

5. *Thuringia:*

a) Treaty of the Free State of Thuringia with the Protestant Churches in Thuringia (Vertrag des Freistaates Thüringen mit den Evangelischen Kirchen in Thüringen) of 15 March 1994 (Law and Ordinance Gazette of Thuringia [GVBl.] p. 509)

The Free State of Thuringia, represented by the Thuringian Prime Minister,
and the Protestant-Lutheran Church in Thuringia,
the Protestant Church of the Church Province of Saxony,
the Protestant Church of Kurhessen-Waldeck,
the Protestant-Lutheran Land Church of Saxony,
represented at each case by their representatives in accordance with the rules governing church
life, belief, and worship:

- in the intention to preserve and safeguard the independence of the church and the principle of mutual independence of the state and the church, observing the basic right of religious freedom and of the church's public assignment,
- wishing to reach agreement on the exercise of the church's assignment in a state which is neutral in religious and ideological questions, and thereby to promote in particular the educational and cultural political as well as socio-charitable activities of the churches in the Free State of Thuringia,
- in consideration of and advancement of historically grown rights and duties,
- with the aim to put legal relations between the state and the church in a free constitutional system on a comprehensive, new basis and design it as such for the long term,

have declared as follows:

Article 1

(1) The Free State of Thuringia shall ensure the freedom to confess the Protestant faith and to exercise it in public.

(2) The churches shall regulate and administer their affairs independently within the limits of the law that is valid for all. They shall have the right to bestow their offices or remove from them without the participation of the state or the civil communities.

Article 2

(1) The Land Government and the churches will meet regularly for to discuss questions that are tangenting their relationship or other questions which are of mutual interest.

(2) They shall consult with each other in due time prior to making arrangements on matters significantly tangenting the interests of both sides, and shall make themselves available to discuss such questions.

(3) The churches shall inform the Land Government of vacancies in and new appointments as to the senior offices.

(4) The churches will enter into close cooperation among themselves in order to uniformly present their interests to the Free State of Thuringia. They shall appoint a joint agent at the seat of the Land Government for both this purpose and for the purpose of mutual information between the two bodies.

Article 3

(1) The Protestant theological faculty at the Friedrich Schiller University in Jena shall remain for the academic and theological training of clerics and teachers of religion. The Free State of Thuringia shall only undertake the new foundation of a Protestant theological faculty on consultation with the churches.

(2) Prior to appointing a professor, and before the permanent appointment of either a university lecturer of a special branch of Protestant Theology or Pedagogics of Religion at a university of the Free State of Thuringia, the churches shall be given the opportunity to express their views. If reservations relating to church doctrine and confession are expressed and substantiated in detail, the Land Government will take this statement into consideration.

(3) Doctoral study and habilitation rules, examination rules for the subject of Protestant Theology and examination rules for obtaining the authorisation to teach the subject of Protestant Religion at all types and levels of school shall be approved with the aim of reaching an amicable understanding on consultation with the churches.

(4) The churches shall retain the right to establish their own examination offices for the conclusion of academic theological training. The effects of the ecclesiastical examinations in the sphere of the state shall be in line with the statutory provisions.

(5) The Protestant university preacher shall be an ordained member of faculty nominated by the locally competent Church Government in accordance with the Protestant theological faculty.

Article 4

State recognition of ecclesiastical universities shall be in line with statutory provisions.

Article 5

(1) Protestant religious instruction constitutes a part of the regular curriculum in state schools.

(2) Irrespective of the state's right of supervision, the churches shall have the right to ascertain by means of inspection, in accordance with a procedure agreed upon with the state school inspectorate, that the content and composition of religious instruction correspond with the fundamental principles of the churches.

(3) Guidelines, curricula and teaching books for Protestant religious instruction shall be determined in accordance with the churches.

(4) The required number of teachers with ecclesiastical authorisation (*vocatio*) shall be appointed to schools in order to ensure that religious instruction is provided. The availability of ecclesiastical teaching staff for religious instruction shall be made easier by a separate agreement.

(5) The giving of Protestant religious instruction shall require the *vocatio* of the competent church. The church may revoke the authorisation in well-founded cases. It shall communicate the revocation to the state school inspectorate. With Revocation the right to give religious instruction comes to an end.

(6) The Free State of Thuringia shall ensure the academic preparatory training for Protestant Theology and Pedagogics of Religion in the sphere of universities within the framework of the studies for obtaining the qualification for the teaching profession.

Article 6

(1) The right to establish schools beared by ecclesiastical organisations shall be ensured.

(2) The Free State of Thuringia shall recognise and suitably promote schools beared by ecclesiastical organisations within the limits of state statutes.

Article 7

(1) The churches, the parishes and the associations formed therefrom constitute corporations under public law; their service is civil service.

(2) The churches will communicate resolutions relating to the formation of and alterations to their parishes and the associations formed therefrom to the competent ministry. The establishment of public law ecclesiastical institutions and foundations shall require the approval of the competent ministry.

