des Codex Iuris Canonici. Begründet von Eduard Eichmann, fortgeführt von Klaus Mörsdorf, Volume I: Einleitung, Allgemeiner Teil und Personenrecht* (= Wissenschaftliche Handbibliothek. Eine Sammlung theologischer Lehrbücher). München — Paderborn — Wien 1964, pp. 424—426 und pp. 385—389; K. HARTELT: *Regionalsynoden* (FN)..., pp. 65—67; on Plenary Councils see H. HALLERMANN: “Die Würzburger Synode — ein Maßstab für synodale Prozesse?” In: *Recht — Bürge der Freiheit. Festschrift für Johannes Mühlsteiger SJ zum 80. Geburtstag*. Ed. von Konrad Breitsching und W. Rees (= Kanonistische Studien und Texte, Volume 51). Berlin 2006, pp. 621—644, in here pp. 624—627.

of national-ecclesiastical tendencies was supposed to be disabled by that regulation.”¹²

2. The Austrian Church after the Second Vatican Council

Paul M. Zulehner remarked in 1974 that “Austrian ecclesiasticism has been exhausted during the last decades,”¹³ and that this process, which is indicated by a decline of church attendance, the increasing numbers of those leaving the Church and the decrease of ordination numbers, continues. He also calls attention to the fact that traditional forms of ecclesiasticism turn out to be exhausted not only at the margins of the Church. They evaporate within Her pivotal segments, too. “The Austrian Church faces this evaporation with a certain feeling of perplexity.”¹⁴ Richard Barta, the managing editor and the director of Austrian Catholic news agency Kathpress, evaluated the religious situation in Austria to the effect that: “[...] the Church lives in those people who do not have any objections against it.”¹⁵

Following the end of the Second Vatican Council, the desire for convocation of an Austrian national synod arose.¹⁶ A person who kindled this desire was Otto Mauer, who had been spiritual assistant of the Austrian Catholic Action since 1946¹⁷ and who “helped rebuilding the ecclesiasti-

¹² S. HAERING: “Autorität und Synodalität im Gesetzbuch der lateinischen Kirche.” In: *Autorität und Synodalität. Eine interdisziplinäre und interkonfessionelle Umschau nach ökumenischen Chancen und ekklesiologischen Desideraten*. Eds. C. BÖTTIGHEIMER, J. HOFMANN. pp. 297—320, in here pp. 302.

¹³ P. M. ZULEHNER: “Religiös-kirchliche Daten in Österreich.” In: *HerKorr* 28 (1974), pp. 580—584, in here p. 580, referring to P. M. ZULEHNER: *Verfällt die Kirchlichkeit in Österreich?* Graz 1971; see P. M. ZULEHNER: *Säkularisierung von Gesellschaft, Person und Religion. Religion und Kirche in Österreich*. Wien 1973; P. M. ZULEHNER: “Die kirchlichen Institutionen.” In: *Das politische System Österreichs*. Eds. H. FISCHER. Wien 1974, pp. 625—641; on similar tendencies in Germany, see F. GRONER: “Trends in der katholischen Kirche im Bundesgebiet Deutschland nach dem Konzil.” In: *HerKorr* 28 (1974), pp. 251—257

¹⁴ F. CSOKLICH: “Die a-religiöse Religiosität des Österreicher. Verdunstende Kirchlichkeit unter barocken Kringeln.” In: *HerKorr* 28 (1974), pp. 405—412, in here p. 408, referring to P. M. ZULEHNER.

¹⁵ Quoted from F. CSOKLICH: „Die a-religiöse Religiosität” (FN 14)..., pp. 405 f.

¹⁶ Cf. “Österreich-Synode im Aufschwung.” In: *HerrKorr* 28 (1974), pp. 37—40, here 37.

¹⁷ I. SCHÖDL: *Vom Aufbruch in die Krise. Die Kirche in Österreich ab 1945* (= Editio Ecclesia semper reformanda 6). Innsbruck—Wien 2011, pp. 39 f.

cal structures after 1945.”¹⁸ Finally, Pope Paul VI had requested its application to ecclesial life at the end of the Second Vatican Council.¹⁹ So, the Austrian Church was the second one, just after the Dutch Church, to have given “thought on a National Synod.”²⁰ The Austrian Church kept an eye on various synodal processes taking place in European countries: the Pastoral Council of Dutch Church (1968—1970), the Common Synod of German Dioceses (Würzburger Synode, 1971—1975),²¹ the Synod in Switzerland (Synode 72, 1972—1975) as well as the Pastoral Synod of Ecclesiastical Verges in GDR (1973—1975). In this process, the Würzburger Synode as well as the other assemblies were “new constructs regarding the canon law, since participants from all ecclesiastical classes took part in the discussions on an equal footing.”²²

For the first time, Cardinal König officially brought up the plan of a Vienna diocesan synod during the Diocesan Men’s Day in Wiener Neustadt (15 May 1965) and he reiterated this suggestion the night before the fourth session of the Second Vatican Council (13 September 1965) on broadcasted on television. “From Rome he gave the order to offices of pastoral care and the Catholic Action to make proposals on an Austrian National Synod.”²³ However, a consensus could not be reached during the spring meeting of the Austrian Bishops Conference (29 March 1966) and indeed the Austrian bishops spoke out against a nationwide Austrian Synod.²⁴ Instead, the Austrian Church opted for the convocation and assembling of diocesan synods.

¹⁸ I. SCHÖDL: *Aufbruch* (FN 16)...., p. 49; see *ibid.*, pp. 48—51; O. MAUER: “Situation 1965. Die österreichische Kirche im Zeitalter des ökumenischen Konzils.” In: *Kirche in Österreich 1918—1965*, Vol. 1. Eds. F. KLOSTERMANN, H. KRIEGL, O. MAUER, E. WEINZIERL. Wien—München 1966, pp. 387—403.

¹⁹ Cf. J. ERNESTI: *Paul VI. Der vergessene Papst*. Freiburg—Basel—Wien 2012, pp. 79—86, pp. 107—109 and pp. 120—126; see? PAULS VI: “Apostolisches Schreiben anlässlich des fünften Jahrestages der Beendigung des Zweiten Vatikanischen Konzils vom 8. Dezember 1970.” In: AAS 63 (1971), pp. 97—106; see also: [http://www.kathpedia.com/index.php/Quinque_iam_anni_\(Wortlaut\)](http://www.kathpedia.com/index.php/Quinque_iam_anni_(Wortlaut)) (accessed 5.02.2020); http://w2.vatican.va/content/paul-vi/la/apost_exhortations/documents/hf_p-vi_exh_19701208_quinque-iam-anni.html (accessed 5.02.2020).

²⁰ “Synodenvielfalt in Österreich.” In: *HerKorr* 25 (1971), pp. 34—37, here p. 34.

²¹ Cf. H. HALLERMANN: entry “Gemeinsame Synode.” In: *LKStKR* 2 (2002), pp. 41—44; R. ALTHAUS: entry “Gemeinsame Synode — Katholisch.” In: *LKRR*, Vol. 2, pp. 189—191.

²² S. HAERING: “Autorität (FN 12)”...., s. 311, on the advice of H. HALLERMANN: „*Würzburger Synode* (FN)”...., pp. 629—637.

²³ Cf. “Übersicht über den Stand der synodalen Arbeit.” In: *Synode Wien. Information Bericht Dokumente* 1 (1967), p. 1.

²⁴ There was merely one nationwide commission on studies in Austria, which convened on 7 June 1966 for the first time. On the ASP, see W. REES: “Der Österreichische Synodale Vorgang (1973/74). Vorgeschichte und kirchenrechtlicher Status.” In: J. SCHMIEDL *Nationalsynoden nach dem Zweiten Vatikanischen Konzil. Rechtliche Grundlagen und*

As a consequence, seven (Salzburg, Wien, Linz, Eisenstadt, Gurk, Innsbruck, St. Pölten) of the now nine Austrian dioceses celebrated diocesan synods²⁵: Salzburg (1968),²⁶ Wien (1968—1971)²⁷; Gurk/Kärnten (1970—1972),²⁸ Linz (1970—1972),²⁹ Innsbruck (1971—1972),³⁰ St. Pölten (1971—1972)³¹ and Eisenstadt.³² The decision to set up a diocesan synod in the

öffentliche Meinung (= Theologische Berichte XXXV). Freiburg, Schweiz 2013, pp. 116—198, here pp. 131—180.

²⁵ Cf. T. HECHT: *Wir haben etwas zu sagen. Synodale Vorgänge in der Kirche Österreichs nach dem Zweiten Vatikanischen Konzil* (=Diplomarbeit Kathologisch-Theologische Fakultät der Universität Wien). Wien 1996; K. HARTELT: *Regionalsynoden*, pp. 45—58; D. BURKARD: “Diözesansynoden und synodenähnliche Foren sowie Kirchenvolksbegehren der letzten Jahrzehnte in den deutschsprachigen Ländern.” In: RQ 101 (2006), pp. 113—140; W. SCHULZ: “Diözesan- und Regionalsynoden in den deutschsprachigen Ländern. Erfahrungen und Perspektiven.” In: *La Synodalité. La participation au gouvernement dans l'Église. Actes du VII^e congrès international de Droit canonique, Paris, Unesco, 21-28 septembre 1990*, Paris 1992, pp. 629—649, here pp. 630—643.

²⁶ H. WIDRICH (ed.): *Erneuerung der Erzdiözese Salzburg durch lebendige Christengemeinden. Bericht und Dokumentation über die Salzburger Diözesansynode 1968* (= Dokumentation unserer Zeit). Wien 1969; C. HOLBÖCK: “Die Salzburger Diözesansynode 1968.” In: *Ius et salus animarum. Festschrift für Bernhard Panzram* (= *Sammlung Rombach, NF. Volume 15*). Eds. U. VON MOSIEK, H. ZAPP. Freiburg 1972, pp. 379—391; see *Salzburger Diözesansynode 1968. Offizieller Text der Synodendekrete*, Salzburg o. J. (1971); see R. CERNY-WERNER: “Diözesansynode als sichtbares Zeichen. Die Ausrufung der Diözesansynode 1968 in Salzburg als nachkonziliarer und regionaler Locus Theologicus.” In: *Synodale Prozesse in der katholischen Kirche*. Innsbruck 2016, pp. 19—34.

²⁷ Cf. ERZBISCHÖFliches ORDINARIAT WIEN (ed.): *Leben und Wirken der Kirche von Wien. Handbuch der Synode 1969—1971*. Wien o. J. (1972); GENERALSEKRETARIAT DER WIENER DIÖZESANSYNODE IN DEN JAHREN 1967 BIS 1969 (ed.): *Dokumentation der Wiener Diözesansynode 1967—69*. Wien.

²⁸ Cf. BISCHÖFliches ORDINARIAT DER DIÖZESE GURK: *Kirche für die Welt. Kärntner Diözesansynode 1971-1972*. Klagenfurt o. J. (1975).

²⁹ SEKRETARIAT DER LINZER DIÖZESANSYNODE (ed.): *Kirche um der Menschen willen. Linzer Diözesansynode 1970-1972*. 2 Vols. Linz o. J. (1973).

³⁰ BISCHÖFliches ORDINARIAT INNSBRUCK (ed.): *Miteinander für alle. Das Pastoralprogramm der Diözese Innsbruck nach der Synode 1971-1972*. Innsbruck o. J. (1974); W. REES: “Geistlicher Aufbruch — gestern und heute. Die Diözesansynode Innsbruck 1971/72 im Rahmen synodaler Prozesse. Anmerkungen aus kirchenrechtlicher Perspektive.” In: *Notae. Historische Notizen zur Diözese Innsbruck*. Ed. DIÖZESE INNSBRUCK. Innsbruck 2014, pp. 112—146; W. REES: “Aufbruch durch die Diözesansynode 1971/72 in der neu errichteten Diözesen Innsbruck.” In: *Kirchlicher Wiederaufbau in Österreich* (= Wissenschaft und Religion, Volume 26). Eds. H. PAARHAMMER, A. RINNERHALER. Frankfurt am Main u.a. 2016, pp. 723—758; W. REES: “Die Diözesansynode Innsbruck 1971/72.” In: *Synodale Prozesse (FN 26)*. Eds. W. REES, L. MÜLLER, pp. 237—269.

³¹ BISCHÖFliches ORDINARIAT ST. PÖLTEN (ed.): *Im Dienst an den Menschen. St. Pöltner Diözesansynode 1972*. St. Pölten o. J. (1972).

³² Cf. IDEM: *Zweite Synode der Diözese Eisenstadt*. Eisenstadt 1990; S. LÁSZLÓ: “Die Synoden der Diözese Eisenstadt. Ein Beitrag zur Rechts- und Kirchengeschichte.” In: *Pax et Iustitia* (FN 46). Eds. KALUZA / KLECATSKY / KÖCK / PAARHAMMER, pp. 591—599, esp.

Diocese of Innsbruck (6 August 1964)³³ was made while the Second Vatican Council was still ongoing and the alignment ended with eight votes against and fourteen for the motion. Bishop Rusch confirmed the decision, which was not acknowledged by all of the members due to its close voting result. Nevertheless, “Tyrol had made a mark”³⁴ with their Diocesan Synod in 1971/1972. Styria and Vorarlberg did not decide to call a diocesan synod. Even though the Diocese of Graz-Seckau prepared a Synod after the first Diocesan Synod in 1960,³⁵ the change of the Bishop in 1968/1969 averted its convocation. The Diocese of Feldkirch has only been founded as an autonomous diocese in 1968,³⁶ which meant it was too early for their own synod. Finally, diocesan synods had the “advantage to involve wider circles of faithful than it may have been possible in the case of a national synod.”³⁷ In addition, diocesan synods provided an opportunity to learn in the view of a prospective national synod. Problems occurred on the part of large bodies and related to the question whether a theological background of the participants is necessary and by a wrongly rated time exposure.³⁸

The genuine innovation of diocesan synods after the Second Vatican Council related to the legal participation of the laity. Since CIC/1917 did not foresee their participation, a special permission issued by the Apostolic See was required. It permitted the participation of the laity under

pp. 595—598; see DIÖZESE EISENSTADT (ed.): *Diözese Eisenstadt auf dem Weg. Ihrem ersten Diözesanbischof DDr. Stefan László zum 80. Geburtstag*. Redaktion Ägidius J. Zsifkovics. Innsbruck 1993.

³³ Cf. “Päpstliche Bulle zur Errichtung der Diözese Innsbruck vom 6. August 1964.” In: *Verordnungsblatt für die Diözese Innsbruck*, 40. Jg., 4. Jänner 1965, Nr. 1, TOP 1, p. 1 f.; J. GELMI: “Die Errichtung der Diözesen Bozen-Brixen, Innsbruck-Feldkirch und Feldkirch. Eines der spannendsten Kapitel der neueren Tiroler Kirchengeschichte.” In: *Bischof Paulus Rusch. Wächter und Lotse in stürmischer Zeit. Gedenkschrift*. Eds. H. ALEXANDER, B. KRIEGBAUM. Innsbruck 2004, pp. 100—121; see also SEELSORGEAMT DER DIÖZESE INNSBRUCK (ed.): *Ich bin bei Euch. Mt 28,20. 25 Jahre Diözese Innsbruck*. Innsbruck o. J. (1989).

³⁴ K. EGGER: “Kirche in Tirol — Geschichte und Gegenwart.” In: *Ich bin bei Euch* (FN 37). Ed. SEELSORGEAMT DER DIÖZESE INNSBRUCK pp. 12—23, here p. 22.

³⁵ BISCHÖFLICHES SECKAUER ORDINARIAT IN GRAZ (ed.): *Der Laie in der Kirche. Seckauer Diözesansynode 1960. Bericht und Statut*. Graz o. J. (1961); IDEM: *Der Laie in der Kirche. Seckauer Diözesansynode 1960. Beiträge und Referate*. Graz o. J. (1961).

³⁶ Cf. *Hirtenbrief von Bischof Elmar Fischer zum Advent 2008. Schwerpunkt seines Hirtenbriefs ist das 40-Jahr-Jubiläum der Diözese*: <http://www.kath-kirche-vorarlberg.at/artikel/2008/40-jahre-dioezese-feldkirch-2013-zwischen-vergangenheit-und-zukunft> (accessed 5.02.2020).

³⁷ “Das Ende der Österreich-Synode.” In: *HerKorr* 28 (1974), pp. 368—372, here p. 368. The author remarks that the Swiss model would clearly have been exceptional.

