



Presentation

of Synodal Forum IV

“Life in succeeding relationships

- Living love in sexuality and partnership”

for the Second Reading

at the Fourth Synodal Assembly (8-10 September 2022)

for the implementation text

“Basic Order of Church Service”

[Result of the ballot in the Forum: 20 Yes, 1 No, 2 abstentions]

Introduction

Through their work, all those active in an institution of the Catholic Church, irrespective of their employment status, contribute together to enabling the institution to fulfil its part in the mission of the Church (community of service).

The credibility of the Church depends not only on individuals, but also to a considerable extent on the practice of the institutions, organisations and administrations, as well as of the parishes and church communities: What service do they render to people, and how do they deal with people? By contrast, the Basic Order of Church Service in the Framework of Church Employment Relationships narrowly focuses the question of the credibility of the Church on employees’ loyalty obligations; issues of private life are overemphasised in doing so, and there is a fixation on sexuality. Identification with the goals of the Church and of the respective concrete institution, as well as professional skills, are mentioned in the Basic Order (Art. 3.3), but they take a back seat to the orientation towards the faith and moral teaching which is expressed in the Basic Principles (Art. 1).

Loyalty to the Catholic Church must not be measured in terms of personal lifestyle (intimacy and family sphere), especially sexual orientation or gender identity. Many employees, some highly qualified and showing a great deal of identification, have experienced and continue to experience unjust and discriminatory treatment on the part of the Church against this background under the current Basic Order. Similar problems arise when it comes to granting

the *Missio canonica* and the *Nihil obstat*. Likewise, the loyalty of teachers of religious education and scholars to the Catholic Church may not be measured in terms of their personal way of life. There is no question that church employers are entitled to formulate and review loyalty obligations for their employees with regard to their conduct at work. That having been said, with the Basic Order that is in place, the Church as an employer tends to stand in the way of witnessing to God's love for all people. Some initiatives are already in place to appropriately update the Church's employment law requirements for Her employees. In particular, a working group of the German Bishops' Conference and the Association of German Dioceses has been working on a revision for quite some time.

Motion

The Synodal Assembly calls on the German Bishops' Conference to carry out the announced amendment to the *Basic Order of Church Service in the Framework of Church Employment Relationships* as soon as possible, and in doing so to implement the following key points:

Article 4 of the Basic Order should in future no longer permit regarding decisions in favour of a form of partnership that is legal as being in breach of loyalty obligations, and accordingly prevent a person from being recruited into the service of the Church or bring about the termination of an existing employment relationship. A person's family status must not be relevant to employment or continued employment in the service of the Church.

The preservation and development of the Church's profile is primarily the task of the institution (parish, church community, institution, organisation or administration) itself, and where appropriate of its organisation, and relates above all to its mission. The employees must identify with this mission and convincingly align their professional actions with it. They are rightly expected to contribute their skills in a committed way. The following however applies to employees' choice of way of life:

Art. 5.2.2. (c) and (d) of the Basic Order are to be deleted without any replacement.

The "serious personal moral misconduct" in Art. 5.2.1. (b) are to be added to with regard to the abuse of power.

A non-discrimination clause should be inserted into the Basic Order prohibiting church employers from failing to recruit a person on the basis of his or her gender identity or choice of a legal form of partnership, or from dismissing a church employee on such grounds.

In addition, the regulations concerning the *Missio canonica* should be amended in the same way. Furthermore, the German Bishops' Conference is to work to ensure that the requirements in terms of the way of life are interpreted accordingly in the procedure for granting the *Nihil obstat*. As a universal Church matter, they are to be altered along universal Church lines.

Reasoning

On the Basic Order:

The Basic Order of Church Service has so far focused primarily on the private conduct of employees as well as on their conduct at work with regard to the preservation and realisation of the specific church profile. The weaknesses and inadequacies of this person-orientated approach have been long known, and have been discussed within the Church at various levels for a considerable time. A change towards an institution-orientated approach is emerging which particularly emphasises the responsibility of leaders, supervisory bodies and organisations for the profile of the institution in question. The aforementioned motion fits into this process of reform and transformation.

The existing version of the Basic Order from 2015 states as a loyalty obligation for individuals in the pastoral and catechetical ministry, as well as for employees who are working on the basis of an episcopal commission, the recognition of the “principles of Catholic doctrinal and moral teaching” (Art. 4.1).

In the subsequent list of possible breaches of loyalty obligations (Art. 5), the Basic Order urges church employers to dismiss Catholic employees for decisions made within their private lives, such as a civil marriage that is not recognised under church law, or a civil marriage with a same-sex partner. At the same time, the Regulation prevents or impedes the recruitment of people on the basis of such decisions, and discourages many motivated, qualified, talented people from applying for positions in the Church. The two cases described above are listed as grounds for dismissal (Art. 5.2.2.c and d). The background to this is the ethical evaluation of such a decision in the traditional Catholic moral order as a “grave sin” (CCC, 2357).

The Basic Order does provide for the possibility to refrain from dismissal “in exceptional cases” for “serious reasons” (Art. 5.3). It nevertheless states that in the case of publicly entering into a partnership after a divorce, or one with a same-sex partner, there is an “irrefutable presumption” that there has been a serious breach of loyalty which accordingly is “objectively capable of causing considerable annoyance in the service community” and the “impairing the credibility of the Church” (Art. 5.2.c). The Basic Order therefore gives employers a certain amount of discretion. On the one hand, this means that individual employees who enter into a partnership that contradicts traditional Catholic sexual teaching will not be dismissed. On the other hand, it gives church employers a highly effective instrument of power over employees.

The argument of “considerable annoyance”, if it ever applied, has been reversed. The annoyance for the community of service and for the professional sphere arises not from the conclusion of a civil marriage after another marriage has broken up, or from concluding a civil marriage with a same-sex partner, but from dismissal.

On the reality in Church and society:

More and more people outside and inside the Church consider the manner in which the Catholic Church deals with remarried divorcees and with homosexuals to be discriminatory. This is made particularly visible in the specific manner in which the Church as an employer deals with employees who have opted for institutionalised forms of partnership that

contradict the Church's traditional sexual teaching. In the face of numerous painful and humiliating experiences of current or former employees, the Church must admit to Herself with regard to her employment law that She has given and is giving a witness to unmercifulness and intolerance, and that she is obscuring Her "mission" in this respect (Art. 1).

Judgments handed down by national and European courts on church employment law in Germany make it apparent that society is less and less willing to grant the Church the right to violate socially-established standards of non-discrimination as well as protection of privacy and of family life in the context of employment relationships by invoking Her right of self-determination. The Church can pre-empt future court judgments by amending the Basic Order of Church Service.

Furthermore, an amendment of the Basic Order would do justice to the reality that decisions are already being made today in many church institutions that are in breach of the existing norms due to a lack of alternatives or out of an ethical conviction. Moreover, the current Basic Order causes psychologically stressful situations for the employees concerned. Firstly because they know that their way of life is officially undesirable, and secondly because they are permanently susceptible to blackmail and can be denounced at any time.

The moral teaching, which is listed as an authoritative criterion, is furthermore the subject of massive criticism within the Church with regard to Her statements on lifestyles. This Synodal Assembly also evaluates remarriage, intersexuality and transsexuality, homosexuality, and thus same-sex partnerships, differently than did previous official texts of the Church (foundational text B.2.2-5, B.5.1-5, B.8.5-7). In line with this view, the adaptation of the Basic Order, as well as of the practices followed in granting the *Missio canonica* and the *Nihil obstat*, is a necessary consequence that will brook no further delay.