(3) The provisions of the churches regarding pecuniary representation of the ecclesiastical corporations, institutions and foundations under public law shall be submitted to the competent ministry. The ministry may raise objections if proper pecuniary representation is not ensured. The objection shall be admissible for two months from the date of submission. The competent High Administrative Court shall decide on the objection in response to an action filed by the church.

Article 8

(1) The property and other real rights of the churches and their religious associations shall be ensured in accordance with article 140 of the Basic Law for the Federal Republic of Germany in conjunction with article 138 para 2 of the German Constitution of 11 August 1919 (Weimar Constitution).

(2) In applying expropriation law provisions, the Land authorities shall take account of the concerns of the churches. If the churches or their religious associations in cases of expropriation or conveyance of church real estates intend to acquire indemnity land of equal value, the Land authorities will accommodate them within the limits of statutory provisions.

Article 9

(1) Within the bounds of their possibilities the churches undertake to maintain and preserve buildings and the appurtenant real estates, as well as works of art and objects of worship classified as historical monuments. They will effect alienations and alterations only on consultation with the state monument authorities aiming at reaching an understanding with them, and will take care that the parishes and other church associations act accordingly.

(2) In allocating the funds of the Free State of Thuringia for the preservation of monuments, the churches shall be suitably taken into consideration. The Free State of Thuringia shall advocate that the churches also receive assistance from facilities active at national and international level for the preservation of monuments.

(3) Where the treasury regulation (Schatzregal)⁹⁷ is applied, these cultural monuments shall be entrusted to the churches on application as a long-term loan.

Article 10

(1) For state real estates and buildings devoted to ecclesiastical or charitable purposes, this devotion and the duty of the Free State of Thuringia to maintain buildings shall persist until conclusion of agreements in accordance with para 2.

(2) The Free State of Thuringia and the churches shall enter into negotiations as soon as possible on conveyance of the ownership of such real estates and buildings to the churches and on final regulations on the public easement.

Article 11

(1) The state rights of patronage existing in the Free State of Thuringia shall be abolished.

(2) Regarding the previous united church offices and boards of education, the Contracting Parties shall work towards the swift conclusion of the necessary partition agreements by both the municipal territorial authorities and the parishes and any other ecclesiastical divisions possibly concerned or towards the execution of the agreements which have already been concluded.

Article 12

(1) In state hospitals and correctional facilities, as well as other public institutions of the Free State of Thuringia in which cure of souls is customary, the churches shall be approved for religious services and cure of souls. If in these facilities the need exists for regular religious service and cure of souls, the Free State of Thuringia shall make sure that suitable premises shall be provided in the available buildings.

(2) Within the corresponding facilities of other bearers, the Free State of Thuringia, within the bounds of its legal possibilities, will work towards enabling corresponding pastoral care to take place.

Article 13

(1) Instead of the dotations previously paid for church governmental purposes and subsidies for purposes of pastors' stipends and maintenances, instead of all performances in money and in kind based on state public easement obligations as to buildings owned by the churches, and instead of all other payments based on older legal titles, the Free State of Thuringia shall pay to the churches an annual total subsidy (public subsidy). The churches shall release the Free State of Thuringia from all obligations to provide performances in money and in kind to the parishes, in particular from public easement obligations. Over and above the public subsidy, further benefits shall be made to the churches and their parishes only if they are provided for in this treaty or the general statutes.

(2) The public subsidy shall be in 1994

DM 100,000 in settlement of the public easement,

⁹⁷ Note: The German term "Schatzregal" characterises the state's claim to ownership of treasury troves being movables and having a tangible or scientific value.

DM 18,240,000 in settlement of all other older titles.

(3) If after 1 January 1994 the remuneration of civil servants in the service of the state changes, the public subsidy shall change mutatis mutandis on the basis of the amount agreed for 1994. The starting office for the higher, non-technical, general administrative service shall be taken as a basis, salary group A 13 of the Federal Remuneration Ordinance, 7th grade of seniority, married, two children.

(4) Over and above this, from 1995 to 1998 an increase shall take place in respect of the public subsidy in settlement of public easement amounting to DM 275,000 per year.

(5) The public subsidy shall be subdivided among the churches by agreement between the churches. The competent ministry shall be informed of the agreement.

(6) The public subsidy shall be paid with one-twelfth of the annual amount, at each case monthly in advance to the churches, in consideration of the agreement in accordance with para 5.

(7) Article 140 of the Basic Law in conjunction with article 138 para 1 of the Weimar Constitution shall apply to redemption of the public subsidy.

Article 14

(1) The churches and parishes shall be entitled to levy church taxes on the basis of tax rules, in accordance with the provisions of Land law, in particular also church dues. The church tax rules and the church tax resolutions, including their amendments and supplements, shall require state recognition.