³⁸ Cf. *Synodenvielfalt* (FN 20), p. 34.

certain circumstances³⁹ whereby the relation between them and representatives of the clergy increasingly became the focus of attention. After the Apostolic See “initially allowed participation for the laity as fully entitled attendants, it restricted their participation to the extent that the number of lay persons must not exceed the number of priests. This reaction is seen as an almost fearful to certain calls for co-determination.”⁴⁰ However, the restriction did not come from Rome, but from individual diocesan bishops.⁴¹

3. The Austrian Synodal Process in 1973/1974

As diocesan synods covered different areas and since the preparations along with the processes themselves revealed individual sectors exceeding the responsibilities of particular dioceses, the desire arose “to search for supra-diocesan coordination as far as possible.”⁴² As the person reporting it noted: “The different results of diocesan synods and the advantages of solving some problems — e.g. those regarding mass media — nationwide, convinced the bishops of the necessity to hold a common ‘umbrella-synod’ as a synopsis and conclusion.”⁴³ The conference should not be held as a national council, but as a separate conference, which initially was named Gesamtösterreichischer Synodaler Vorgang and eventually called Österreichischer Synodaler Vorgang (ÖSV) — Austrian Synodal Process (ASP). It is impossible to file the ASP to CIC/1917, which was applicable at that time.⁴⁴ Generally, naming as well as the intended process proved challenging and the thought of synods continued to have an effect for a long time. Thus, ASP was called “Österreichsynode” consistently during the preparations as well as during the process. According to

³⁹ These concessions were made in “anticipation of the reforms of CIC.” Cf. H. SCHMITZ: “Die Beratungsorgane des Diözesanbischofs.” In: GrNKirchR, pp. 277—287, here p. 278, FN 6.

⁴⁰ H. SCHMITZ: „Beratungsorgane” (FN 39)...., p. 278, FN 6.

⁴¹ Cf. in detail REES: „Der Österreichische Synodale Vorgang (FN 24)”...., pp. 128—130.

⁴² „Österreich-Synode (FN 18)”...., p. 38.

⁴³ „Das Ende (FN 35)”...., p. 368.

⁴⁴ W. REES: „Synoden und Konzile. Geschichtliche Entwicklung und Rechtbestimmungen in den kirchlichen Gesetzbüchern von 1917 und 1983.” In: *Unverbindliche Beratung oder kollegiale Steuerung? Kirchenrechtliche Überlegungen zu synodalen Vorgängen* (= Europas Synoden nach dem Zweiten Vatikanischen Konzil). Eds. W. REES, J. SCHMIEDL. Freiburg—Basel—Wien 2014, pp. 10—67.

Church law, ASP was no plenary council as scheduled by CIC/1917, and thereby “was protected against the Roman access.”⁴⁵ Subordination to the Apostolic See was not requested and a “ecclesiastical vital process” should be “stressed and inspired.”⁴⁶

Implementing the ASP was decided on 1 July 1970 by the Austrian Bishops Conference. Its inaugural meeting was on 7 March 1973 in Vienna, where also the first plenary session from 15 to 28 October 1974 took place. Likewise, the second plenary session, which has at once been the conclusion of ASP, took place from 1 to 5 May 1974 in Vienna. ASP was staged simultaneously with other common synods as the Würzburger Synode in Germany (1971—1975),⁴⁷ the Niederländische Pastoralkonzil (1966—1970),⁴⁸ the Synod 72 in Switzerland (1972)⁴⁹ and the Pastoral Synod of Jurisdiktionsbezirk in the GDR (1973—1975).⁵⁰ From among 50 proposed topics, which had been formulated by the Austrian dioceses *ex ante*, four were selected: “Carriers of Ecclesiastical Service,” “Church in Present Society,” “Formation and Education” and “Church and Mass Media.” The ASP was problematic in no way and it was evaluated differently. This applies not only to its reception and its particular impact on religious life in Austria,

⁴⁵ „Das Ende (FN 45)”..., p. 368.

⁴⁶ A. WAGNER: „Kirche in Österreich nach der Synode.” In: *Lebendige Seelsorge* 27 (1976), pp. 105—110, here p. 105.

⁴⁷ See S. VOGES: “Die Gemeinsame Synode der Bistümer in der Bundesrepublik Deutschland. Anlass zur Einberufung der Synode und kirchenrechtlicher Status.” In: *Nationalsynoden* (FN 24). Ed. J. SCHMIEDL, pp. 65—76; S. VOGES: *Die Gemeinsame Synode der Bistümer in der Bundesrepublik Deutschland. Themenfindung und Beteiligung der Öffentli...*, pp. 225—235; P. LEIBINGER: „Gemeinsame Synode der Bistümer in der Bundesrepublik Deutschland 1971-1975.” In: *Synodale Prozesse* (FN 26). Eds. W. REES, H. MÜLLER, pp. 97—124; H. HALLERMANN: „Das Statut der Gemeinsamen Synode der Bistümer in der Bundesrepublik Deutschland.” In: *Unverbindliche Beratung* (FN 44). Eds. W. REES, J. SCHMIEDL, pp. 87—104.

⁴⁸ J. JAKOBS: “Das Pastoralkonzil der niederländischen Kirchenprovinz (1966—1970). Eine neue Art der Autoritätsausübung.” In: *Nationalsynoden* (FN 24). Eds. J. SCHMIEDL, pp. 57—64; J. JAKOBS: *Der Verlauf des Pastoralkonzils der niederländischen Kirchenprovinz, die behandelten Themen und das Resultat*, *ibid.*, pp. 217—224; J. B. M. WISSINK: “Die Organisation des Niederländischen Pastoralkonzils.” In: *Unverbindliche Beratung* (FN 44...), pp. 121—126.

⁴⁹ M. RIES: “Auf der Suche nach Ausgleich. Die Schweizer Synode 72.” In: *Nationalsynoden* (FN 24)..., pp. 101—115; R. WEIBEL: “Synode 72. Themenfindung und Beteiligung der Öffentlichkeit.” *Nationalsynoden* (FN 24)..., pp. 236—257; M. BELOK: “Nationale Synoden im Ländervergleich: Die Synode 72 in der Schweiz (1972-1975).” In: *Unverbindliche Beratung* (FN 44), pp. 127—143.

⁵⁰ See also S. HOLZBRECHER: “Die ostdeutsche Pastoral synode in Dresden (1973-1975). In: *Nationalsynoden* (FN 24),” pp. 77—100; D. M. MEIER: “Das Statut der Pastoral synode der Jurisdiktionsbezirke in der DDR.” In: *Unverbindliche Beratung* (FN 44)..., pp. 105—120.

but also to preparations, topics, and corresponding legal perspective. Even if the participating bishops could be characterised very differently, there was a common agreement that the bishops themselves as well as the Austrian Bishops Conference as such thwarted, obstructed, and prevented the process in many ways. Many votes and advices had not been forwarded to Rome. Within the “establishment” of the Austrian Church there were tendencies to stay closed to the proposed reforms. The contemporary Austrian Church suffers from the ramifications of these events until today. Rarely decisions regarding structural changes and participation of the laity were made enforceable. Despite brave advices the then “hot potatoes” remained as such until today. All in all, the ASP is considered positive due to some its decisions and later implementations.

4. Diocesan Synod and Plenary Council in CIC/1983 and other synodal processes in the Austrian Church

CIC/1983, the code of canon law entered into force in 1983, provides for diocesan synods (cf. cc. 460—468 CIC/1983) and particular councils (cf. cc. 439—446 CIC/1983).⁵¹ As Joseph Listl mentions, some German diocese attempted to “enhance the goal of Diocesan Synod by non-legislatively Diocesan or Pastoral Panel”⁵² since 1992, which is to be considered from various perspectives. Is it an expression of neither the will of individual diocesan bishops not being bound to the guidelines of CIC/1983 nor of a resignation regarding those bishops, who do not call for diocesan synods any longer due to the fact that its votes and results are not taken seriously?

The instruction of the Congregation for Bishops and the Congregation for the Evangelisation of People (19 March 1997) seeks for clarifica-

⁵¹ Cf. H. SCHMITZ: “Die Konsultationsorgane des Diözesanbischofs.” In: HdbKathKR³, pp. 620—637, esp. pp. 622—626; see also W. REES: “Plenarkonzil und Bischofskonferenz.” In: HdbKathKR³, pp. 543—576; G. BIER: “Die Kirchenprovinz.” In: HdbKathKR³, pp. 577—584.

⁵² J. LISTL: entry “Diözesansynode. I. Kirchenrechtlich.” In: LThK³, Vol. 3 (1995), p. 254. As the KONGREGATION FÜR DIE BISCHÖFE: *Direktorium für den Hirtendienst der Bischöfe vom 22. Februar 2004*. No. 175, p. 236, to be found at: http://www.dbk-shop.de/media/files_public/orkqynbvby/DBK_2173.pdf (accessed 5.02.2020), emphasises it is “preferable to comply the substance of the canonical law regarding Diocesan Synods as well as those instructions *servatis servandis* concerning panels or other ecclesiastical assemblies of synodal nature.” Cf. H. HALLERMANN: *Direktorium für den Hirtendienst der Bischöfe. Übersetzung und Kommentar* (= KStKR, Volume 7). Paderborn—München—Wien—Zürich 2006, p. 217.

tion and tightening in guidelines concerning the implementation of diocesan synods. Therefore, admission criteria are clearly identified: besides firm belief, good manners and prudence canonic life situation is an imperative precondition for participation.⁵³ If implementation of diocesan synod is given to the sole responsibility of diocesan bishops, the bishops are claimed in a particular way. After the ASP, there were four assemblies not celebrated as diocesan synods: Diözesantag of Erzdiözese Salzburg 1978, Diözesanforum of Erzdiözese Wien 1988—1992, Diözesanforum Innsbruck 1993, Diözesanforum Salzburg 1996 — all of them were Diocesan Penal. The Diocese of Innsbruck also decided to hold a Diocesan Penal (1993—1995)⁵⁴ to discuss especially the following topics: “living Church in a parish,” “regional pastoral- and personal planning,” “marriage and family,” “living with person with disabilities and the terminally ill,” “women in the Church,” “divorcees and divorced and remarried,”⁵⁵ “homosexuals and faith,” “youth,” as well as “emulating bishops”⁵⁶ and “Solidaritätsfonds der Diözese Innsbruck zur Förderung von Projekten für und mit schwervermittelbaren Arbeitslosen.” Yet, Klaus Egger remarks in

⁵³ Cf. CONGREGATIO PRO EPISCOPIS, CONGREGATIO PRO GENTIUM EVANGELIZATIONE: “Instructio *De Synodis dioecesanis agendis* et Additamentum ad instructionem de Synodis dioecesanis agendis, II 3, 1^o, referring to c. 512 § 2 CIC/1983.” In: AAS 89 (1997), pp. 706—721 and pp. 722—727, here p. 711; to be found at: http://www.vatican.va/roman_curia/congregations/cbishops/documents/rc_con_cbishops_doc_20041118_dioecesan-synods-1997_lt.html (accessed 5.2.2020); in German: AfkKR 166 (1997), pp. 147—167, here p. 152; J. HIRNSPERGER: “Die Diözesansynode. Bemerkungen zu den einschlägigen Normen des CIC unter besonderer Berücksichtigung der Instruktion vom 19. März 1997.” In: *Dem Staate, was des Staates — der Kirche, was der Kirche ist. Festschrift für Joseph Listl zum 70. Geburtstag*. Ed. J. ISENSEE, W. REES, W. RÜFNER (= Staatskirchenrechtliche Abhandlungen, Volume 33). Berlin 1999, pp. 855—873; J. HIRNSPERGER: “Die Diözesansynode. Bemerkungen zu den einschlägigen Normen des CIC unter besonderer Berücksichtigung der Instruktion vom 19. März 1997.” In: *Synodale Prozesse* (FN 26)...., pp. 55—75; H. HALLERMANN: “Ein Maulkorb aus Rom für mündige Christen? Die rechtliche Einordnung der römischen Instruktion über die Diözesansynoden.” *Diakonia* 28 (1997), pp. 390—394.

⁵⁴ Cf. BISCHÖFLICHES ORDINARIAT — SEELSORGEAMT INNSBRUCK (ed.): *Diözesanforum Innsbruck 1993-1995*. Innsbruck o. J (1995).

⁵⁵ Cf. BISCHÖFLICHES ORDINARIAT der DIÖZESE INNSBRUCK (ed.): *Leitlinien der Diözese Innsbruck zur seelsorglichen Begleitung von Geschiedenen und Geschiedenen-Wiederverheirateten*. Innsbruck 1997; following: SEELSORGEAMT DER DIÖZESE INNSBRUCK (ed.): *Wenn geschiedene Menschen anlässlich ihrer standesamtlichen Trauung um ein Gebet bitten*. Innsbruck 2008. In 2002 the Bishop of Innsbruck pointed to ecclesiastical ceremonies regarding this topic, expressly. Cf. *Diözesanblatt. Amtliche Mitteilungen der Diözese Innsbruck*, 77. Jg., Mai / Juni 2002, No. 3, TOP 32, p. 4.

⁵⁶ According to this, the Diocesan Panel addresses a request “to the Apostolic Nuncio in Austria to consider the hopes, wishes and requests of particular churches by ordering bishops henceforth for the purpose of Can. 377 § 3.”

1989 that Tyrolian Church “currently changed even more than within many decades before,”⁵⁷ since 1995 there has been no further diocesan synod or panel in Innsbruck. Similar considerations apply to the other Austrian dioceses. Entirely the Militärordinariat in Austria dared to hold a Diocesan Synod.⁵⁸ Convocation of a diocesan synod by Military Bishop (30 September to 4 October 2013) exemplifies his will to count on joint responsibility of military chaplain and the laity.⁵⁹

The Diocese of Brixen-Bozen as well as the Diocese of Trier called for diocesan synods to take the right steps into future. Kardinal Schönborn (Archdiocese of Vienna) initiated a process called APG2010 to account for the challenges the Archdiocese faced around the turn of the millennium. The “Dialog für Österreich,” which was audaciously commenced in 1998 and should be taken as a nationwide forum for discussion, “fell victim to machinations of the church politics.”⁶⁰ Nevertheless, there were further development processes in the Austrian dioceses.

⁵⁷ Cf. EGGER: *Kirche in Tirol* (FN 38)..., p. 19.

⁵⁸ Cf. H. TRIPP: “Die Diözesansynode 2013 des Militärordinariates der Republik Österreich. Anmerkungen zur kanonistischen Praxis im pastoralen Prozess einer Teilkirche.” In: *Synodale Prozesse* (FN 26)..., pp. 335—362. Also the Dioceses of Bozen-Brixen and Trier convoked diocesan synods. See on that E. RUNGALDIER: “Syn-Odos: gemeinsam auf dem Weg. Die Synode der Diözese Bozen-Brixen 2013-2015.” In: *Synodale Prozesse* (FN ...)...pp. 271—284; *Auf Dein Wort Hin — Mit Freude und Hoffnung. Sulla Tua Parola — Con Gioia E Speranza. Sun Ti Parola — Con Legrezza Y Speranza. 2013-2015 Synode Diözese Bozen-Brixen. Sinodo Diocesi Bolzano-Bressanone. Sinoda Diozeja Bulsan-Persenon.* Bozen—Bolzano 2016; C. OHLY: “Die Diözesansynode im Bistum Trier (2012-2016). Anmerkungen aus kirchenrechtlicher Perspektive.” In: *Synodale Prozesse* (FN 26)... pp. 207—235; G. HOLKENBRINK: “Das Wagnis einer Diözesansynode. Anmerkungen in der Zeit der Vorbereitung der Synode im Bistum Trier im Jahre 2013.” In: *Unverbindliche Beratung* (FN 44)..., pp. 296—308.

⁵⁹ C. WERNER: *Militärbischof, Pastorale Leitlinien für das Militärordinariat der Republik Österreich. Schlussdokument der Diözesansynode 2013.* Wien 2014; available online at: https://www.mildioz.at/dfs/query.php?radio_detail_d=2033 (accessed 5.02.2020); see also C. WERNER: “Militärbischof, Ordnung der Diözesansynode vom September 2013 des Militärordinariats für die Republik Österreich vom 29. September 2012.” In: *Militärordinariat der Republik Österreich, Amtsblatt Jg. 2012, 3. Oktober 2012, 1. Folge, Nr. II. 4*, pp. 12—16; “Ordnung der Diözesansynode — Novelle vom September 2013 (30. August 2013).” In: *Militärordinariat der Republik Österreich, Amtsblatt Jg. 2013, 2. September 2013, 1. Folge, Nr. I. 1*, pp. 1—5.

⁶⁰ S. Laienrats-Präsident für neuen österreichweiten Dialogprozess. *Laienrats-Präsident Theo Quendler vermisst eine „Gesprächsplattform auf gesamtösterreichischer Ebene“ und hofft nun auf einen neuen Anlauf* (17.12.2016): <https://www.erzdioezese-wien.at/site/home/nachrichten/article/54299.html> (accessed: 5.02.2020).