(2) The churches shall agree on assessment of the church tax as surtax to income tax (wage tax) to a uniform surtax rate, when levying a minimum contribution of church tax as well as with regard to church dues in inter-faith marriages, they shall agree on uniform amounts.

(3) The churches will inform the competent ministry of their church tax resolutions and their amendments and supplements without delay; church tax resolutions shall be deemed to have been recognised if they correspond to the recognised resolutions of the previous budget year.

Article 15

(1) On application of the churches, the competent ministry has to transfer the administration of the recognised Land Church taxes to the revenue offices. In Thuringian plants where income tax is levied by reduction from wages, the employers shall be placed under the obligation of both collecting and paying also the church tax in accordance with the recognised rate.

(2) The Free State of Thuringia shall receive emolument for the administration of the church tax the amount of which shall depend on the church tax revenues that have been taken in. It shall be separately agreed as an annual percentage. The revenue offices shall be obliged to provide information to the competent ecclesiastical bodies in all church tax matters as far as is possible with regard to the documents available and within the limits of reasonable administrative effort, taking account of data protection.

(3) The execution of church taxes shall be transferred to the revenue offices on application of the churches or, if the municipal territorial authorities agree, to the latter.

Article 16

(1) The churches and their parishes shall be entitled to ask their members irrespective of church taxes and church dues for voluntary contributions and other voluntary performances for church purposes.

(2) For the churches and their charitable facilities, furthermore, two general public house and street collections for ecclesiastical purposes per year shall be approved. The dates of these collections shall be set in agreement with the competent Land authority.

Article 17

Remission of fees based on Land law for the state shall also apply to the churches, their parishes and their public law institutions, foundations and associations.

Article 18

The churches shall participate in adult education with their own facilities. The latter shall be included within the limits of the applicable provisions in the financial promotion of adult education by the Free State of Thuringia.

Article 19

The churches and their charitable works shall have the right to maintain in the educational and social field, as well as in health care, care and counselling services for special target groups. Promotion of these facilities shall take place in accordance with the statutes.

Article 20

The protection of Sundays and state-recognised ecclesiastical holidays shall be ensured.

Article 21

The statutory provisions in accordance with which clerics, their assistants and persons, while being trained for their profession participate in this professional activity, are entitled to refuse to give evidence on what is entrusted to them or becomes known to them in their capacity as spiritual advisers shall remain unaffected. The Free State of Thuringia shall stand for the preservation of this protection of the seal of confession and the secrecy regarding cure of souls.

Article 22

(1) Church cemeteries shall enjoy state protection.

(2) The burial of non-believers or of those of a different faith on church monopoly cemeteries shall be ensured.

(3) Rules for use and schedules of fees for church cemeteries shall require the approval of the authorities competent for burials. Cemetery fees shall be collected in the administrative executory procedure on application of the ecclesiastical body holding this right. The Free State of Thuringia shall determine the competent law enforcement authorities. The uncollectible administrative costs and expenses caused by enforcement measures shall be refunded by the ecclesiastical bearer.

Article 23

(1) Within the framework of the programming mandate regulated by law, the Free State of Thuringia will work towards both the programmes of the public broadcasting corporations and the full programmes of private broadcasting corporations are paying regard to the life of the Protestant Church suitably.

(2) Land law provisions in accordance with which:

1. the public broadcasting corporations, as well as the private broadcasters of full programmes have to concede to the churches on request suitable on air time to broadcast religious programmes, this where appropriate on refund of their prime costs,
2. all broadcasters must respect in their programmes the dignity of man and the moral, religious and ideological convictions of others

shall sustain.

(3) The churches shall be represented in accordance with the statutory provisions in the supervisory bodies of the public broadcasting corporations, as well as the Land Corporation for Private Broadcasting.

(4) The right of the churches to operate private broadcasting in accordance with the statutory provisions or to take a holding in private broadcasting corporations shall remain unaffected.

Article 24

(1) The data from the registration register needed by the churches in order to carry out their tasks shall be transmitted to them in accordance with the statutory provisions. The Free State of Thuringia shall advocate that the necessary possibilities of collection and transmission of data remain therefor.

(2) Transmission of data shall require that sufficient data protection precautions have been taken by the churches.

Article 25

(1) In proceedings before the ecclesiastical courts and in formal disciplinary proceedings against clerics and church officials, the ecclesiastical courts and Disciplinary Courts shall be entitled to place witnesses and experts under oath.

(2) Proceedings concerning complaints about teaching shall be excluded therefrom.

Article 26

The Contracting Parties shall resolve differences of opinion possibly occurring between them concerning the interpretation of this treaty in an amicable manner.

Article 27

(1) This treaty shall be ratified, and the documents of ratification shall be exchanged in Erfurt.

(2) This treaty comes into force from the day after this exchange is made.

In witness thereof, this treaty has been signed in five originals. Each Contracting Party shall receive an original text.

Done in Erfurt on 15 March 1994

Final Protocol in re Article 2 Para 1

”Regular discussions” signifies conventions which preferable are to take place once per year.

Final Protocol in re Article 2 Para 4

Persons and function designations in this treaty shall apply equally in male and female forms.

Final Protocol in re Article 3 Para 1

Compliance exists that the guarantee of continuance of the Protestant-Theological Faculty of Friedrich Schiller University in Jena is bound to pastor training also in future taking place quite predominantly in the form of theological studies at the state universities and the existing theological universities (Bethel, Neuendettelsau and Wuppertal).

Final Protocol in re Article 3 Para 2

The statement of the churches shall be called for by the competent ministry after the proposal for appointment and the person to be designated to be appointed has been determined. For this the Land Government shall approach the Church Government of the church in the area of which the university has its seat. Coordination within the church shall be the affair of this Church Government. If no statement has been submitted within six weeks of receipt of the call, it shall be presumed that the churches will not express any reservations.

If the Land Government in spite of reservations submitted in time intends to continue the appointment procedure for the selected person, reservations shall be discussed with representatives of the faculty and the Church Government with the aim of reaching an agreement.

Final Protocol in re Article 4

Currently, sections 113 to 116 and 128 of the Thuringian Act on Universities (Thüringer Hochschulgesetz) of 7 July 1992⁹⁸ shall be decisive.

Final Protocol in re Article 7 Para 1

The Contracting Parties shall be guided by the fact that a change from the church to the state service and vice versa has no incongruous disadvantages as a consequence of the application of the provisions of service law.

Final Protocol in re Article 8 Para 2

In case of loss of property by virtue of expropriation prior to 3 October 1990, the claims shall be in line with the statutory provisions.

⁹⁸ Note: Sections 113 to 116 govern the preconditions for state recognition of an educational establishment as a university, the recognition procedure, the legal impact of and loss of recognition. Section 128 stipulates that the treaties with the churches are unaffected by this act.

Final Protocol in re Article 9 Para 1

With objects devoted to religious service (*res sacrae*) religious concerns shall be taken into consideration as a matter of prime importance. If state preservation of monuments and liturgical interests of the churches come into conflict, the liturgical concerns shall take priority .

Final Protocol in re Article 12 Para 1

”Customary” shall refer to a practice which has developed itself on the basis of article 141 of the Weimar Constitution⁹⁹ .¹⁰⁰ Multi-purpose premises shall also be suitable.

Details may be regulated by a special agreement. The Contracting Parties agree that no legal claim for the conclusion of an agreement can be derived from this .

Final Protocol in re Article 13 Para 6

Proof of the use of the funds shall not be required.

Final Protocol in re Article 14 Para 3

If a major change occurs in matters determining the level of church tax, the competent ministry shall call the attention of the churches to the need to adjust the rate of assessment for church tax, explaining the reasons in writing and shall conduct negotiations with the aim of reaching an agreement. The fiction of approval shall then fall away on expiry of the budget year following the year of receipt of the letter.

Final Protocol in re Article 15 Para 2

The churches shall ensure keeping of the tax secrecy in accordance with the state provisions issued to protect it.

Final Protocol in re Article 17

For official acts carried out by private enterprises (charged with specific sovereign functions in the public interest) on the basis of a statute there shall be no exemption from fees for the churches either.

Final Protocol in re Article 20

The Free State of Thuringia shall make statutory regulations in order to ensure the protection of religious services on church holidays that are not legal holidays.

⁹⁹ Note: Article 141 of the Weimar Constitution is printed in the first part, at item A.

¹⁰⁰ Note: In practice, cure of souls in establishments within the meaning of the article 141 the Weimar Constitution in addition to cure of souls in public hospitals and correctional facilities also includes cure of souls in the whole Federal Armed Forces (army, navy and airforce), in the Federal border police, in the police and on municipal cemeteries.

Final Protocol in re Article 22 Para 2

This warranty shall be made on condition that the provisions applying to cemeteries, in particular those on using burial grounds, on the duration of occupancy and possible change of purpose will be recognised.

Final Protocol in re Article 22 Para 3

Compliance exists that governmental approval of the rules for use may only be refused for reasons of police law, especially related to building-code provisions and law on epidemics.

Final Protocol in re Article 23 Para 2

Religious programmes shall not be restricted to broadcasting religious ceremonies or liturgical acts.

Final Protocol in re Article 24

The determination that sufficient data protection is ensured shall be taken by the competent ministry on the basis of the provisions of the canon law to be submitted by the churches.

Final Protocol in re Article 25 Para 1

The person putting someone on oath must be qualified as a judge in accordance with the German Judiciary Act. This shall not apply to the presidents of the ecclesiastical courts who are in office upon coming into force of this treaty.

Final Protocol in re Article 26

If the Free State of Thuringia in treaties with other comparable religious communities should grant rights and benefits over and above those in this treaty, the Contracting Parties will examine together whether amendments to this treaty are required because of the principle of parity.