5. Conclusions

Despite all discussions and criticism, diocesan synod and panel in Innsbruck initiated, due to urgent questions and appropriate votes, a lot of things shaping the diocese to this day. This also applies to other celebrated Austrian Diocesan Synods after the Second Vatican Council and to the APS. Currently, there is further erosion of consciousness and life in faith. Furthermore, the Austrian Roman Catholic Church faces such problems as the lack of priests and the large number of people leaving the Church. There are still many unaddressed topics in the past years still requiring solution. Therefore, the question remains if it is time for new synodal assemblies in Austria or if it is necessary to initiate a bigger process like the German “Synodaler Weg” (The Synodal Path).⁶¹ Due to the awakening instigated by Pope Francis regarding questions of transmission of faith, ecclesiastical structures, and togetherness as well as those issues which trouble the faithful today,⁶² the call for further processes becomes urgent.

If a certain awakening is mentioned today,⁶³ the spiritual and religious awakening is meant as well as the one concerning ecclesiastical structures, forms of parish activities, time for actual pastoral care, new approaches to faithful. Those challenges require bold rethinking, new consulting processes and, in case of some issues, also a new regulation of law. There is much hope related to Pope Francis. In his speech on 17 October 2015 he emphasises synodality as the one way “God expects from his Church of the third decade.”⁶⁴ The current situation of the Austrian Church necessitates a new Austrian Synodal Process fifty years after the previous one. But a prerequisite for such a process is courage, openness, and willingness to search for ways for a sustainable Austrian Church. Therefore, one could learn by the experiences of ASP⁶⁵ and later Process of Dialogue. But it is

⁶¹ On the German “Synodaler Weg,” see: <https://www.synodalerweg.de/> (accessed 5.02.2020).

⁶² Cf. FRANZISKUS: *Apostolisches Schreiben „Evangelium Gaudium“ an die Bischöfe, an die Priester und Diakone, an die Personen Geweihten Lebens und an die Christgläubigen Laien über die Verkündigung des Evangeliums in der Welt von heute* (2013): http://www.vatican.va/content/francesco/de/apost_exhortations/documents/papa-francesco_esortazi-one-ap_20131124_evangelii-gaudium.html (accessed 5.2.2020).

⁶³ FRANZISKUS: *Ansprache bei der 50-Jahr-Feier der Errichtung der Bischofssynode vom 17. Oktober 2015*: http://w2.vatican.va/content/francesco/de/speeches/2015/october/documents/papa-francesco_20151017_50-anniversario-sinodo.html (accessed 5.2.2020).

⁶⁴ FRANZISKUS: *Ansprache bei der 50-Jahr-Feier der Errichtung der Bischofssynode* (FN 62).

⁶⁵ Cf. W. REES: “Zeitzeugen erinnern sich an den Österreichischen Synodalen Vorgang.” In: *Die Erinnerung an die Synoden. Ereignis und Deutung — im Interview nach-*

also necessary to read the signs of the time already mentioned by Pope Francis in *Evangelii Gaudium*⁶⁶: the lack of priests, the dwindling interest in the Church, the people leaving the Church, the necessity to integrate the laity — especially women — into executive positions, the reorganisation of pastoral structures, the question of the Church’s grasp for the concerns, fears, and aspirations of the people. Francis point to the signs of hope when he emphasises in *Amoris Laetitia* that divorced and remarried people can “receive sacramentary help in certain cases,” so that the access to the Sacrament of the Eucharist is not sweepingly sealed to those anymore.⁶⁷ The eyes of the universal Church were directed towards Vatican from 6 to 27 October 2019, where cardinals, bishops and experts conferred about “new ways for the Church and a holistic ecology” in Amazon region. Special emphasis was placed on priestly ordination of married men.⁶⁸ A new order on the formation of priests⁶⁹ and one for theological faculties (*Veritatis Gaudium*)⁷⁰ has been adopted previously. In doing so,

gefragt (= Europas Synoden nach dem Zweiten Vatikanischen Konzil, Volume 4). Eds. J. SCHMIEDL, W. REES. Freiburg—Basel—Wien 2017, pp. 304—506.

⁶⁶ FRANZISKUS: *Evangelii Gaudium* (FN 61), No. 102 and 103; Cf. also FRANZISKUS: *Ansprache Weihnachtsempfang für die Römische Kurie am 22. Dezember 2016*: https://w2.vatican.va/content/francesco/de/speeches/2016/december/documents/papa-francesco_20161222_curia-romana.html (accessed 02.02.2016); see also: RADIO VATIKAN, *Papst an Kurie: „Kein Fitnessraum für verborgenen Ehrgeiz“* (22.12.2016): http://www.archivioradiovaticana.va/storico/2016/12/22/papst_an_kurie_„kein_fitnessraum_für_verborgenen_ehrgeiz“/de-1280868 (accessed 5.2.2020).

⁶⁷ Cf. FRANZISKUS: *Nachsynodales Apostolisches Schreiben „Amoris laetitia“ vom 19. März 2016 an die Bischöfe, an die Priester und Diakone, an die Personen Geweihten Lebens, an die christlichen Eheleute und an alle christgläubigen Laien über die Liebe in der Familie*, Fn. 351, in: AAS; ferner unter: https://w2.vatican.va/content/francesco/de/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia.html (accessed 5.2.2020).

⁶⁸ See [katholisch.de: Amazonassynode](https://www.katholisch.de/aktuelles/themenseiten/die-amazonas-synode), to be found at: <https://www.katholisch.de/aktuelles/themenseiten/die-amazonas-synode> (accessed 5.2.2020).

⁶⁹ Cf. KONGREGATION FÜR DEN KLERUS: *Das Geschenk der Berufung zum Priestertum. Ratio Fundamental Institutionis Sacerdotalis*, 8. Dezember 2016: <http://www.clerus.va/content/dam/clerus/Ratio%20Fundamentalis/Das%20Geschenk%20der%20Berufung%20zum%20Priestertum.pdf> (accessed 5.2.2020); see also W. REES: “Reformen in der römisch-katholischen Kirche. Kirchenrechtliche Neuerungen und Visionen von Papst Franziskus.” In: *öarr* 64 (2017), pp. 410—427 (= Festschrift für Herbert Kalb zum 60. Geburtstag); W. REES: “Strukturveränderungen in der Kirche. Am 13. März vor fünf Jahren wurde Kardinal Jorge Maria Bergoglio als Nachfolger auf den Stuhl Petri gewählt. Wie weit hat er seine radikalen Reformpläne umgesetzt? Was steht noch aus? Eine Zwischenbilanz.” In: *SKZ. Schweizerische Kirchenzeitung* 04/2018, 1. März 2018, 186. Jahrgang, pp. 92—93.

⁷⁰ W. REES: “Katholisch-Theologische Fakultäten und Priesterausbildung in Österreich. Historische Entwicklung, kirchen- und religionsrechtliche Vorgaben und Zukunftsperspektiven.” In: *Priesterausbildung*. Ed. C. OHLY. Berlin 2020 (to be published).

Pope Francis opened up to questions concerning the Austrian Church for more than 40 years. The Austrian Church is bound to face Pope Francis' request for reforms, whereby the texts and advices of the Second Vatican Council are still able to stimulate the process, even if the Council is a thing of the past for many people.

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WILHELM REES

Synodes et synodalité dans l'Église autrichienne après le Concile Vatican II

Résumé

Les synodes ont une longue tradition dans l'histoire ecclésiastique, bien que, dans l'Église catholique romaine, leur importance ait varié selon les époques. En Europe, les synodes ont suscité de l'intérêt après le Concile Vatican II, bien qu'ils soient apparus sous une forme nouvelle ou plutôt modifiée. Cela vaut également pour les synodes diocésains et le processus synodal autrichien (1973/1974) qui a eu lieu un peu plus tard et a été organisé par les leaders d'opinion du Concile Vatican II.

Mots-clés: synodalité, droit canonique, Concile Vatican II, République d'Autriche, Codex Iuris Canonici

WILHELM REES

Sinodi e sinodalità nella Chiesa austriaca dopo il Concilio Vaticano II

Sommario

I sinodi hanno una lunga tradizione nella storia ecclesiastica, anche se la loro importanza variava nella Chiesa cattolica romana a seconda delle epoche. In Europa, i sinodi acquisirono importanza dopo il Concilio Vaticano II, sebbene in quel momento apparissero in una forma nuova o piuttosto modificata. Ciò vale anche per i sinodi diocesani e per il processo sinodale austriaco (1973/1974) che ebbe luogo un po' più tardi ed fu organizzato dai promotori del pensiero del Concilio Vaticano II.

Parole chiave: sinodalità, diritto canonico, Concilio Vaticano II, Repubblica d'Austria, Codex Iuris Canonici



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Swiss Synodality after the Second Vatican Council

Abstract: *Quod omnes tangit, ab omnibus tractari et approbari debent.* (Cardinal Congar)
The canonists have been developing the rule of law of Western Europe.

After there had been much debate (Acts 15:7), they decided together with the Holy Spirit. The Apostolic Nuncio gave the permission for lay persons (including women) to participate at the Synod. Synod '72 is a process involving seven synods of local Churches in Switzerland. As an instrument of “processing” Vatican II, Synod '72 discussed implementation options like Ecclesiastical Offices of the local Church. (LG 33; Paul VI's *Ministeria quaedam*; John Paul II's *Christifidelis laici*; c. 228 CIC 1983). The tradition of shared decision-making of the baptised was been activated.

Keywords: participants of the Synods of the local Churches, local Ecclesiastical Offices of lay ministers and the deacons, democracy, rule of law, western legal tradition, women in the decision-making process

The Synod '72

In Switzerland, “the Synod '72” since the very beginning has been understood as an instrument of “processing” Vatican II. The Swiss Bishops' Conference decided to hold coordinated diocesan synods. Bishop John Vonderach was the first to mention a diocesan synod in 1966. However, reactions to the episcopal announcement were very scarce. The episcopal vicars Alois Sustar (Chur), Ivo Führer (St. Gallen), and Otto Wüst (Basel) suggested to their bishops that a synod of the German-speaking dioceses should be organised. Not only the German-speaking bishops wanted to participate, but also the French- and Italian-speaking bishops were in favour. For this reason, the Swiss Bishops' Conference (hereinaf-

ter: SBC) was able to decide that diocesan synods should be implemented in coordination throughout Switzerland. They would begin in 1972; this explains the term Synod '72.

Synod '72 is the convocation of seven synods of local Churches in Switzerland after Vatican II between 1972—1975. Six dioceses and one territorial abbey coordinated their synods. Thus, it was not a national synod. This process yielded two kinds of documents. On the one hand, there are decisions which are legally binding due to being approved by respective bishops. On the other hand, there are documents which are coordinated throughout Switzerland. However, the latter kind of texts could not be ratified. The decision of the synods is not legally binding until every single bishop gives his consent. If the bishops do not give their consent, the text of Synod '72 has the character of a recommendation for the Swiss Bishops' Conference.

Ecclesiastical Offices of the Local Church

Motivated by Vatican II, the laity were eager to study theology. Thus, the Synod '72, as an instrument of processing Vatican II's resolutions, discussed implementation options: "Furthermore, it is to be hoped that many of the laity will receive a sufficient formation in the sacred sciences and that some will dedicate themselves professionally to these studies, developing and deepening them by their own labors. In order that they may fulfill their function, let it be recognized that all the faithful, whether clerics or laity, possess a lawful freedom of inquiry, freedom of thought and of expressing their mind with humility and fortitude in those matters on which they enjoy competence" (GS 16).

At the beginning of the Synod, the *Motu proprio* "*Ministeria Quaedam*" by Pope Paul VI encouraged the episcopal conferences to apply for further ecclesiastical offices of the local Church. "In addition to the offices universal in the Latin Church, the conferences of bishops may request others of the Apostolic See, if they judge the establishment of such offices in their region to be necessary or very useful because of special reasons. [...] It is in accordance with the reality itself and with the contemporary outlook that the above-mentioned ministries should no longer be called minor orders; their conferral will not be called *ordination*, but *institution*."¹

¹ PAUL VI: *Apostolic Letter given Motu Proprio "Ministeria Quaedam": On first tonsure, minor orders, and the subdiaconate*. Rome 1972, n. 5—6. Available online at:

The term *institutio* has been incorporated into the legal language of the dioceses of Basel, St Gallen and Chur for persons who are ready to work life long in a pastoral office for the local Church. And some years later the Code of John Paul II confirmed this tradition. “Qualified lay persons are capable of assuming from their sacred pastors those ecclesiastical offices and functions which they are able to exercise in accord with the prescriptions of law” (c. 228 § 1 CIC 1983). They are also “capable of assisting the pastors of the Church as experts or advisors; they can do so even in councils, in accord with the norm of law” (c. 228 § 2). The *Regulae Iuris* had integrated this as “‘what touches all must be approved by all’, though not in the sense of democratizing decisions in the Church.”²

John Paul II continued this tradition when he applied all Latin terms of ecclesiastical ministry to lay people in his *Post-synodal Apostolic Exhortation* “*Christifideles laici*” No. 23: *Varia ministeria, officia et munera, quae christifideles possunt legitime sustinere in liturgia, in fidei transmissione et in structuris pastoralibus Ecclesiae, exercenda erunt ratione quadam cum eorum specifica vocatione laicali concordi, quae alia erit ab illa sacrorum ministeria propria.* (The various **ministries, offices and roles** that the lay faithful can legitimately fulfill in the liturgy, in the transmission of the faith, and in the pastoral structure of the Church, ought to be exercised in conformity to their specific lay vocation, which is different from that of the sacred ministry).

In his commentaries about the Synod 72, Manfred Belok “is amazed at the openness and ease with which the women and men of the Synod [...] presented the theme [ministries and church offices] without any prohibition on thinking. This Helvetian and deeply Christian sincerity still impresses and convinces today.”³ He remembers a word of the Doctor of the Church Teresa of Avila (1515—1582): “I accuse our time that it repels strong and good to all talented minds just because they are women.”⁴

The Synod ’72 pleads, however, for an opening of the admission conditions to the consecrated offices which we see in our time in the texts of Pope Francis: “I dream of a ‘missionary option’, that is, a missionary impulse capable of transforming everything, so that the Church’s cus-

https://w2.vatican.va/content/paul-vi/la/motu_proprio/documents/hf_p-vi_motu-proprio_19720815_ministeria-quaedam.html (accessed 9.09.2019).

² J. A. CORIDEN, TH. J. GREEN, D. E. HEINTSCHEL: *The Code of Canon Law. A Text and Commentary*. New York 1985, p. 165.

³ M. BELOK: “Die Synode 72 Schweiz: Das kirchliche Dienstamt und die Anfänge zweier ‚Laien-Ämter.‘” In: *Die Kirchenbilder der Synoden. Zur Umsetzung konziliarer Ekklesiologie in teilkirchlichen Strukturen* [Europas Synoden nach dem Zweiten Vatikanischen Konzil, 3]. Eds. J. SCHMIEDL, R. WALZ. Freiburg *i.Br.* 2015, p. 138.

⁴ TERESA VON AVILA: *Camino de Perfeccion*. Manuskript, Escorial 4,1.

toms, ways of doing things, times and schedules, language and structures can be suitably channelled for the evangelization of today's world rather than for its self-preservation. The renewal of structures demanded by pastoral conversion can only be understood in this light: as part of an effort to make them more mission-oriented.”⁵

Like the Synod '72, Pope Francis today emphasises the importance of the local Church and its institutions: “It is not advisable for the Pope to take the place of local Bishops in the discernment of every issue which arises in their territory. In this sense, I am conscious of the need to promote a sound ‘decentralization’.”⁶ The Synod '72 took this path in anticipatory obedience. The lay ministries introduced by the Synod '72 should be developed in a decentralised manner.

The Second Vatican Council also proposed this path of decentralisation in the introduction of the diaconate for *virī probati*: “It pertains to the competent territorial bodies of bishops, of one kind or another, with the approval of the Supreme Pontiff, to decide whether and where it is opportune for such deacons to be established for the care of souls. With the consent of the Roman Pontiff, this diaconate can, in the future, be conferred upon men of more mature age, even upon those living in the married state” (LG 29).

Is the Synod '72 a parliament?

The faithful have been asking: How should the Synod '72 be understood? Before the revival of the synodality in the Church, a professor of canon law in Chur told the following story. “You can embarrass the bishop badly if you inquire him by the statute, the diocesan synod. [...] Such a thing does not exist, and a diocesan synod has never taken place since the Council of Trent (1545—1563), although this would have encouraged the bishops.”⁷ An annual diocesan synod was scheduled in *Decretum Gratiani* (D.18, c. 16) and in the Council of Trent.⁸ The Code of 1917 envis-

⁵ FRANCIS: *Apostolic Exhortation “Evangelii Gaudium”*, Rome 2013, n. 27. Available online at: http://w2.vatican.va/content/francesco/it/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html. Accessed 09.09.2019.

⁶ *Ibidem*, n. 16.

⁷ A. GASSER: *Das Kirchenvolk redet mit. Die Synode 72 in der Diözese Chur*. Zürich 2005, 9.