Final Protocol in re Article 27 Para 2

Compliance exists that all provisions possibly still remaining applicable that are binding on the Contracting Parties from the period prior to 3 October 1990 shall be replaced by this treaty.

***b) Treaty between the Holy See and the Free State of Thuringia
(Staatsvertrag zwischen dem Heiligen Stuhl und dem Freistaat Thüringen)
of 11 June 1997 (Law and Ordinance Gazette of Thuringia [GVBl.] p. 266)***

The Holy See and the Free State of Thuringia, being of one mind in the desire to consolidate and promote in amicable spirit the relationship between the Catholic Church and the Free State of Thuringia, have decided to reach an convention with the aim in mind to develop and regulate in a permanent manner the legal position of the Catholic Church in the Free State of Thuringia, in consideration of the applicable Concordat between the Holy See and the German Reich of 20 July 1933 to the degree that it is binding on the Free State, and in appreciation of the Treaty between the Free State of Prussia and the Holy See of 14 June 1929.

For this purpose, the Holy See, represented by its plenipotentiary, the Apostolic Nuncio in Germany, Dr. Giovanni Lajolo, Titular Archbishop of Cesariana, and the Free State of Thuringia, represented by the Thuringian Prime Minister, Dr. Bernhard Vogel, have agreed to the following articles:¹⁰¹

Article 1

(...)

(3) Clerics, religious and other members of the church called to an office or religious service shall enjoy the protection of the state in the performance of their official duties.

(4) In the Free State of Thuringia, clerics and religious shall be free from the obligation to assume public offices and responsibilities not compatible with their position in accordance with the provisions of canon law.

Article 4

The current diocesan organisation and circumscription of the Catholic Church in the Free State of Thuringia persists. Alterations shall require a treaty unless borders are shifted merely in the interests of local cure of souls.

Article 5

(1) The appointment of the Episcopal See of Erfurt shall take place in accordance with article 3 of the Treaty between the Holy See and the Free State of Thuringia on the Establishment of the Bishopric of Erfurt of 14 June 1994 in conjunction with article 6 of the Treaty between the Free State of Prussia and the Holy See of 14 June 1929.

(2) Article 6 of the Treaty of the Free State of Prussia with the Holy See of 14 June 1929 shall apply to the appointment of the Episcopal See of Fulda. As to the Episcopal See of Dresden-Meißen, the arrangement made in article 111 para 1 of the Baden Concordat of 12 October 1932 in conjunction with article 14 para 1 second sentence of the Concordat between the Holy See and the German Reich of 20 July 1933 shall apply. In the case of the appointment of the Episcopal See of Fulda, the Chapter of the Cathedral shall address the enquiry as to whether reservations of a general political nature exist, also to the Prime Minister of the Free State of Thuringia. In the case of the appointment of the Episcopal See of Dresden-Meißen the corresponding enquiry shall come from the Holy See.

(3) In the Bishopric of Erfurt, a cleric shall be appointed the local ordinary, Auxiliary Bishop, Vicar-General, a member of the Chapter of the Cathedral, Cathedral Locum Tenens, a member of a diocesan authority or head or teacher of the diocesan educational establishment only if he:

1. is a German citizen,
2. has a school-leaving certificate entitling to study at a German university,
3. has completed at least three years of philosophical-theological studies at a German state university, Episcopal seminary for academic preparatory training of clerics, or a papal university in Rome.

¹⁰¹ Note: The articles of the treaty that have not been printed correspond to those of the previous Treaty between the Free State of Thuringia and the Protestant Churches in Thuringia.

(4) With church and governmental approval, the requirements named in subsection 3 Nos. 1 to 3 may be waived; in particular studies at other German-language universities than those named in No. 3 may be recognised.

(5) At least two weeks prior to the intended appointment of a cleric in the Bishopric of Erfurt as Auxiliary Bishop, Vicar-General, and a member of the Chapter of a Cathedral or a head teacher or teacher at the diocesan seminary, the competent ecclesiastical body shall give the competent ministry notice of this intention and of the personal particulars of the cleric in question.

(6) In the event of a hindrance or of a vacancy in an Episcopal see, the Chapter of a Cathedral concerned shall communicate the name of that person who has temporarily assumed management of the Diocese to the Prime Minister.

(7) Diocesan Bishops shall make at least the demands made in para 3 Nos. 1 to 3 of clerics to whom an incumbency is to be permanently transferred and those demands named in Nos. 1 and 2 of the other clerics to be employed in parish cure of souls. Para 4 shall apply *mutatis mutandis* for the rest.

Article 6

(...)

(2) Religious orders and religious confraternities formed in accordance with canon law, as well as ecclesiastical institutions and foundations, shall be recognised in their canonical legal status. Institutions and foundations shall acquire the nature of public-law organisations with their own juridical personality in accordance with guidelines to be agreed with the Diocesan Bishops. Those religious orders and religious confraternities, as well as ecclesiastical institutions and foundations to whom public law status is not due, shall acquire legal capacity in accordance with the provisions of civil law.