⁸ COUNCIL OF TRENT: *Sessio XXIV: De reformatione*, c. 2. In: *Conciliorum Oecumenicorum Decreta*, p. 737.

aged a diocesan synod every ten years (c. 356).⁹

However, the Benedict's Rule, which was formative for the law tradition of the Latin Church, requires: "As often as important questions have to be dealt with in the monastery, the abbot should convene the whole community [...]. When he has heard the advice of the brethren, let him ponder the matter and then do what he thinks best" (RB III, 1—2). For the hearings of the brethren, the monasteries built chapter houses. In the interpretation of these lines of the Benedict's Rule, the Cistercians¹⁰ developed a new term and a new institution called "Parliamentum,"¹¹ which is still in use, not only in the British House of Commons. In their search for the minimum amount of exercise of power, the Cistercians develop the concept of Parliament. "Blessed are the meek, for they shall inherit the earth" (Mt 5.5).

At the beginning of this process you find St. Benedict's advice: "Listen, O my son, to the teachings of your master, and turn to them with the ear of your heart" (RB, Prologue, 1). A philosopher recently held her inaugural lecture at the University of Zurich with the title: "To listen, a subversive act."¹² The abbots who really listened to their brethren developed the fundament of democracy: the parliament. That was indeed a subversive act, reported this philosopher with the name "Abbt", which means Abbot. When the Roman Empire collapsed, the Church could not continue her tradition of bishop's elections because there was no rule of law which could guarantee the legitimacy of the elections. However, the

⁹ Cf. K. MÖRSDORF: "Das synodale Element der Kirchenverfassung im Lichte des Zweiten Vatikanischen Konzils." In: *Volk Gottes. Zum Kirchenverständnis der katholischen, evangelischen und anglikanischen Theologie. Festgabe für J. Höfer*. Eds. R. BÄUMER, H. DOLCH. Freiburg i.Br., Basel, Wien 1967, p. 568; E. CORECCO: "Die synodale Aktivität im Aufbau der katholischen Kirche der Vereinigten Staaten von Amerika." *Archiv für katholisches Kirchenrecht* 137 (1968), pp. 44—46.

¹⁰ Cistercians are monks or nuns of an order founded in 1098 as a stricter branch of the Benedictines. The monks are now divided into two observances, the strict observance, whose adherents are known popularly as Trappists, and the common observance, which has certain relaxations.

¹¹ J. J. LOZANO: *Kastilien. Eine spirituelle Reise durch das Herz Spaniens*. Freiburg Schweiz 2005, pp. 81—91. There is some Cistercian democratic practice in the practice of the British Parliament, e.g. the "pedibus ire in sententiam", where you vote by leaving the conference room. Ibidem, p. 82.

¹² CH. ABBT: *Antrittsvorlesung als Privatdozentin an der Philosophischen Fakultät der Universität Zürich 11.12.2017*. Available online at: "Zuhören ein subversiver Akt" <http://www.ifk.ac.at/index.php/blog-detail/zuhoeren-ein-subversiver-akt-christine-abbt-antrittsvorlesung-als-privatdozentin-an-der-philosophischen-fakultaet-der-universita.html> (accessed 9.09.2019).

tradition survived in the monasteries, according to Yves Cardinal Congar.¹³

As we have seen, the term parliament is an invention of religious law. Why should it not be applicable to the Synod '72? The German Cardinals, Karl Lehmann und Josef Ratzinger, consider this possibility in their publications.¹⁴

Synodality and the rule of law

We construe the “rule of law” to mean that a body of rules exists, one that is defined and enforced well enough to constrain arbitrary governmental actions, and that government itself has well defined and enforced civil and criminal rules to govern social interactions. The Church’s wealth flowed in substantial part from monastic estates, whose heightened productivity likely resulted from cooperative behaviour encouraged by the shared beliefs and social norms within the monastery.

In the first centuries of the first millennium, there was a notable difference between the structure of the Church and the legal structure of the State. The parliamentary structure of the synods of the Roman Catholic Church was totally different from the hierarchical structure of the Roman Empire.¹⁵ The Christians believed that they would find their way in synods in collaboration with the Holy Spirit. “After there had been much debate” (Acts 15:7) they decided together with the Holy Spirit: “For it has seemed good to the Holy Spirit and to us to lay on you no greater burden than these requirements” (Acts 15: 28).

¹³ See Y. CONGAR: “Quod omnes tangit, ab omnibus tractari et approbari debent.” *Revue historique de droit français et étranger* 35 (1958), pp. 210—259. Cf. For a critique of this article by Congar, see: P. HUSER: *Vernunft und Herrschaft. Die kanonischen Rechtsquellen als Grundlage natur- und völkerrechtlicher Argumentation im zweiten Prinzip des Traktates „Principia quaedam“ des Bartolomé de Las Casas* [ReligionsRecht im Dialog, 11]. Zürich 2011, p. 97.

¹⁴ K. LEHMANN: “Die Theologie des Bischofsamtes nach dem Zweiten Vatikanischen Konzil und ihre Bedeutung für synodale Prozesse” In: *Die Kirchenbilder der Synoden. Zur Umsetzung konziliarer Ekklesiologie in teilkirchlichen Strukturen* [Europas Synoden nach dem Zweiten Vatikanischen Konzil, 3]. Eds. J. SCHMIEDL, R. WALZ. Freiburg i.Br. 2015, p. 33. Cf. J. RATZINGER, H. MAIER: *Demokratie in der Kirche. Möglichkeiten und Grenzen*. Limburg 2005².

¹⁵ Cf. L. SIEDENTOP: *Inventing the Individual. The Origins of Western Liberalism*. London 2014.

This tradition of synods was in use in the monastic orders as well. If there is any deeper connection between the “rule of St. Benedict” and “the rule of Law,” then it must be found in further research. To live under a Rule is the main concept of Benedict’s Rule. Gratian, the great founder of the science of canon law “concluded that, as a matter of natural law, princes are bound by and shall live according to their laws. The theory that customs must yield to natural law was one of the greatest achievements of the canonists.”¹⁶ The Harvard Professor Harold J. Berman found out that “in the twelfth century the canonists and Romanists of Western Europe combined the Greek capacity for philosophy with the Roman capacity for law. In addition, they deepened the earlier concepts of reason and equity by adding to them the Judaic and Christian concept of conscience, which they related to mercy and love.”¹⁷ The Idea of Natural Rights was developed throughout the centuries. According to the teaching of John XXIII encyclical *Pacem in terris*, “natural rights and natural law are both derived, not from some vision of cosmic nature, but from our perception of human nature as ‘endowed with intelligence and free will’. [...] Such ideas are not new. The popes of our age, who have embraced so enthusiastically the idea of natural rights, after their predecessors condemned it for many years as an irreligious, Enlightenment aberration, have been returning, unwittingly perhaps, to a tradition rooted in the Christian jurisprudence and philosophy of the Middle Ages. [...] But the appeal to natural rights became more prominent than ever in the political discourse of the eighteenth century. [...] like the American Declaration of Independence or the French Declaration of the Rights of Man and the Citizen. In fact, though, this central concept of Western political theory first grew into existence almost imperceptibly in the obscure glosses of the medieval jurists. One might say that, in the works of the early Decretists, a distinctive mutation of thought and language occurred which gave rise to a whole new species of ideas, the species of natural rights theories.”¹⁸ Following Harold J. Berman, the canonists have been developing the rule of law. The medieval Roman Catholic Church created the institutions that generated the rule of law in Western Europe. This fact is not yet well enough known in the canonist literature.

Besides canon law, medieval theology was also decisive for the formation of the western legal tradition of synodality, which led in the 18th century to democracy. Harold J. Berman concludes that “the history of

¹⁶ H. J. BERMAN: *Law and Revolution. The Formation of the Western Legal Tradition*. Cambridge 1983, p. 145.

¹⁷ *Ibidem*, p. 146.

¹⁸ B. TIERNEY: *The Idea of Natural Rights, Studies on Natural Rights, Natural Law, and Church Law 1150—1625*. Cambridge, Mass. 1997, pp. 343—344.

Western law, and especially of its origins, reveals its rootedness in the deepest beliefs and emotions of a people. Without the fear of purgatory and the hope of the Last Judgment [Mt 25, 31—46], the Western legal tradition could not have come into being.”¹⁹ So purgatory was an important idea for democracy. “Purgatory is a Christian democracy where proportional equality of punishment is justly meted out to princes and popes no less than serfs and thieves according to the gravity of their sins.”²⁰

The principles of constitutionalism are theoretically refined and instituted in canon and secular law systems during the Papal Revolution.²¹ The term is better known amongst the theologians as the Gregorian Reform.

“On the other hand, the law rests in some sense on the will or consent of the community or citizen-body, since reason and liberty are natural attributes of all human beings as bearers of the image of God, and since the community is composed of persons who are both Christians and universally sinners, so that none is naturally so fit through superiority or perfection as to rule others but by their consent.”²² For Berman, western jurisprudence is a secularized theology that no longer knows its theological presuppositions.

Participants of the Synod ’72

Participants of the diocesan synods have been the entire people of God, including lay persons. But in the 13th and 14th centuries, they were not participating anymore.²³ This is why the CIC 1917 (c. 358) understood the diocesan synod as a purely clerical assembly.²⁴

¹⁹ H. J. BERMAN: *Law and Revolution...*, p. 558.

²⁰ *Ibidem*, p. 171.

²¹ *Ibidem*, p. 9.

²² *Ibidem*, p. 184.

²³ Cf. W. REES: «Synoden und Konzile. Geschichtliche Entwicklung und Rechtsbestimmungen in den kirchlichen Gesetzbüchern von 1917 und von 1983.» In: *Unverbindliche Beratung oder kollegiale Steuerung? Kirchenrechtliche Überlegungen zu synodalen Vorgängen* [Europas Synoden nach dem Zweiten Vatikanischen Konzil, 2]. Eds. W. REES, J. SCHMIEDL. Freiburg i.Br. 2014, p. 18.

²⁴ Can 358 §1. Ad Synodum vocandi sunt ad eamque venire debent:

1° Vicarius Generalis;

2° Canonici ecclesiae cathedralis aut consultores dioecesani;

3° Rector Seminarii dioecesani saltem maioris;

4° Vicarii foranei;

5° Deputatus uniuscuiusque collegialis ecclesiae a Capitulo eiusdem ecclesiae e gremio eligendus;

However, after the ecclesiology of the Second Vatican Council's *Lumen Gentium*, it was no longer conceivable to celebrate a synod without all the people of God.²⁵ The bishops and the territorial abbot did not want to be deterred by the law. They asked the Apostolic See for dispensation of Canon 358. The Apostolic nuncio replied within four days and gave them permission for lay people to participate at the Synod '72.²⁶ The Synod 72 was proceeding at a time when the Church was debating the legal implementation of the theology of the Second Vatican Council.

Some years after, Pope John Paul II went so far as to demand even the participation of women at all levels, including in decision-making processes: "It is therefore urgently necessary to take certain concrete steps, beginning by *providing room for women to participate* in different fields and at all levels, including decision-making processes, above all in matters which concern women themselves. [...] In this regard, the history of spirituality owes much to saints such as Teresa of Jesus and Catherine of Siena, the first two women to be given the title 'Doctor of the Church', and to so many other mystics for their exploration of the mystery of God and their analysis of his action in believers!"²⁷

6° Parochi civitatis in qua Synodus celebratur;

7° Unus saltem parochus ex unoquoque vicariatu foraneo eligendus ab omnibus qui curam animarum actu inibi habeant; parochus autem electus debet pro tempore absentiae vicarium substitutum sibi sufficere ad normam can. 465, § 4;

8° Abbates de regimine et unus e Superioribus cuiusque religionis clericalis qui in dioecesi commorentur, designatus a Superiore provinciali, nisi domus provincialis sit in dioecesi et Superior provincialis interesse ipse maluerit.

§ 2. Episcopus, si opportunum iudicaverit, potest ad Synodum vocare alios quoque et etiam omnes canonicos, parochos, Superiores religiosos, imo et singulos suae dioecesis saeculares sacerdotes, iis tamen exceptis qui necessarii sunt ne in paroeciis animarum cura desit; invitati autem ius suffragii in omnibus habent, perinde ac ceteri, nisi Episcopus in invitatione aliud expresse caverit. Cf. K. MÖRSDORF: *Lehrbuch des Kirchenrechts aufgrund des Codex Iuris Canonici. Begründet von Edward Eichmann, fortgeführt von Klaus Mörsdorf*. Bd. 1. Paderborn 1991¹³, pp. 424—425.

²⁵ P. V. AIMONE: "The Participation of Laypeople to the Diocesan Synods Immediately after Vatican II (1966—1983), particularly in the Swiss Local Church." In: *Synod and Synodality. Theology, History, Canon Law and Ecumenism in New Contact. International Colloquium, Bruges 2003* [Christianity and History, 1]. Eds. A. MELLONI, S. SCATENA. Münster 2005, pp. 677—702.

²⁶ Cf. M. RIES: "Auf der Suche nach Ausgleich. Die Schweizer Synode 72." In: *Nationalsynoden nach dem Zweiten Vatikanischen Konzil. Rechtliche Grundlagen und öffentliche Meinung* [Theologische Berichte, XXXV]. Ed. J. SCHMIEDL. Freiburg, Schweiz 2013, p. 107.

²⁷ JOHN PAUL II: *Post-synodal Apostolic Exhortation "Vita consecrata"*. Rome 1996, n. 58. Available online at: http://w2.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_25031996_vita-consecrata.html (accessed 9.09.2019).

The people of God (Liber II de Populo Dei CIC 1983) will find their way to the future with the Holy Spirit, as it began with a tradition of synodality (Acts 15:28) when “there had been much debate” (Acts 15:7).

The Synod ’72 paved the way into the future: “If ecclesiastical talk wants to be taken seriously, it needs to find the concrete situation of the people mentioned reference. A church that merely answers problems of the past would be itself superfluous.”²⁸

²⁸ *Formulierung der Diözesansynode Basel*, XII, 4.1.2. (Synode 72. Diözese Basel, Gesamtband, Solothurn 1978, zu beziehen bei Pastoralstelle des Bistums Basel, Baselstrasse 58, 4500 Solothurn).

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ADRIAN LORETAN-SALADIN

La synodalité suisse après le Concile Vatican II

Résumé

Le Synode '72 est un processus de sept synodes d'Églises locales en Suisse. En tant qu'instrument pour la mise en œuvre du Concile Vatican II, le Synode 72 a discuté des options du Concile, telles que les offices ecclésiastiques dans l'Église locale (LG 33; Paul VI, *Ministeria quaedam*; Jean-Paul II, *Christifedles laici*; c.228 CIC 1983). La tradition de codécision des baptisés a été activée. «*Quod omnes tangit, ab omnibus tractaristanprobari debet*». Les canonistes ont développé l'état de droit en Europe occidentale. Après de longs débats (Actes 15 : 7), ils ont décidé avec le Saint-Esprit. Le Nonce apostolique a permis aux laïcs (femmes) de participer au Synode.

Mots-clés: participants aux synodes d'Églises locales, bureaux locaux d'église du clergé séculier et des diacres, démocratie, état de droit, tradition juridique occidentale, femmes dans le processus de prise de décision

ADRIAN LORETAN-SALADIN

Sinodalità svizzera dopo il Concilio Vaticano II

Sommario

Il Sinodo '72 è un processo di sette sinodi di Chiese locali in Svizzera. Come strumento per l'attuazione del Concilio Vaticano II, il Sinodo 72 ha discusso opzioni del Concilio, come ad esempio gli uffici ecclesiastici nella Chiesa locale (LG 33; Paolo VI, *Ministeria quaedam*; Giovanni Paolo II, *Christifedles laici*; c. 228 CIC 1983). Si attivava la tradizione della codecisione dei battezzati. «*Quod omnes tangit, ab omnibus tractaristanprobari debet*». I canonici hanno approfondito la questione dello stato di diritto nell'Europa occidentale. Dopo un lungo dibattito (Atti 15: 7), decisero insieme allo Spirito Santo. Il Nunzio Apostolico ha permesso la partecipazione al Sinodo dei laici (donne).