Article 7

(1) The bishoprics shall communicate resolutions relating to the formation and alteration of ecclesiastical corporations under public law to the competent ministry, and shall submit a copy of the document of organisation.

(2) Ecclesiastical corporations shall acquire legal capacity by virtue of being established by the competent Diocesan Bishop. The document of establishment shall be published in the State Gazette for the Free State of Thuringia. Publication shall be induced at the request of the bishopric concerned by the competent ministry.

(3) The same shall apply *mutatis mutandis* to the commutation, combination and dissolution of these corporations.

Article 11

(1) Where the Catholic Church in the Free State of Thuringia in the framework of a diocesan seminary (article 6 of the Treaty between the Holy See and the Free State of Thuringia on the Establishment of the Bishopric of Erfurt of 14 June 1994) provides academic preparatory training for clerics, instruction shall correspond both to the ecclesiastical provisions and to the standard of theological instruction at German academic universities.

(2) The competent Diocesan Bishops will give the competent ministry notice of the pertinent rules and the curriculum. Only that clerics or other instructors shall be appointed as teachers for academic preparatory training of clerics who have the corresponding qualification for teaching the subject to be represented in line with the demands of the German academic universities.

(3) Article 10 para 2 of this treaty shall apply to state recognition of the facility of academic preparatory training of the clerics.

Article 13

(1) The Free State of Thuringia shall ensure within the framework of the studies for obtaining the qualification for the teaching profession the academic preparatory training in Catholic Theology and Pedagogics of Religion. Details shall remain reserved for special agreements.

(2) With the First State Examination for the teaching profession, it will be ensured that a representative of the competent bishop shall be invited to the oral examination in the subject of Catholic Religion. The authorisation to teach Catholic religious instruction shall be issued by the Free State of Thuringia.

(3) With the Second State Examination for the teaching profession, it will be ensured that the examiner in the oral examination in the subject of Catholic Religion has a church authorisation in addition to the authorisation to teach Catholic Religion.

(4) Para 2 applies to all extension, supplementary and additional examinations analogously.

(5) The competent ministry shall take its decisions regarding study and examination rules for training teachers of religion in the subject of Catholic Religion after having consulted with the bishoprics with the aim of reaching an amicable understanding.

Article 15

The right of the church and its charitable facilities to be active in the social field shall be recognised by the Free State of Thuringia. The promotion of these facilities takes place in accordance with the statutes.

Article 21

(1) The provisions of the bishoprics regarding the pecuniary representation of the ecclesiastical corporations, independent institutions and independent foundations under public law shall be submitted to the competent ministry prior to being issued. The provisions will ensure proper representation of the institutions in question.

(2) (...) The bishoprics are bound in the event of an objection to examine the provisions in question.

(3) The ecclesiastical provisions regarding pecuniary representation of the institutions named in para 1 will be published in the State Gazette for the Free State of Thuringia and in the official gazettes of the bishoprics. Publication in the State Gazette will be induced at the request of the competent ecclesiastical bodies by the competent ministry. The same shall apply mutatis mutandis to provisions relating to a reservation of approval of higher ecclesiastical authorities and other ecclesiastical provisions regarding the law on the administration of property if their publication serves the interest of security in legal relations.

Article 30

Regulations in this treaty and in the Treaty between the Holy See and the Free State of Thuringia on the Establishment of the Bishopric of Erfurt of 14 June 1994 shall precede regulations whose content is different or in concordance in older concordats, as far as they concern the same subject-matter.

Article 31

The Contracting Parties shall resolve differences of opinion occurring between them concerning the interpretation or execution of this treaty in an amicable manner.

Final Protocol¹⁰² in re Article 4

The present diocesan organisation and circumscription of the Catholic Church in the Free State of Thuringia shall for the Bishopric of Erfurt be in line with the Treaty between the Holy See and the Free State of Thuringia on the Establishment of the Bishopric of Erfurt of 14 June 1994; for the Bishopric of Dresden-Meißen in line with the Apostolic Constitution "*Solicitud o omnium Ecclesiarum*" of 24 June 1921; for the Bishopric of Fulda in line with article 2 of the Treaty between the Free State of Prussia and the Holy See of 14 June 1929 in conjunction with the Treaty between the Holy See and the Free State of Thuringia on the Establishment of the Bishopric of Erfurt of 14 June 1994.

Final Protocol in re Article 5 Para 1 and 2

(1) It is understood that where any reservations of a general political nature exist, such shall be raised as soon as possible. If after 20 days have elapsed, no such declaration has been submitted, the Holy See will be entitled to presume that there are no reservations regarding the candidate. Full confidentiality will be maintained regarding the personalities in question until the publication of the appointment. This shall not give rise to a veto power of the state.

(2) Article 5 para 2 shall apply so long no other agreement is reached.