Parole chiave: partecipanti ai sinodi della chiesa locale, uffici ecclesiastici locali del clero secolare e dei diaconi, democrazia, stato di diritto, tradizione giuridica occidentale, donne nel processo decisionale



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Plenary Council in the Czech Republic (1997—2005)

Abstract: This article analyses the preparation, process and conclusions of the Plenary Council of the Catholic Church in the Czech Republic held in 1997—2005. The Plenary Council was one of the few manifestations of the collegiality of the Czech Church, because the diocesan synods are not used here as a tool. The Decree on convocation of the Assembly was announced by the Czech and Moravian bishops on 5 July 1997 in Velehrad. The council was also an opportunity for priests and laity in the country to realise their responsibility for the Church and the co-responsibility of the Church for the condition of society. The Council had a preparatory phase (1997—2003), a stage of the 1st Session (July 2003), and a second phase of the Session (July 2005) where the project was completed and followed by the process of post-conciliar steps. Three final messages were the immediate output from the Second Plenary Session: the Message of the Council to the Public; the Message of the Council to the Believers of the Catholic Church and the Message of the Council to Christians in the Czech Republic. The resulting document was published in 2007 under the title *The Life and Mission of Christians in the Church and the World*. It was a document of a pastoral nature, in no way of a normative nature (no rules were actually adopted despite the work of the commission and the proposals). The Czech situation is described as “post-Christian missionary territory” there and — estimated the course of the conciliar process and of the Council itself — as an introduction of more intensive implementation of synodality in the Czech Church.

Keywords: Plenary Council in the Czech Republic, synodality, collegiality, pastoral care, Commission for the Particular Law, Czech Bishops’ Conference, the life and mission of Christians in the Church and the world

Introduction and terminology

Synodality is an ambiguous term that has not as yet been defined by the Magisterium. Generally speaking, it is a certain attribute of Church communion, which includes its structure, collegial act and coexistence. From the point of view of Canon Law, elements of synodality may be found especially in the case of collegiate legislative bodies. The term has also been used in its indirect sense for denoting collegial acts of advisory bodies at different levels of government of the Church. The concept of synodality is based on a conciliar understanding of the Church as a community and its transfer into an actual pastoral situation. The structures of Church government include both singular elements (pope, bishop) and collegial elements (councils, synods) as a specific form of cooperation. In the case of this model, however, it is neither a dictatorship nor a democracy. The Church does not understand democracy in the sense of the current political notion (i.e. as a division of power among people, exercise of will of the majority of them and at the same time the protection of human rights, as well as the rights of minorities). It justifies such an understanding through its aim of protecting supernatural reality and by the fact that it concerns not only the human community, but it also overlaps beyond eternity. These overlapping facts cannot be voted on and cannot be changed by the “will of the people.” The development of democratic societies has significantly influenced the “practical” life of the Church, in particular learning how to act and discuss issues together more often, or, as the case may be, making decisions together. Synodality can thus be described as the active involvement of the hierarchy in matters related to the world Church and the involvement of all believers in the matters of a particular Church, that is, a feature that is supposed to deepen the relationship between the community and authority, as well as unity and diversity at all levels.¹

¹ From the point of view of etymology, the Greek word *συνοδία* denoted a group of travelers, a group of pilgrims traveling together. By combining the prefix *συν* (with, together) and the root *ὁδός*, which has more meanings (way, walk, way of life) we reach synodality, which means a property of the community, including its structure, collegial act and coexistence. The term synodality (*συνοδία*) cannot be found in Scripture, but the collegial act of the Apostles can be seen, for example, in the addition of Apostle Matthew to the apostolic circle instead of Judas — Acts of the Apostles (hereinafter referred to as Acts) 1:15-25; in the election of the seven deacons in Acts 6:1-7; when the apostles send Peter and John together to Samaria so that the newly baptised ones could receive the Holy Spirit — Acts 8:14-15, etc. The early Christians used the concept of *συνοδία* in the sense of spiritually active, which means a common journey of members of the Church through the history of this world. Saint Irenaeus speaks of the Church as *συνδία τῶν*

The concept of synodality and collegiality² is viewed from various points of view in theology. It will be reflected differently by a pastoral theologian, an ecclesialogist, a dogmatist (in these cases mainly in the sense of “acting together”) and a lawyer. A canonist views these terms from the perspective of sacred power (*sacra potestas*) and its applications within the existing system of church government, that is, as “joint decision-making.” The Code of Canon Law of 1983 distinguishes the synod, which is only an advisory assembly in the original Latin text, and the council, which is a legislative assembly. The Code of Canons of the Eastern Churches of 1990 does not make such a distinction, because *concilium* is a Latin translation of the Greek term *συνδοξ*; the designation council is used here only for an ecumenical council. This article is focused on the Czech Catholic Church, a unique project of collegiality in the Czech Church, which took place at the turn of the millennium and lasted for eight years.

1. The current situation of the synodality in particular Churches

The collegiate dimension of the life of the Church takes place at three basic levels of government: 1) at the level of the universal Church — as the body of bishops headed by the Pope; 2) at the level of the assembly of local Churches (provinces) with bishops³ assembled with one other and with their head (metropolitan), and 3) at the level of the local Church entrusted to the pastoral care of the bishop in the role of its shepherd. Conferences of Bishops, Church provinces and ecclesiastical regions are distinguished at the supra-diocesan level. In the framework of the Conference of Bishops, the plenary session of the Conference of Bishops is a collegial assembly, which is of a consultative nature (although some of its

αδελφών (a synodality of brothers) and Julius Africanus *συνδια από τό Πνεύμα* (a synodality according to the Spirit), the Divine Liturgy of Saint John Chrysostom prays for *συνδια εν Χριστώ* (a synodality in Christ). This term has continued to be used in other areas for a liturgical gathering and for the Church.

² Cf. *Apostolorum Successores*, 12, 23; *Lumen gentium* 23, *Pastores gregis* 26, 57, *Christus Dominus* 3–6.

³ Historically the first synods (held at the end of the 2nd century in connection with a dispute over the date of Easter in Rome, Caesarea, Lyon, Ephesus) were of a regional character and bishops from geographically or culturally related areas gathered at them. The First Council of Nicaea (AD 325) then recommended organising provincial synods twice a year, but this practice was used more in the East.

conclusions may be enacted either as law by individual bishops or as general decrees by the Conference of Bishops upon approval by the Holy See in cases where a rule of law is recognised for a Conference of Bishops). As concerns the councils of local (particular) Churches and the expressions of collegiality in the particular sense of the word, the Code distinguishes between the Plenary Council and the Provincial Council.⁴ The Plenary Council (*concilium plenarium*) has legislative power. It is the assembly of all the local Churches of the same Conference of Bishops which is convened by the Conference of Bishops whenever it deems it necessary or useful and upon approval by the Holy See.⁵ The same procedure is applied in the case of the Provincial Council if the borders of the provincial council are the same as the borders of the state.⁶ The Conference of Bishops establishes the place where the Plenary Synod shall be held, lays down the rules of procedure and the matters to be discussed, determines the beginning and duration of the synod, or may reschedule, postpone and terminate it.⁷ The president of the plenary council is elected by the Conference of Bishops and the election must be approved by the Holy See.⁸ As regards the participants in the plenary council, CIC/1983 distinguishes between four types of them⁹: obligatory participants with a decisive vote (diocesan bishops, bishops-coadjutors, auxiliary bishops and titular bishops carrying out specific tasks assigned to them by the Holy See or the Conference of Bishops of that country)¹⁰; 2) facultative participants with a decisive vote (other bishops, titular or emeritus ones residing in the territory of the given region)¹¹; 3) obligatory participants with an advisory vote (the general and bishop's vicars of all local Churches in the territory, major superiors of religious societies and societies of apostolic life designated for men and women by the Conference of Bishops or bishops of provinces, or, as the case may be, persons elected by all major superiors of these societies with the seat in the given territory, rectors of the Catholic and ecclesiastical universities and deans of faculties of theology and the faculty of canon law with the seat in the given territory, some rectors of the major seminars in the number stipulated in Section 2 of this canon

⁴ In CIC/1917 there also existed the possibility of summoning a plenary council, but the bishops had to ask the Pope for permission, who then appointed a legate who would summon and preside over the council (cf. *CIC/1917* c. 281).

⁵ Cf. *CIC*, c. 439 § 1.

⁶ Cf. *CIC*, c. 439 § 2.

⁷ Cf. *CIC*, c. 441, n. 2; 4.

⁸ Cf. *CIC*, c. 441 n. 3.

⁹ Cf. S. KASPRZAK: *Wybrane zagadnienia z prawa kościelnego*. Lublin—Sandomierz 2000, p. 161.

¹⁰ Cf. *CIC*, c. 443 § 1.

¹¹ Cf. *CIC*, c. 443 § 2.

elected by the rectors of seminars in the given territory)¹²; 4) facultative participants with an advisory vote (priests and other believers in the number which does not exceed half of the participants according to Section (§) 1—3 of this canon).¹³ Other persons may be invited to councils of the local Churches as guests if the Conference of Bishops of the plenary council or the metropolitan, together with other diocesan bishops of the province, consider it appropriate for the provincial council.¹⁴ All those invited to participate in particular councils (assemblies of local Churches) have to (*debent*) participate unless this is impeded by a justifiable obstacle, about which they shall inform the chairman of the council. If a justifiable obstacle does not allow the ones who have been invited to a council with a decisive vote to come to the council, they can send their representative — but that representative only has an advisory vote.¹⁵

Within the territory of the Church Province,¹⁶ the provincial coun-

¹² Cf. *CIC*, c. 443 § 3.

¹³ Cf. *CIC*, Article 443 § 4; even laity can and should also participate in the councils, which did not use to be the case in the past, except for a few cases. Cf. J. KAMAS: *Diecézna synoda*. In: *Tribunál*, č. 1/2004. Spišské Podhradie 2004, p. 15: “The first mention at the level of the legislative regulation on the participation of laity in a synod is the 16th Council of Toledo (AD 693) in Can. 7. which recommends that the ‘plebs’ participate in the diocese so that everyone knows the decision of the provincial council. Especially after the Council of Trent (1545—1563), the particular councils and diocesan synods were exclusively clerical meetings, although even the laity with tonsure were ranked among the clergy.”

¹⁴ Cf. *CIC*, c. 443 § 6.

¹⁵ Cf. *CIC*, c. 444 § 1 a 2.

¹⁶ *CIC*, c. 431, §1: “Neighboring and local churches created church provinces in the designated territory to promote joint pastoral activity in various neighboring dioceses, according to personal and local conditions and to achieve better relations among diocesan bishops.” Cf. A. HRDINA: *Kanonické právo*. Praha 2002, pp. 239—240: “The so-called exempt diocese (not belonging to any province and immediately subordinate to the Pope) was supposed to be an exception. Circuits of ecclesiastical provinces have historical roots and it is desirable to respect the national borders (i.e., if possible, all the dioceses of one church province should lie within the borders of one and the same state). One of the dioceses of the church province, in which the seat of the metropolitan is located, is the Archdiocese while others are suffragan dioceses. In addition to the provincial council, the metropolitan has jurisdiction in the ecclesiastical province defined by law. His/her current jurisdiction is only a shadow of the power he/she used to have — he/she is in charge of supervising compliance with faith and discipline of the Church in the suffragan dioceses, but without the right to perform visitations, with the exception of a situation when it is neglected by a suffragan and the Holy See grants him/her permission to visitation and in some cases he/she also has the right and the duty to appoint an administrator over a vacant suffragan diocese (cf. c. 436 § 1 n. 3). The historical title of patriarch is an honorary title in the Latin Church, which is fundamentally unrelated to any jurisdiction (the Latin Church currently has 5 patriarchates: Venice, Lisbon, Jerusalem, the East Indies and the West Indies), with the title of “patriarch of the West” being

cil (*concilium provinciale*),¹⁷ which has legislative power, is the collegiate authority. It is the council of all the local Churches of the same church province, which also takes place whenever it is considered appropriate by most of the diocesan bishops of the province upon approval by the Holy See.¹⁸ The provincial assembly is chaired by the Metropolitan.¹⁹ The council is therefore not summoned while the metropolitan office is vacant.²⁰ If the boundaries of a church province overlap with the borders of a state, the convocation of the provincial council falls under the competence of the Conference of Bishops upon approval by the Holy See.²¹ The status of the metropolitan is significantly emphasised here, because in relation to the provincial council, the metropolitan has the same powers as the Conference of Bishops in relation to the Plenary Council. The Metropolitan is to convene the provincial council upon agreement with the majority of the diocesan bishops of the province,²² to identify the venue of the council in the territory of the province,²³ to lay down the rules of procedure and the matters for discussion, to determine the beginning and duration of the council, to reschedule it, to adjourn and to terminate it.²⁴ The metropolitan is also supposed to chair the provincial council. If he is limited by a legal impediment, the diocesan bishop of this province (suffragan), elected by the bishops, chairs the council.²⁵ The participants of the provincial council are the same as those of the plenary council and have similar obligations.²⁶ In addition, the cathedral chapter of canons shall be invited to the provincial council, as well as the priestly and pastoral council of each local Church and each of them sends two of their members

restricted for the Pope. This also applies for the title of primate, which is now only a honorary title granted to some archbishops of the most important metropolises — in the past, the primate had certain rights over the metropolitans and the other bishops of a certain country, empire, or nation.”

¹⁷ Cf. S. KASPRZAK: *Wybrane zagadnienia...*, p. 159: “The Provincial Councils were introduced by the Council of Nicaea in AD 325 and by the Council of Chalcedon in 451 A.D. They should be held twice a year. The Fourth Lateran Council (1215) ordered to hold these synods once a year and the Council of Trent (1545—1563) once every three years. After the Council of Trent, however, provincial synods were convened more and more rarely. The CIC 1917 ordered them to be held at least every 20 years (cf. c. 238 *CIC/1917*).”

¹⁸ Cf. *CIC*, c. 440 § 1.

¹⁹ Cf. *CIC*, c. 442 § 1.

²⁰ Cf. *CIC*, c. 440 § 2.

²¹ Cf. *CIC*, c. 440 § 1 and 439 § 2.

²² *CIC*, c. 442 § 1 n. 1.

²³ *CIC*, c. 442 § 1 n. 2.

²⁴ *CIC*, c. 442 § 1 n. 3.

²⁵ *CIC*, c. 442 § 2.

²⁶ Cf. *CIC*, c. 443—444 § 1.

who are determined by a collegial act (*collegialiter!*) — they only have an advisory vote.²⁷

The aims and tasks of councils of local Churches (i.e. the provincial council and the plenary council) are similar: the local Church council tries to meet the pastoral needs of the people of God in its territory, it has the power of governance, especially the legislative power (*potestas regiminis praesertim legislativa*) and in accordance with the general law of the Church. It may determine what it considers appropriate for growth of faith, organisation of common pastoral action, regulation of morals and common ecclesiastical discipline which is to be observed, promoted and protected.²⁸ Its aim is to have pastoralism, carried out through the legislative process, flourish. When a particular council ends, the president is supposed to ensure that all acts of the council be sent to the Holy See. Decrees issued by a council are not to be promulgated until the Holy See has reviewed them (*recognitio*). It is up to the council itself to define the manner of promulgation of the decrees and the time when the promulgated decrees are to become effective.²⁹ Particular councils (provincial and plenary ones) can also be included among the committees with a manifestation of collegiality (i.e. where the collegiality of bishops is partially manifested as well). Similarly, in some cases, decisions of Conferences of Bishops may also be included in this group.³⁰ On a territory of an ecclesiastical region,³¹ collegiality of bishops is also manifested in the form of a meeting of the bishops of an ecclesiastical region. Although only a meeting (*conventus*) to promote cooperation and joint pastoral work in such a territory, this meeting does not have the power of a Conference of Bishops (and therefore less legislative power) unless the Holy See grants it in a special way.³² In CIC/1983, one can implicitly encounter an indefinite institution (at the level of a church province), which is not specified in detail. The Code refers to it as a meeting of bishops of a province (*conventus episcoporum provinciae*).³³ The Code

²⁷ Cf. CIC, c. 443 § 5 — this element of synodality can be classified among other manifestations of synodality in the Church.

²⁸ Cf. CIC, c. 445.

²⁹ Cf. CIC, c. 446.

³⁰ Cf. J. DUDA: *Náčrt právnej ekleziológie*. Spišské Podhradie 2002, p. 94.

³¹ CIC, c. 433 § 1: “If it seems advantageous, especially in nations where particular churches are more numerous, the Holy See can combine neighboring ecclesiastical provinces into ecclesiastical regions at the request of the conference of bishops.” This is, in fact, a new legal regulation = a region, unlike in the case of church provinces in these areas (which can also be established by the Holy See as legal entities cf. 433 § 2), it is not a regular part of the horizontal structure of the government of the Church.

³² Cf. CIC, c. 434.

³³ Cf., for example, c. 952 § 1 CIC, which states that the amount of offering to apply the mass is determined by the Provincial Council or the meeting of bishops of an ecclesiastical region.

does not say anything more detailed about this meeting³⁴ and one can only conclude that it is a formally unconstituted meeting of bishops from a province. This is why the decisions of this meeting are not binding for diocesan bishops, unless the Code provides otherwise in individual cases. There may arise, however, situations that require bishops of a province to adopt the same and uniform pastoral procedure for certain problems.³⁵

Despite the wishes of the Second Vatican Council,³⁶ the significance of particular councils, which used to be the main sources of particular normative formation and guardians of the ecclesiastical discipline, has in fact decreased in connection with the outflow of former metropolitan powers, both towards the centre (the Holy See) and towards the bishops. Paradoxically, the before non-existent institutions of the Conferences of Bishops have also significantly weakened the importance of particular councils, which has also been reflected in the low frequency of their convocation.³⁷

2. Preparation of the Plenary Council of the Czech Republic

Although the Second Vatican Council has called for organisation of plenary councils and for renewal of synodic elements in the Church, these instruments are rarely used in the Czech environment. The Czech Bishops' Conference (established in the spring of 1990 as a Czechoslovak one, when it had two parts acting autonomously: Bohemian-Moravian and Slovak), became independent after the dissolution of Czechoslovakia in 1993. As far as diocesan collegiate activities are concerned, there exist the following advisory bodies: councils in a diocese (priestly, pastoral, and economic), devices of the diocesan curia, the Dean's Conference of Priests and councils in parishes. The most significant synodic activity of the Bohemian and Moravian Churches was the convocation and negotiation of the Plenary Council in the Czech Republic.

Dr. Miloš Raban was engaged in the initial coordination and preparation of the Plenary Council in the Czech Republic as secretary during the preparatory stage, *spiritus movens*, of this work.³⁸ In January 1996, the

³⁴ For this reason, it is also not mentioned in Table 1 — the scheme of control of the Catholic Church following the Latin liturgy.

³⁵ Cf. J. DUŠA: *Náčrt právnej ekleziológie*. Spišské Podhradie 2002, , p. 196.

³⁶ Cf. *ChD*, p. 36

³⁷ Cf. A. HRDINA: *Kanonické právo*. Praha 2002, p. 241.

³⁸ He was devoted to this activity to such an extent that this present work could not have come to being without him. He described the conciliar process in the publica-

bishops stated that they would summon the plenary council because it was impossible to summon diocesan synods for the application of the conclusions of the Second Vatican Council in the Czech Church. The preparatory committee of the council was composed of the Board, the Secretariat, six sections (an organisational, thematic, analytical, pastoral, information, and spiritual one) and its components. The holding of the Plenary Council in the Czech Republic was approved by the Holy See upon a Decree of 25 October 1996. The Decree on convocation of the Assembly was announced by the Czech and Moravian bishops on 5 July 1997 in Velehrad. At the same time, according to the episcopate, the decades of spiritual renewal of the nation established during the era of totalitarianism, was completed. The council was also an opportunity for priests and laity in the country to become aware of their responsibility for the Church and the co-responsibility of the Church for the condition of society. The Secretariat of the Preparatory Commission of the Plenary Council established the Rules of Procedure (approved in October 1997) as well as the materials for the conciliar bees. Websites were created where all the materials of the Council were collected (snem.cirkev.cz), which are accessible up to the present.³⁹ The preparatory phase lasted for six years and was focused on formulating specific questions which the Church should answer (by gathering proposals both from clergy and laity). The entire council was held in 1997–2005 and was divided into a preparatory phase, the first-stage session (July 2003) followed by the second-stage session (July 2005), where the project was completed and the process of post-conciliar steps. So-called conciliar small groups were founded (as of summer 1998) to enable discussions, with their activities being particularly predominant in *the preparatory phase* (1997–2003). The small groups could be attended by any interested members of the laity and clergy and were supposed to a place for meeting and sharing. These small groups were created at bishoprics, deans' offices and vicariates, faculties of theology, priestly seminars, parishes, religious institutes and other associations of the Christian faithful, where it was possible to nominate an animator (who wrote down the results of the discussion of the bee and passed it through the moderator to the preparatory committee of the council) and create a bee. The bees worked according to pre-prepared materials (essentially a discussion of documents of the Second Vatican Council). Several hundred bees were created, some of them, at the initiative of “the people,” some upon “regulation of church adminis-

tion *Plenary Council in the Czech Republic, Renewal of Synodality*, published in Prague in 2000.

³⁹ CZECH BISHOPS' CONFERENCE — PLENARY COUNCIL OF THE CZECH REPUBLIC: *Preparatory Commission*. Online at <https://www.cirkev.cz/archiv/030221-pripravna-komise-ple-narniho-snemu-katolicke-cirkve-v-cr-ukoncila-svou-cinnost> (accessed 29.11.2018).

trator” (the latter ones were usually quickly disintegrated). An average bee took place five times a year with a number of ten people. Dr. Raban then states that “at the conciliar stage, bees will comment on the drafts which are a matter of discussion and their reactions will be taken into account in the final resolution.”⁴⁰ Unfortunately, there was minimal feedback to the conciliar bees (the notes were not adequately elaborated at the level of a diocese or the entire Church of the Czech Republic). The final version of the work of the conciliar bees was made accessible for consultation in January 1998. The documents were, however, so disparate that it was impossible to create a coherent text out of them.

3. Course of the Plenary Council in the Czech Republic

The first meeting of the Plenary Council took place on 6–12 July 2003 in Velehrad.⁴¹ It was made up of eight conciliar commissions processing the stated topics of the life and mission of Christians in the Church in the country and in the world for two years; they were in permanent contact with each other and with the heads of the Council. From that time on, Dr. Jiří Kašný was the Secretary of the Council. The First Meeting of the Czech Plenary Council was attended by all the Catholic bishops in the Czech Republic, the Apostolic Nuncio in the Czech Republic Archbishop Erwin Josef Ender, all the General, Bishop and Judge Vicars, 10 representatives of women’s and men’s ministries, deans of theological faculties and superiors of seminars, 30 elected delegates from individual dioceses, major academic experts and the chairman of the Ecumenical Council of Churches in the Czech Republic, the Bishop of the Silesian Evangelical Church of the A.C. Vladislav Volný. The expert conciliar commissions were headed by the bishops in the function of chairpersons, while executive activities were managed by secretaries of commissions.⁴²

⁴⁰ M. RABAN: *Sněm české katolické církve (Obnova synodality)* [Plenary Council in the Czech Republic, Renewal of Synodality]. Praha 2000, *Council...*, p. 115. His expectations proved to be quite inadequate at this early stage, it was impossible to perform any feedback.

⁴¹ CZECH BISHOPS’ CONFERENCE — PLENARY COUNCIL OF THE CZECH REPUBLIC: *The plenary Council in the Czech Catholic Church in the Czech Republic was launched* online at: <https://www.cirkev.cz/archiv/030706-plenarni-snem-katolicke-cirkve-v-cr-zahajen> (accessed 29.11.2018).

⁴² 1. Commission for Spiritual Reading of History, Chairman Václav Malý; 2. Analytical Commission, Chairman František Radkovský; 3. Commission for Evangelisation and Missionary Work, Chairman Ladislav Hučko; 4. Commission for Priests, Deacons

The *Instrumentum laboris* entitled “Let’s Protect our Future” was created, this being a basic text that was discussed both in thematic groups and plenum.⁴³ In this way, the Synod established additional tasks, which commissions needed to work on until the next session (especially in the field of missionary and evangelist activities, activities of the Church in Czech society, analysis of the situation in society and the Church, lifelong education of laity and priests, pastoral care for youth and family, care of the spiritual vocation). The Council was supposed to formulate standards for the life of the Church, and after its conclusion, it should call for diocesan synods to be held based on the possibilities of individual dioceses. The next meeting of the council was to be convened by the Czech Bishop’s Conference in July 2005 and the Czech Bishops’ Conference was also supposed to prepare a draft of a particular law in its legal committee.

The period between the first and second meeting: In this interim, the commissions which mainly arose from the first session worked especially in the areas of missionary and evangelising activities of the Church in the Czech society, analysis of the situation in society and the Church, lifelong education of laity and priests, taking care of young people and families and other pastoral care issues, as well as care for the spiritual profession. Conciliar commissions were established at the end of the first session of the Plenary Council in Velehrad. Throughout the following year, they worked on preparation of materials for documents related to the Second Plenary Council. In September 2004, the commissions submitted the results of their work and the text was redrafted into a document and submitted to the Bishops to study. The comments of bishops and comments by members of the Council during March at the one-day seminar of commission secretaries were subsequently incorporated and this text was presented to the plenary meeting of the Czech Bishops’ Conference in April. Between the First and Second meeting, the working commission prepared additional documents for the second session, which were not subject to the vote of the Plenary Council and which were partly incorporated into the above-mentioned summary document: Statistical Documents (Analytical Commission); Wandering of the Church through Czech

and Consecrated Persons, Chairmen Josef Koukl, Vojtěch Cíkrle, Jiří Paďour; 5. Commission for the Laity, Chairman Karel Herbst; 6. Commission for Liturgy and Sacramental Pastoral Care, Chairman Josef Hrdlička; 7. Commission for Particular Law, Chairman Frantisek Lobkowicz; 8. Pastoral Commission, Chairman Dominik Duka

⁴³ CZECH BISHOPS’ CONFERENCE — PLENARY COUNCIL OF THE CZECH REPUBLIC: *Press Release from the 1st Session of the Plenary Council in the Catholic Church in the Czech Republic*. Online at <https://www.cirkev.cz/archiv/030711-tiskova-zprava-z-1-zasedani-pleniho-snemu-katolicke-cirkeve-v-cr> (accessed 29.11.2018).

History (Commission for a Spiritual Reading of History); Laity in the World Today (Commission for the Laity).

The second session of the Plenary Council was held in Velehrad from 6 to 10 July 2005 and was attended by 117 persons: bishops, experts, guests, representatives of other Christian Churches and others who actively participated in the preparations and in the course of the Council.⁴⁴ The agenda of the meeting was to discuss and ratify the text of the final document and create and approve messages of the Plenary Council. Experts and guests, including representatives of other Christian Churches, were also invited to the meeting. The conciliar text entitled “The Life and Mission of Christians” was divided, for the purpose of the meeting, into six parts (according to the subject matter as elaborated by the individual conciliar commissions): 1 — Laity in Church and Society, 2 — Priesthood, Diaconate and Consecrated Life; 3 — Liturgy and Sacramental Pastoral Care; 4 — Pastoral Care; 5 — The Missionary Role of the Church; 6 — Introduction and Conclusion. The chairman of the commission first briefly introduced part of the text (5 to 10 minutes). All the contributions to the given part were then presented in the order determined by the chairman of the Council and a discussion and voting took place.

Three final messages were the immediate output from the Second Plenary Session: the Message of the Council to the Public⁴⁵; the Message of the Council to the Believers of the Catholic Church⁴⁶ and the Message of the Council to Christians in the Czech Republic.⁴⁷ The resulting approved conciliar text entitled “The Life and Mission of Christians in the Church and the World” was sent to the Holy See shortly after the Council and officially proclaimed after its review (*recognitio*). After the meeting, the chairman of the Plenary Council, Cardinal Miloslav Vlk, officially handed over the adopted conciliar resolution to the Czech Bishops’ Conference. It convened the Council in 1997 and, in accord-

⁴⁴ CZECH BISHOPS’ CONFERENCE — PLENARY COUNCIL OF THE CZECH REPUBLIC: *First and Second Plenary Session*. Online at: <http://snem.cirkev.cz/indexf9ec.html?menu=426> (accessed 29.11.2018).

⁴⁵ CZECH BISHOPS’ CONFERENCE — PLENARY COUNCIL OF THE CZECH REPUBLIC: *The message of the Council to the public*. Online at: <https://www.cirkev.cz/archiv/050710-poselstvi-plenarniho-snemu-verejnosti> (accessed 29.11.2018).

⁴⁶ CZECH BISHOPS’ CONFERENCE — PLENARY COUNCIL OF THE CZECH REPUBLIC: *The message of the Council to the Catholic believers in the Czech Republic*. Online at: <https://www.cirkev.cz/archiv/050710-poselstvi-plenarniho-snemu-vericim-katolicke-cirkve-v-ceske-republice>.

⁴⁷ CZECH BISHOPS’ CONFERENCE — PLENARY COUNCIL OF THE CZECH REPUBLIC: *The message of the Council to the all Christians*. Online at: <https://www.cirkev.cz/archiv/050710-poselstvi-plenarniho-snemu-krestanum-v-ceske-republice> (accessed 29.11.2018).

ance with the Rules of Procedure, it immediately decided to end the Plenary Council.⁴⁸

The following paragraph outlines the activity of one of the commissions, the commission for a particular law from the point of view of Church Law. This commission was set up in 2003 at the first conciliar meeting, with the main Czech canonists as its members.⁴⁹ The Commission focused on CIC standards, which enabled or determined what a particular authority shall decide. One of the first steps was to select and divide these canons into three areas: 1) rules of the particular law for determination of which the legislator is not specified; 2) rules to be determined by a respective diocesan bishop (or bishop, ordinary, prelate of the personal prelate, non-specified shepherd or superior), 3) rules to be determined by the respective Conference of Bishops. In each of the categories, it is also specified which rules are to be adopted on a mandatory basis and which ones may be adopted on an optional basis. The Commission then made a number of proposals (e.g. the duty of breviary and spiritual retreats for permanent deacons — Can. 276 Section (§) 2 (3) and (4), the duty of Morning and Evening Prayer, five days of spiritual retreats every year). The announcement of postponement of baptism because of justified doubts about upbringing Canon 868 — a proposal to introduce an obligation to inform the parish of the domicile of such a fact if the baptism was postponed in another parish. In connection with the status of catechumens or their records, the commission proposed determination of legislative procedure at the Conference of Bishops with respect to the highly pastoral and also the technical nature of the matter, thus with regard to greater legislative flexibility of the Conference of Bishops).

No rules were actually adopted despite the work of the commission and the proposals. In addition to the meetings, the commission used mainly correspondence for communication during the first session of the Council in 2003 and after its completion. It met only a few times and rather sporadically. In the debate, it was suggested that it would be possible to take further steps and proposed standards as documents of the Council or rules.

⁴⁸ CZECH BISHOPS' CONFERENCE — PLENARY COUNCIL OF THE CZECH REPUBLIC: *Nuncius Causero at the conclusion of the Council*. Online at: <https://www.cirkev.cz/archiv/050712-arcibiskup-causero-na-zaver-snemu> (accessed 29.11.2018).

⁴⁹ Chairman of the Commission: Bishop František Lobkowitz, the Secretary: the official of the Prague ecclesiastical court, Jiří Svoboda. The judges of the ecclesiastical courts were members of the commission: Libor Botek, Vladimír Gajdůšek, Václav Hegr, Ignác Antonín Hrdina O. Praem, Michal Podzimek, Petr Kubíček; the lawyers Jiří Kašný and Vojtěch Kunčar; teachers of Church and Confessional Law: Damián Němec O. Praem, Stanislav Příbyl and Jiří Rajmund Tretera O. Praem.

The Conference of Bishops could issue resolutions in the following areas: catechumenate, sermons of laity, performances of clerics on television or radio, uniform regulations for investigation of engaged couples (each diocese has its own regulations), determination of the amount of rates of court fees, administrative fees, set amount for offerings at mass, etc. There would also be a need to improve the publication of particular regulations and the resolutions of the Conference of Bishops because their investigation often involved considerable efforts.

This commission, of course, also ended with the termination of the council. Since there was a need for the bishops to have an official normative group, its activity continued in a modified form in the Commission for Particular Law of the Czech Bishops' Conference. The Commission revived its activity more recently, fulfilling specific tasks entrusted to it by the Conference of Bishops.

4. Final document

At the second session of the Council, several major changes were incorporated into the text submitted by the commissions, minor changes in formulation were made by the Holy See, to which the document was then sent for consideration. The resulting document was published in 2007 under the title "The Life and Mission of Christians in the Church and the World." It was a document of a pastoral nature, in no way of a normative nature. This was to start the post-conciliar process of a gradual introduction of the conclusions and experience of the Council into the life of the Czech Church. Part of this should involve the successive synods at the level of individual dioceses. The document contained 123 pages and consisted of six parts: 1) Laity in the Church and Society; 2) Priesthood, Diaconate and Consecrated Life; 3) Liturgy and Sacramental Pastoral Care; 4) Pastoral Care; 5) The Missionary Role of the Church; 6) Introduction and Conclusion.

This document attempted to describe what the current life of the Church should look like (often, of course, only interpreting and repeating the Doctrine of the Second Vatican Council). It was aimed at describing the so-called states in the Church: laity, priests and deacons, consecrated life; further liturgy (the Eucharist one, the one of individual sacraments, popular piety, especially Marian devotion) and certain issues of pastoral work. It commented on so-called categorical pastoral: youth, families, university students, the sick, seniors and others. It attempted to give impe-

tus to the engagement of the laity in culture, family, politics, media, and social justice and describe the areas of evangelisation and missions in the Czech Church. It comments, for example, on specific pastoral questions as follows:

“One can expect over the next ten years a slight decrease in the number of active believers and a slight decrease in the number of ordained ministers of the Church” (n. 155). Restructuring of parishes would correspond with the current demographic situation and which will be necessary has been performed only in a small extent” (n. 159). Particular attention should be paid to territories where the expulsion of a large part or almost all of the population took place. These are areas where part of the population is still less than firmly rooted, where there is a weak relationship either to nature or to the architectural heritage developed by generations, where interpersonal and family relationships are well below the average level of the country and where the years of freedom in these territories have practically failed to be manifested or have been manifested in a negative way — unemployment, as well as social disorientation has increased (n. 161).