Final Protocol in re Article 5 Para 3

Philosophical-theological studies completed at an Austrian state university or at a German-language Swiss university shall be recognised as having equal rights in accordance with the principles applying to other subjects relating to humanities.

Final Protocol in re Article 5 Para 4

In the case of para 3 No. 1, it shall be deemed that the governmental approval has been granted.

Final Protocol in re Article 5 Para 5 and 6

This shall not give rise to a state right of objection.

¹⁰² Note: The final protocol is an part of the treaty.

Final Protocol in re Article 6 Para 2

So long as an agreement has not been reached concerning the guidelines, the previous legal position shall persist. Where legal status under public law has been due to religious orders and religious confraternities in the past, they shall be conceded this status again for the future by the Free State of Thuringia; the ecclesiastical organisations concerned shall provide appropriate proof.

Final protocol in re Article 11 Para 2

(1) Where the Free State of Thuringia in accordance with the Holy See establishes a Catholic theological faculty or a Catholic theological department at a state university, the Diocesan Bishops shall forego exercising the right to establish or maintain their own facility for academic preparatory training of the clerics. The right to establish or maintain seminaries for candidates for Roman Catholic priesthood shall remain unaffected thereby.

(2) The Contracting Parties agree that supplementary agreements shall be reached prior to the intended new foundation of a Catholic theological faculty at the University of Erfurt.

Final Protocol in re Article 13 Para 1

Academic preparatory training in Catholic Theology and Pedagogics of Religion for obtaining the qualification for the teaching profession concerning the subject of Catholic Religion is currently operated by Philosophical-Theological Studies Erfurt. The cooperation agreements between the Philosophical-Theological Studies Erfurt on the one hand and the Pedagogical University of Erfurt respectively the Friedrich Schiller University of Jena on the other are currently decisive therefor. Training in Catholic Theology and Pedagogics of Religion corresponds to the doctrines and principles of the Catholic Church.

Final Protocol in re Article 13 Para 5

(1) The competent ministry shall not issue examination rules for the teaching profession concerning the subject of Catholic Religion until, after by enquiry to the competent Diocesan Bishops, it has been determined that it has not been demurred as to compliance with the constitutionally guaranteed principles of the Catholic Church and with the ecclesiastical requirements of training of teachers of religion. Demurs shall be raised as immediately as possibly, at the latest upon the expiration of four months.

(2) The ministry will require an amendment to the study rules in the subject of Catholic Theology and Pedagogics of Religion if it has been determined by an enquiry - as immediate as possibly - with the Diocesan Bishops that it has been demurred as to compliance with the constitutionally guaranteed principles of the Catholic Church and with the ecclesiastical requirements of training of teachers of religion. Demurs shall be raised as immediately as possibly, at the latest upon the expiration of four months.

(3) The ecclesiastical requirements of training for teachers of religion ensue at the time of the conclusion of this treaty from Decree No. 234/787 B of the Congregation for the Catholic Educational System of 1 January 1983 and the "Ecclesiastical Requirements as to Courses of Study for the Teaching Profession concerning Catholic Religion" of the German Bishops' Conference of 23 September 1982.

(4) The bishoprics shall assure that they submit a uniform vote.

Final Protocol in re Article 21 Para 3

(1) The Free State of Thuringia takes note of the fact that as canon law of the ecclesiastical administration of property, the following currently applies

- in the area of the Bishopric of Erfurt: the Ecclesiastical Act on Administration of the Catholic Church Property in the Area of the Bishopric of Erfurt of 30 March 1996 (State Gazette for the Free State of Thuringia No. 35 of 2 September 1996 pp. 1647-1651 = Official Church Gazette for the Bishopric of Erfurt No. 5 of 2 May 1996);
- in the area of the Bishopric of Fulda the Church Property Administration Act of 20 April 1979, published in the Hessen State Gazette 28/79, pp. 450 et seqq. with amendments of 12 December 1995, published in the Hessen State Gazette 3/96, pp. 216 et seq. in accordance with The Introductory Act to the Church Property Administration Act for the Thuringian Part of the Bishopric of Fulda of 30 September 1996 (State Gazette for the Free State of Thuringia No. 7 of 17 February 1997 pp. 359-365 = Official Church Gazette for the Diocese of Fulda of 31 January 1997, item II, No. 17, p. 7);
- in the area of the Bishopric of Dresden-Meißen the Proclamation on the Establishment of the Roman Catholic Church and its Authorities in the Bishopric of Meißen of 29 November 1922 (Official Church Gazette for the Bishopric of Meißen No. 1 of 1 January 1923, p. 1) and the Proclamation of the Saxon Ministry of National Education of 30 December 1931 (Saxon State Gazette No. 1 of 2 January 1932, p. 5 = Official Church Gazette for the Bishopric of Meißen No. 1 of 1 January 1932, p. 9).

(2) The Free State of Thuringia does not file an objection against the temporary further application of the provisions issued for the Bishoprics of Fulda and Dresden-Meißen. They are promulgated once more by way of precaution in the State Gazette for the Free State of Thuringia (No. 32/1994, pp. 2178 - 2184) referring to their application as canon law.