As regards family pastoral care, the Council, for example, recommended that the Diocesan Synods discuss the following incentives: a) to include pastoral care for spouses and families as an integral part of the pastoral care plans of the dioceses; b) to seek out ways to provide further education of priests, deacons and laity in the area of pastoral care for families; c) to develop various forms of pastoral care for spouses and families (family communities, pastoral care for families in a parish, pastoral care for families in special life situations, pastoral care for divorced Catholics who have remarried in a civil manner — n. 184)

The Czech situation is described as “post-Christian missionary territory,” influenced not only by the overall weakening of Christianity in Western society, but also by a number of historical reasons, both from the period of the Middle Ages and Communist totalitarianism, or even from the period after November 1989 (n. 358). The document assesses the course of the conciliar process and of the Council itself as the introduction of more intensive implementation of synodality in our Church (n. 367). It also states that conciliar sessions were not just about meeting and negotiation, but that it was also a valuable opportunity for more thorough self-reflection (n. 368).

If three messages of the council are evaluated, then the message of the Council to the public only announced the conduct of this event and the co-responsibility which Catholics feel about the condition of the country. The message to Catholics was to thank everyone who had been actively involved and encourage bearing witness and active engagement in public

life. The message to other Christians made reference to the ecumenical dimension of Velehrad and the need to overcome prejudices and misunderstandings in history, emphasising the need for repentance, conversion, forgiveness and a common search for paths of authentic Christianity in the late-20th century in Europe.

5. Feedback and impact — positive and negative ones

Czech bishops understood the council as continuing the tradition towards to the post-conciliar Work of the Conciliar Renewal of 1968 (during the so-called Prague Spring, the political liberation of the situation in the Czech Republic, when there was a possibility to introduce the conclusions of the Second Vatican Council) as to the so-called Decades of Spiritual Renewal of the nation (the pastoral initiative of Cardinal František Tomáš and his colleagues in 1987—1997. Each year of the decades was devoted to a certain topic and one of the Czech saints or blessed was chosen for each year), as well as other activities of the laity, monastics, clergy and dissent, which led to the gift of the freedom of the Church after 1989. Based on the expectations of the bishops, the Council was supposed to create a platform and space for dialogue in the Czech Church.⁵⁰ However, this was not completely achieved. Both the bishops and the laity expected a somewhat different purpose for the assembly (in addition, not quite corresponding with its notion in Canon Law — that is, the Council as a legislative assembly at the level of the territory of the Conference of Bishops). The laity expected a discussion concerning the doctrine of the Church and often unrealistic changes in church education and pastoral care. The bishops in fact initially expected a discussion related to the introduction of changes by the Second Vatican Council in the Czech Republic, which had not been up to then implemented, by discussing the basic topics of the conciliar documents in the conciliar bees, not discussing problems or possible changes in church practice). When reading the final document, it is apparent that it is largely a matter of repeating the doctrine of the Council, the Catechism of the Catholic Church and the rules of the Code of Canon Law. It was also assumed that individual diocesan synods

⁵⁰ Cf. CZECH BISHOPS' CONFERENCE — PLENARY COUNCIL OF THE CZECH REPUBLIC: *Final document*. Praha, 2007. Online at: <http://cirkev.ecpaper.cz/zivot-a-poslani-krestanu-v-cirkvi-a-ve-svete-zaverecny-dokument-plenarniho-snemu-2007/?page=1>, no. 8 (accessed 29.11.2018).

would gradually follow this council. It was not a regulation, but a recommendation and its convocation should be subject to the individual needs of local churches. These synods should even answer the call of the Plenary Council. Not even this has taken place, however, in the Czech Church.

The final conciliar document evaluated the conditions in the Czech Church as burdened by several facts: 1) historical traumas of long-term unresolved conflicts between the national (Czech) and the Church (Roman Catholic) identity, 2) expulsion of a significant part of Christians, especially Catholic cultural elite, into exile after the Second World War, or its violent destruction, 3) the profound religious and spiritual ignorance of most contemporary Czech citizens.⁵¹ There was a need to state the fact that Christians are a minority in Czech society and that they should therefore become the salt and light of the country to transform the present crisis into a chance for the New Evangelisation. The bishops themselves in the final document stated that the Plenary Council was summoned in order that the conclusions of the Second Vatican Council, which could not be implemented (in fact, apart from the liturgical reform, this concerned the majority of these conclusions) in the 1970s. From the beginning of the preparatory works of the Council, it had not been entirely clear what kind of assembly the bishops had in mind and after some time there began to appear remarks on the part of the canonists that the Plenary Council was actually a legislative body, not merely a “discussion group.”

A number of critical comments came about in relation to this event⁵²: that it was a waste of time, energy and finances, which could have been used more meaningfully or that the same outcome could possibly have been achieved within an extended session of the Czech Bishops' Conference, the lack of brief and clear media presentation of the results of the Council, that the output was one long document which nobody would read, instead of a few shorter texts by topic, as was the case of the Second Vatican Council or the Synod of German Dioceses.⁵³ In addition, there was criticism that the views of the inferior authorities had not been reflected on, that is, the votes of the conciliar bees, that although the bees were places for discussion and communion, their activity had officially been discontinued at the time of the preparation of the assembly. Examples from elsewhere, however, considered the emergence of similar groups,

⁵¹ Cf. *Final document*, no. 256.

⁵² M. VAŇÁČ: *Odbylý sněm české římskokatolické církve*. Online at: <http://www.getsemany.cz/node/766> (accessed 29.11.2018).

⁵³ The German Synod was established in 1969 and at eight plenary sessions in 1971–1975. It passed 18 documents and six other working texts were drawn up during the discussions of the commissions.

this being one of the most important implications of the benefit of councils and synods. Finally, it was pointed out that the conciliar document ignored Christians of non-Catholic Churches, this having been pointed out by one of the few non-Catholic participants in the Council, the Evangelical theologian Prof. Pavel Filipi in one of his papers.

Conclusions

The Plenary Council, which took place in the Czech Church, was in fact the only official attempt to implement synodality in the Czech Lands after the Second Vatican Council. There may emerge the question as to whether this means of implementation was a genuine manifestation of synodality or instead a mere discussion forum, which was not understood all that well. Although the final text contains a number of interesting ideas, the naming of the main pastoral problems of the Church in the secularised Czech environment had failed, and paths and solutions had not been established. At present, it has been more than 10 years since the termination of the Council and the Czech Church has still not worked out its conclusions, it is not perceived as a milestone, but rather as one of the many events of the Episcopate only aimed at catching up with the post-conciliar development in the Czech environment, which was initially adopted by the laity with unrealistic expectations and which was followed by disappointment that the Council would not solve specific pastoral problems. At minimum, a certain kind of effort in relation to the first public common communication in the Church and the realisation of the specificity of the Council as a legislative instrument have been beneficial (although this aspect has not been fruitful with respect to the creation of legal rules). At least a necessary premise was implemented: to listen to one another and cooperate with each other more (hierarchies, laity and religious). It would arguably be better to first organise diocesan synods, where it would be possible to deal with the specific problems concerning the local churches and the entire nation. In smaller areas, it would also be important to learn to discuss and perceive diversity in the Church instead of the grand project of the Plenary Council (based on the possibilities given by law and historical experience). The Czech bishops therefore chose the opposite way, from the more general to the more specific, but even the preliminarily planned local synods in the individual dioceses were eventually not organised. Only the Ostrava-Opava diocese attempted an unofficial “Small Priestly Synod” in 2016, but its conclusions have not been published.

It should be stated, however, that a reserved approach and a distrust of organising diocesan synods prevailed in the Czech Church. The majority of dioceses were unable to use this instrument (to organise a diocesan advisory synod to address specific areas of life of the local church). It is not surprising that this has been the case as the Plenary Council, which has not been perceived in a positive way, has not met the expectations of the many persons involved. There arises a question as to whether the Czech environment is so specific that there really is no need for synods, or whether this instrument has only not been used. It is apparent that especially the areas of re-evangelisation of the territories where Christianity ceased to exist, an ecumenical and often non-standard model in the area of cooperation of Church and state (healthcare chaplains, prison chaplains, military chaplains in a manner different from the CIC); or a new model of funding of churches after 2012 as concerns a specific environment. Active religiosity (based on the number of religious visitors of masses and practitioners of faith) has not decreased, but the Church in Czech society has been losing the role of the bearer of basic values. As practice has shown, even such a model of Church life is viable, although it may require greater demands on the readiness of candidates for bishops' service than in countries with a more traditional and larger Church.

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MONIKA MENKE

Synode plénier en République tchèque (1997—2005)

Résumé

Dans le présent article, je traite de la préparation, du déroulement et des conclusions du Synode Plénier en République Tchèque, qui a eu lieu dans les années 1997—2005. Le Synode Plénier a été l'une des rares manifestations de la collégialité dans l'Église tchèque, car il n'y a pas de tradition de synodes diocésains en Tchéquie. Le décret sur la convocation du Synode Plénier a été annoncé par les évêques le 5 juillet 1997 à Velehrad. Le Synode devait aussi donner l'occasion aux prêtres et aux laïcs de prendre conscience de leur responsabilité envers l'Église et de la coresponsabilité de l'Église pour l'état de la société. Le Synode a eu une phase préparatoire (1997—2003), la première phase de la session (juillet 2003) a été suivie d'une deuxième phase de la session (juillet 2005), lors de laquelle le projet a été achevé, et enfin la phase d'étapes post-synodales. Les trois messages finaux de la deuxième phase du Synode Plénier sont : le Message du Synode à la Société, le Message aux Fidèles de l'Église catholique et le Message aux Chrétiens de la République tchèque. Le document final a été publié en 2007 sous le titre *La vie et la mission des chrétiens dans l'Église et dans le monde*. C'était un document à caractère pastoral, nullement normatif (contrairement aux travaux de la Commission du droit particulier et de ses propositions, aucune norme n'a finalement été adoptée). La situation tchèque a été décrite comme «un territoire de mission postchrétienne» et le déroulement du processus synodal a été vu comme une introduction à une synodalité plus complète dans l'Église tchèque.

Mots clés : Synode Plénier en République tchèque, synodalité, collégialité, aide pastorale, commission de droit particulier, conférence épiscopale tchèque, vie et mission des chrétiens dans l'Église et dans le monde

MONIKA MENKE

Sinodo plenario nella Repubblica Ceca (1997—2005)

Sommario

In questo articolo tratterò la preparazione, il percorso e le conclusioni del Sinodo Plenario nella Repubblica Ceca, tenutosi negli anni 1997—2005. Il Sinodo Plenario è stato una delle poche manifestazioni della collegialità della Chiesa ceca, perché i sinodi diocesani non vengono indetti. Il decreto sulla convocazione del Sinodo Plenario è stato annunciato dai vescovi il 5 luglio 1997 a Velehrad. Il Sinodo doveva anche dare occa-

sione ai sacerdoti e laici di prendere coscienza della loro responsabilità per la Chiesa e della corresponsabilità della Chiesa per lo stato della società. Il Sinodo ha avuto una fase preparatoria (1997—2003), la prima fase della sessione (luglio 2003), seguita dalla seconda fase (luglio 2005), durante la quale si è concluso il progetto, e infine le fasi post-sinodali. Tre messaggi finali della 2a fase del Sinodo Plenario sono: il Messaggio del Sinodo alla società, il Messaggio ai fedeli della Chiesa cattolica e il Messaggio ai cristiani nella Repubblica Ceca. Il documento finale, intitolato *La vita e la missione dei cristiani nella Chiesa e nel mondo*, è stato pubblicato nel 2007 e. Era un documento di carattere pastorale, per nulla normativo (contrariamente all'operato del Comitato di diritto particolare e alle sue proposte, nessuna norma è stata infine adottata). La situazione ceca è stata definita come «un territorio di missione post-cristiana», e il percorso del processo sinodale è stato valutato come un'introduzione a una sinodalità più completa nella Chiesa ceca.

Parole chiave: Sinodo plenario nella Repubblica Ceca, sinodalità, collegialità, cura pastorale, commissione per il diritto particolare, conferenza episcopale ceca, vita e missione dei cristiani nella Chiesa e nel mondo

Part Two

Reviews



*Wiosna Kościoła. Odnowa Charyzmatyczna
w dokumentach episkopatów i komisji teologicznych
różnych krajów świata*

[Spring of the Church. Charismatic Renewal
in the Documents of the Episcopal Commissions
for Theology around the World]. Eds. J. SALAMON,
A. LIBERADZKA, M. SOWIŃSKA. Cieszyn:
Wydawnictwo Zacheusz, 2019, 334 pp.

During its more than fifty years of history, the Catholic Charismatic Renewal has been raising all sorts of controversy. Allegations of making the Catholic faith Protestant and favouring the so-called Pentecostalisation are still being used as arguments against the presence of charismatics in the life and mission of the Church. This matter causes all sorts of discussions among the laity, pastors, and theologians.¹ Unfortunately, it often lacks factual biblical and theological arguments, especially those presented by the Magisterium of the Catholic Church. Such nature of the dispute does not serve the unity of Catholics. Therefore, proper formation of the faithful and a responsible understanding of the signs of the times,

¹ Cf. A. KOBYLINSKI: „Etyczne aspekty współczesnej pentekostalizacji chrześcijaństwa.” *Studies Philosophiae Christianae CSWU* 50, no. 3 (2014), pp. 93—130; IDEM: „Hermeneutyka nieciągłości i pentekostalizacja. Współczesne metamorfozy religii chrześcijańskiej.” *Teologia i Moralność* 11, no. 1(20) (2016), pp. 245—261; P. SAWA: “Is That a Really New Spirituality? Basics and Signs of the Spirituality of the New Evangelization — the Case of Poland.” *Ecumeny and Law* (2017), pp. 95—123; IDEM: “Spór o pentekostalizację Kościoła.” *Śląskie Studia Historyczno-Teologiczne* 51,1 (2018), pp. 100—119.

including the charismatic spring in the Church, still remains a challenge.² Taking the foregoing into account, the book entitled *Wiosna Kościoła. Odnowa Charyzmatyczna w dokumentach episkopatów i komisji teologicznych różnych krajów świata* (Spring of the Church. Charismatic Renewal in the Documents of the Episcopal Commissions for Theology around the World), published by Wydawnictwo Zacheusz is an important publication which inspires to properly embrace the widely understood Charismatic Renewal. It includes a selection of texts by episcopal conferences of Latin America, Canada, USA, The Antilles, Senegal and France and by the Theological Committee of the German Charismatic Renewal in the Catholic Church, which describe various aspects of charismatic spirituality and Renewal groups' activism.

The publication includes seven chapters containing separate documents. Each document is preceded by a commentary. This makes the book not just an anthology, but a guide to the most important areas of the Catholic charismatic spirituality. This is indicated in the book's Preface entitled "The Culture of the Holy Spirit — the Eight Blessings of Charismatic Renewal" (pp. 9—14) by Fr. Artur Sepioło, the director of the School of New Evangelisation of Jesus Resurrected in Gliwice. Statements by selected episcopal conferences and by the Committee of the German Charismatic Renewal are what makes the book especially valuable. All these bodies understand the Catholic dimension of charisms and their indispensability for the Church to be alive. The rich experience of Charismatic Renewal still brings very real blessings to the entire Church: consciousness and personal decision of faith, calling for the Holy Spirit, reading and meditation on the Word of God, zeal for Evangelisation, the role of the lay persons in the mission of the Church, community life in small groups, charismatic ministry and lively worship. At the same time, new pastoral phenomena are also important, for instance, the redefinition of the role of the priest and of secular leaders, the identification of char-

² Francis during a meeting with the Charismatic Renewal 2014, June 1, said: "Your movement's birth was willed by the Holy Spirit to be *a current of grace in the Church and for the Church*. This is your identity: to be a current of grace. [...] I expect you to share with everyone in the Church the grace of baptism in the Holy Spirit (a phrase we find in the Acts of the Apostles). I expect you to evangelise with the word of God, which proclaims that Jesus lives and that he loves all men and women. To give a witness of spiritual ecumenism to all our brothers and sisters of other Churches and Christian communities who believe in Jesus as Lord and Saviour. To remain united in the love that the Lord Jesus asks us to have for all people, and in prayer to the Holy Spirit for the attainment of this unity...". *Address of Pope Francis to participants in the 37th National Convocation of The Renewal in the Holy Spirit*, http://w2.vatican.va/content/francesco/en/speeches/2014/june/documents/papa-francesco_20140601_rinnovamento-spirito-santo.html (accessed: 21.12.2019).

ismatic gifts and practices (such as baptism in the Spirit, resting in the Spirit, laying on of hands, charisms of healing) and true devotion to Mary.

The first chapter contains the *Declaration of Bishops of Latin America in La Ceja (Colombia) — September 1987*; pp. 15—48). It is preceded by the “Introduction to the Polish edition” (pp. 17—19) by Fr. Wit Chlondowski OFM, who draws attention to the fact the background of the document is the will of the bishops to avoid dangers and to include the Charismatic Renewal in the general pastorate (in the service towards groups, parishes, and dioceses).³ The document by the Latin American bishops itself describes the theological foundation of the Renewal and the nature of charisms, the meaning of prayer groups and the very fruits of the Renewal (the discovery of personal relationship with Jesus Christ, love of personal and communal prayer, recognition of the liturgy, love of the Word of God, one’s own conversion and sanctification of the faithful, brotherly dedication, changing of a man, raising numbers of priestly vocations, proper worship of Mary, appreciation of the sacraments and evangelisation). Simultaneously, the document mentions the dangers like the lack of awareness of how much the Renewal has to offer, people transferring to non-Catholic communities, groups not being led by pastors, elitism and false ecumenism. The bishops also call the members of the Renewal to serve the community of the faithful and to grow spiritually.

The second chapter focuses on the statement of the Bishops of Canada entitled *The Charismatic Renewal in Canada* (pp. 54—70). Fr. Artur Sepioło wrote the “Introduction to the Polish edition” (pp. 51—53) where he points to the 35th Anniversary of the Charismatic Renewal being the background of the document. The Bishops’ Conference of Canada lists the real yields of the Charismatic Renewal: the experience of the Holy Spirit, prayer, new evangelisation, selfless service towards others and the service of healing. Where it comes to the future, it also describes its challenges such as ceasing to limit the healings only to the charismatic dimension and following the liturgical order during the prayers for healing, support and engagement of the presbyters, correct formation and choice of leaders and finally permanent formation of the Renewal groups.

The third chapter presents the statement of the United States Conference of Catholic Bishops about the Charismatic Renewal entitled *Grace for the New Springtime* (pp. 75—83). “Introduction to the Polish edition” (pp. 73—74) has been written by Fr. Artur Sepioło who drew attention to the importance of the Renewal for the new evangelisation and ecumen-

³ It is worth referring to the words of Pope Francis, who expressed the desire that members of charismatic communities should share their experience of baptism in the Holy Spirit with the entire Church.

ism. In turn, American bishops note how important the influence of the Renewal on the Church is, especially in evangelisation and in emphasising of Mary's relationship with the Holy Spirit. They also appreciate the ecumenic power of the Renewal groups. Particularly valuable is the emphasis on the role of baptism in the Holy Spirit as an experience of personal connection with the Holy Trinity. This affects all dimensions of a Christian's life, and thus renews various aspects of Church life.

The fourth chapter includes the *Statement on the Catholic Charismatic Renewal* issued by The Antilles' Episcopal Conference (Belize, 1976; pp. 89—104). "Introduction to the Polish edition" (pp. 87—88) has been prepared by Fr. Wit Chlondowski OFM. Bishops of the Caribbean point to the value of the Renewal groups' prayer which leads to a lifestyle that shouts "Glory the to the Lord!" In this context, they list the meaning of the new approach towards worship, the love towards the Word of God, the appreciation of asceticism, consciousness of the Church being People of God, ownership of the local Church, living in the Church as in the community and the unity with the hierarchy. Simultaneously, the bishops give some more important indications: care for healthy preaching, avoiding there being churches within the Church, correct understanding of the *glossolalia*, proper treatment of prophesying, understanding of the gesture of laying on of hands, humility, observance of Catholic rules for ecumenism, keeping emotionality under control, keeping the representation of evil spirits Catholic and discernment of charisms. At last, it is important for the members of the Renewal to actively participate in the life of the Church.

The fifth chapter is *Indications for the Catholic Charismatic Renewal in Senegal* by the Conference of Bishops of Senegal, Mauritania, Cape Verde, and Guinea Bissau (pp. 109—112). "Introduction to the Polish edition" (pp. 107—108) has been written by Fr. Sławomir Płusa. It is a very interesting text containing very specific guidelines. Apart from the ones approved by the bishops in 1991 (focusing on the prayers for healing, emphasis on the Word of God, communities being schools of prayer and participation in parishes and dioceses), thirteen new are given: personal participation in the ecclesial life on all levels, appreciation of the meaning of a parish, the need to recognise the Life Communities, designing of formation framework, introduction to the Renewal for the seminarians, appointment, verification and licensing of preachers, prayer for healing by the lay with the limitation of exorcisms performance to selected priests, care that the leaders who accompany others are not seen as confessors, availability of priests, exclusive rights for putting of hands on one's head for the religious (the lay persons can put their hands on one's arm while praying for them) and enjoying of sacramentals in a proper way.

The sixth chapter contains two documents by French bishops; “Introduction to the Polish edition” was written by Fr. Adam Strojny (pp. 115—117, 129—131). The first document is a *Pastoral Note of French Bishops on New Charismatic Movements* (pp. 118—126), containing the guidelines for ecumenic contacts, combining of pastoral and prophetic charisms, care for appropriate music, reasonable leadership of prayers for healing, reasonable discernment of the resting in the Spirit, preservation of a high competence level of those praying for deliverance. Thus, formation is really needed.

Then, the other French document published by the General Secretary’s Office of the Episcopal Conference and entitled *Elements of Discernment for the Charismatic Renewal* (pp. 133—152), emphasises the meaning of personal experience in harmony with the “ecclesiastical maturity” and the discernment between the authentic actions of Holy Spirit and what is a mere sign of emotionality. Correct discernment of results, treating manifestations as secondary and observance of verification criteria accepted by the Church are equally important.

The seventh chapter includes the documents by the Theological Committee of the German Charismatic Renewal in the Catholic Church. The first was approved by German bishops in the spring of 1987: *Theological and pastoral foundations of the Charismatic Renewal in the Catholic Church of Germany* (pp. 157—210); the author of the “Introduction to the Polish edition” is Fr. Ireneusz Toczydłowski OFM. The publication describes the nature of the Renewal, the reality of Holy Spirit’s actions and a set of criteria for the discernment of charismatic phenomena. As important is the description of the gifts of the Spirit and of charisms and pastoral forms in which the gifts are seen (biblical and prayer groups, courses in faith, communities, renewals of parishes, ecumenism, healthy Mariology). Simultaneously, it is necessary to be conscious of dangers such as overemphasis of emotions, false straightforwardness, fundamentalism, religious complacency and escaping from reality.


The other German document *On Supernatural Physical Phenomena Relating to Spiritual Experiences* (pp. 215—260) with the “Introduction to the Polish edition” by Fr. Tomasz Szalanda (pp. 213—214). The article sets out guidelines on proper discernment of what is on the border of the spiritual and of what can be described by psychology and medicine. Respect for the Bible and Tradition and the observance of healthy Catholic doctrine are necessary to give opinions on various phenomena. Thus, all experiences should be subordinate to them. So, a proper discernment is needed. A trial to answer some questions about the “Toronto Blessing” makes another valuable part of the document.

The third text is entitled *A House of Prayer (Mark 11,17)*. *Prayer Initiatives and Houses of Prayer* (pp. 267—333) and is accompanied by an appendix published in 2013 (p. 334); “Introduction to the Polish Edition” (pp. 263—265) has been written by Bishop Andrzej Siemieniewski and Maciej Wolski. The document presents various forms of prayer such as incessant prayer, blessing, worship, prayer in need, intercession, thanksgiving, glorification and adoration, spontaneous prayer, communal prayer, Eucharist and veneration. Catholic, Protestant and ecumenical initiatives of prayer and houses of prayers are also very interesting. The third part includes a few hints for the functioning of Catholic Houses of Prayer. A lot of attention was also paid to the description and evaluation of the International House of Prayer in Kansas City and the eschatological direction of prayer groups.

In conclusion, the publication *Wiosna Kościoła...* (Spring of the Church...) is a valuable digest of multiple arguments that allow for a correct assessment of spirituality, practices and charismatic phenomena in the modern Church. Very specific statements of chosen Episcopal Conferences are the value of the book as they are a sign of pastoral care and the discernment performed by bishops. So, it is also an important source of information in the search of theological answers to questions about the charismatic spirituality. It is striking that in very different cultures of the world, the Church assesses this reality in a similar way which allows for even more profound evaluation of the matter.

Wiosna Kościoła... is a must-read for theologians, pastors, community leaders and faithful that seek to understand the widely understood charismatic renewal. It is not only about the groups of the Renewal in the Holy Spirit, but also about multiple other communities that refer to the charismatic experiences such as the baptism in the Spirit, prayer for healing and prophesying. It can also make a perfect element of formation for the teams that take responsibility for various communities and evangelisation events.

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Janusz MARIAŃSKI: *Nowa religijność i duchowość —
mit czy rzeczywistość?*
[New Religiosity and Spirituality — a Myth or Reality?].
Warszawa 2019, 265 pp.

Nowa religijność i duchowość – mit czy rzeczywistość? (New Religiosity and Spirituality – a Myth or Reality?) is the title of the latest sociological study (a monograph) written by Janusz Mariański, a famous and accomplished Polish sociologist of religion and morality. The reviewed book can be characterised as both topical and of interest to sociologists of religion, but also for other scholars and scientists, pastors, educators and teachers. As the author claims, new religiosity and new spirituality are to some extent the opposite of institutional religion and are very diverse. They often have no reference to personal or even non-personal God. Researchers describe them as alternative, invisible, privatised, fragmented, and non-binding religiosities (p. 19).

For few decades, new forms of religiosity and spirituality have been addressed as separate subjects of research in many academic disciplines, including the sociology of religion. Nowadays in the so-called postmodern society, as a result of individualisation and privatisation of religion, many alternative types of spirituality and forms of religiosity have emerged, which are independent, and sometimes completely cut-off from religious institutions. In sociology of religion, such terms as patchwork, bricolage, or religion *à la carte* are used to describe this new phenomenon.

The author underlines that nowadays spirituality develops even in secularised societies. Generally speaking, spirituality is linked to some kind of personal experience, at times extraordinary, as something that is experienced directly, without the mediation of the Church. This spirituality

occurs not only within the Churches, but above all in the sphere outside the Church and takes on new forms that are different from those found in traditional religions. Involvement in great religious events and celebrations does not always lead to contacts with one's own Church or religious community (p. 29).

In the conditions of widespread pluralisation and individualisation, the distance to all social institutions, including the distance towards institutionalised religions is increasing. What is institutional is losing its significance in shaping personal religious identities. The erosion of the religious community (especially the Church) is more pronounced than the erosion of religiosity, but the phenomenon nonetheless takes place in both the areas. On the other hand, new forms of religiosity and spirituality, which are appearing more and more clearly, create the possibility for sociologists to develop new paradigms that allow for interpretation and explanation of the transformations taking place in the religious sphere.

In described social context the author asks a few very interesting questions about the status of the sociology of religion in modern sociology, science, or the world: Should not the already emerging sociology of spirituality replace the traditional sociology of religion? Should the two sociological sub-disciplines exist side by side as equal and complementary, or is the sociology of spirituality an integral part of the sociology of religion or the sociology of morality? Towards what direction is the sociology of religion itself changing and how is the sociology of spirituality being developed? (p. 30)

The reviewed monograph contains a theoretical reflection, but it is not entirely devoid of references to empirical research on both traditional and new spirituality. First of all, it tries to show what new spirituality actually is. The concept of new spirituality is not easy to describe using contemporary sociological approaches, and the existing methodology of social sciences is not always suitable for adequately capturing this individual and social phenomenon. Even if new spirituality escapes precise definition, since it cannot be fully captured, measured and explained by scientific formulas, all this makes the issue of broadly understood spirituality even more interesting cognitively than hitherto research of institutionalised forms of religion and religiosity.

As the author claims, the religiosity as such does not disappear, but changes; it is ambivalent, multidimensional and to some extent ubiquitous. Secularisation, desecularisation and new spirituality describe three cultural trends that illustrate what is happening to religion in the modern world. Despite all these changes, Church-oriented religiosity is still present in the lives of individuals and societies, and in some societies, such as Poland or Slovakia, it is still dominant. Non-religious sacred, on the other

hand, appears and develops especially in those areas where institutional religions are not active (p. 98).

New forms of religiosity and spirituality outside the Church are becoming more and more present in the daily lives of many people today. They should not be treated as an incidental, transitory or marginal phenomena. Sociology of religion cannot ignore these facts, but rather subject them to systematic empirical research and in-depth explanations and interpretations. The new spirituality can become an interesting area for sociological research.

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Spiritual Care in Public Institutions in Europe
Eds. Jiří Rajmund TRETERA, Zábój HORÁK
Berlin: Berliner Wissenschafts-Verlag, 2019, 140 pp.

Pastoral care in public institutions is one of the current issues of state ecclesiastical law. It concerns areas traditionally referred to as *res mixtae*, namely health care, the army and the armed forces, the police, prisons, but also other public institutions as well as emerging areas (e.g. migration-related issues). The Churches are well aware that it is necessary to prepare experts for these areas who are versed not only in theology and the corresponding fields but who are also capable of ecumenical cooperation and often primarily non-missionary work. Their activities in these areas are based on the principle of religious freedom, guaranteed by concordat treaties in the case of the Catholic Church, similar treaties with other Churches and religious societies, and the legislation of individual countries.

The presented monograph *Spiritual Care in Public Institutions in Europe* edited by Zábój Horák and Jiří Rajmund Tretera from Charles University in Prague captures the current legislation and various tasks of chaplains, volunteers and teams in many European countries in eleven chapters by individual authors. It also constitutes the proceedings of the international conference *Fourth Prague Dialogues on Church and State Relations: Spiritual Care in Public Institutions*, held by the Prague Faculty of Law on 13–14 June 2019.

In the introductory chapter, Jiří Rajmund Tretera recapitulates the general characteristics and new trends in the approach to pastoral care in public institutions in Europe. The introduction thus presents the starting points for further reading of the monograph.

Chapter Two by Gerhard Robbers of Trier describes pastoral care in public institutions in Germany, and briefly mentions pastoral care in the area of immigrant centres, transport (airports, motorways, railways) and in the German parliament, too. In Chapter Three, the English author Mark Hill QC summarises the historical, legal and practical context of pastoral care in public institutions and presents it to the reader as a long-term integral part of English society. On the other side of the spectrum, there is the French approach described by Francis Messner (Strasbourg) in his considerations (Chapter Four) on these services in the French secularised model.

The Swiss specificity is summarised by Adrian Loretan (Chapter Five), who explains the pastoral service in the Swiss direct democracy and in their systems of diversity. Wolfgang Wiesheider's contribution (Chapter Six) summarises the Austrian approach, including the data protection provided by the law of the European Union. Chaplaincy in Hungary, including a brief introduction to historical and sociological circumstances, is presented by Balázs Schanda from Budapest (Chapter Seven). The Polish model of Church-state relations, in turn, and individual areas of traditional Church activities (army, health care, prisons) is described by Piotr Stanisz from Lublin (Chapter Eight). The last three chapters are devoted to the states of the Czech Republic and Slovakia. Martin Šabo and Michaela Moravčíková present the Slovak situation, particularly the role of individual ministries (of defence, justice, finance, health care and others) in cooperation with the provision of the care in question with individual Churches.

The penultimate chapter by the author Damián Němec focuses in detail on the area of Czech health care and thus goes beyond the overall concept of the other contributions. The reason for this deeper exposition was precisely the topicality of the issue in the Czech Republic and the difficulty of negotiations and clarification of the views of the stakeholders.

The final chapter by Zábój Horák then summarizes the overall pastoral care in public institutions in the Czech Republic, both in terms of theoretical principles, bases and historical experience, as well as current legislation in individual areas.

Most of the contributions recapitulate the situation of spiritual care in public institutions in individual countries in a general way. The only difference is the concept of the contribution of Damián Němec, who focused in more detail on the sphere of health care in the Czech Republic. The reason for this choice was the current situation in the Czech Republic. After a long period of negotiations between the Churches represented by the Czech Bishops' Conference and the Ecumenical Council of Churches and between the Ministry of Health of the Czech Republic, there was

achieved the legislative basis in the trilateral agreement between the Czech Bishops' Conference, the Ecumenical Council of Churches and the Ministry of Health of the Czech Republic on 11 July 2019.

The book was published in the German language by Berliner Wissenschafts-Verlag in the series Kirche und Recht-Beihefte in English. In this way it offers a better linguistic approach and it can be a summary presentation of this issue, but also a contribution to the presentation of the current situation in not only the European area, and an incentive to enrich other legislation and discussion in the European legal area and beyond, too.

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