(3) The Free State of Thuringia clears up that the Prussian Act on the Administration of the Catholic Church Property of 24 July 1924 (Prussian Law Collection 1924, p. 585) as state law also in the formerly Prussian parts of the Free State of Thuringia no longer applies; hence, also the provisions therein contained regarding the state rights of supervision, participation and approval cease.

(4) The Catholic Church undertakes to bring about within three years after coming into force of this treaty an ecclesiastical regulation regarding the administration of property which is as uniform as possible for the whole Free State of Thuringia.

Final Protocol in re Article 30

As for the rest, compliance exists between the Contracting Parties that - also to the degree that the Concordat between the Holy See and the German Reich of 20 July 1933 is binding on the Free State of Thuringia - the provisions of that concordat regarding requirements of clerical superiors of religious orders (article 15 para 2 first sentence and para 3) and denominational schools (articles 23 and 24) as well as the provisions of article 32 of this concordat shall not be applied in the relationship between the Holy See and the Free State of Thuringia.

Final Protocol in re Article 31

If the Free State of Thuringia in treaties with other comparable religious communities should grant rights and benefits over and above those in this treaty, the Contracting Parties will

examine together whether amendments to this treaty are required because of the principle of parity.

**6. State-Church Treaty in the Special Field of Military Chaplaincy
(Staatskirchenvertrag auf dem Spezialgebiet der Militärseelsorge)¹⁰³**

Treaty of the Federal Republic of Germany with the Protestant Church in Germany to Regulate Protestant Military Chaplaincy (Vertrag der Bundesrepublik Deutschland mit der Evangelischen Kirche in Deutschland zur Regelung der Evangelischen Militärseelsorge)¹⁰⁴
of 22 February 1957 (Federal Law Gazette [BGBl.] Part II p. 701)

The Federal Republic of Germany and the Protestant Church in Germany
in the endeavour to ensure free religious activity and the exercise of cure of souls in the Federal Armed Forces, conscious of the joint responsibility for this task and in the desire to reach a formal convention on regulating Protestant military chaplaincy,
have agreed to the following articles:

Part I: Principles

Article 1

Permanent Protestant military chaplaincy will be established for the Federal Armed Forces.

¹⁰³ Note: Cure of souls in hospitals is currently only governed in the shape of basic intra-church (Protestant and Catholic) rules and guidelines. Cf. e.g. Guidelines for Cure of Souls in Hospitals in the Protestant Church in Hessen and Nassau of 21.4.1975 (Official Gazette [ABl.] the Protestant Church in Hessen and Nassau p. 131) and section 7 of the Model Rules for the Internal Structure and Organisation of Catholic Hospitals in Hessen, Rhineland-Palatinate and the Saarland (Musterordnung für die innere Struktur und Organisation der Katholischen Krankenhäuser in Hessen, Rheinland-Pfalz und Saarland [Official Church Gazette of the Diocese of Fulda 1986, p. 89]).

Cf. also: Agreement on Protestant Cure of Souls in the Federal Border Police (Vereinbarung über die evangelische Seelsorge im Bundesgrenzschutz) of 20-23.7. / 12.8.1965 (Joint Ministerial Gazette [GMBL.] ed. A 16 p. 374; amended by correspondence of 1.7.1968 / 8.5.1969) and the Agreement on Catholic Cure of Souls in the Federal Border Police (Vereinbarung über die katholische Seelsorge im Bundesgrenzschutz) of 29.7. / 12.8.1965 (GMBL. ed. A 16 p. 377).

An example of the state-church treaties in police cure of souls is the Agreement on the Church Service to Police Officials (Police Cure of Souls) in the Saarland (Vereinbarung über den kirchlichen Dienst an Polizeibeamten (Polizeiseelsorge) im Saarland) of 25.10.1978 (GMBL. Saarland 1979, p. 214).

In the area of the law on schools, on 10.9.1957 the Agreement between the Land of Lower Saxony and the Protestant Land Churches in Lower Saxony on Private Schools (Vereinbarung des Landes Niedersachsen mit den Evangelischen Landkirchen in Niedersachsen über die Privatschulen) was concluded (Ministerial Gazette of Lower Saxony [Nds. MBl.] p. 970).

¹⁰⁴ Note: For military chaplaincy in the new Federal Länder applies the Framework Agreement of the Federal Republic of Germany with the Protestant Church in Germany on Protestant Cure of Souls in the Federal Armed Forces in the Territory of the New Federal Länder (Rahmenvereinbarung der Bundesrepublik Deutschland mit der Evangelischen Kirche in Deutschland über die evangelische Seelsorge in der Bundeswehr im Bereich der neuen Bundesländer) of 12.6.1996 (Official Gazette of the Protestant Church in Germany [Abl. EKD] 1997 p. 101).