

Part III: State-Church Treaties

1. Concordat Between the Holy See and the German Reich (Konkordat zwischen dem Heiligen Stuhl und dem Deutschen Reich - Reichskonkordat) of 20 July 1933 (Reich Law Gazette [RGBl.] Part II p. 679)

His Holiness Pope Pius XI and the President of the German Reich, moved by a common desire to consolidate and promote the amicable relations existing between the Holy See and the German Reich, willing to regulate the relations between the Catholic Church and the State for the whole territory of the German Reich in a permanent manner and on a basis acceptable to both parties, have decided to conclude a solemn agreement, which will supplement the concordats already concluded with certain individual German Ländern, and will ensure for the remaining Länder fundamentally uniform treatment of the respective questions.

For this purpose: His Holiness Pope Pius XI has appointed as his plenipotentiary His Eminence the Most Reverend Lord Cardinal Eugenio Pacelli, his Secretary of State and the President of the German Reich has nominated as plenipotentiary the Vice-Chancellor of the German Reich, Mr. Franz von Papen, who, having exchanged their respective certificates of authority and found them to be in due and proper form, have agreed on the following articles:

Article 1

The German Reich guarantees freedom of confession and public exercise of the Catholic Religion.

It recognises the right of the Catholic Church, within the limits of those laws which are applicable to all, to regulate and manage her own affairs independently, and, within the framework of her own competence, to issue laws and orders binding on her members.

Article 2

The concordats concluded with Bavaria (1924), Prussia (1929) and Baden (1932) remain in force, and the rights and liberties of the Catholic Church recognised therein are secured unchanged within the territories of the states concerned. For the remaining Länder the agreements entered into in the present concordat come into force in their entirety. These last are also binding for those three Länder named above in so far as they affect matters not regulated by the Land concordats or are complementary to the settlement already made.

In the future, Land concordats will be concluded only in accordance with the Reich Government.

Article 3

In order to foster good relations between the Holy See and the German Reich, an Apostolic Nuncio will reside in the capital of the German Reich and an Ambassador of the German Reich at the Holy See, as heretofore.

Article 4

In its communication and correspondence with the bishops, clerics and other members of the Catholic Church in Germany, the Holy See enjoys full freedom. The same applies to the bishops and other diocesan authorities in their communication with the faithful in all matters belonging to their pastorate .

Instructions, ordinances, pastoral letters, official diocesan gazettes, and other enactments regarding the spiritual direction of the faithful issued by the ecclesiastical authorities within the framework of their competence (article 1, section 2) may be published without hindrance and brought to the notice of the faithful in the form hitherto usual.

Article 5

In the exercise of their spiritual activities the clerics enjoy the protection of the state in the same way as civil servants of the state. The state will take proceedings in accordance with the general legislation of the state against any outrage offered to the clerics personally or directed against them in their capacity as clerics, and against any interference with their official acts, and in case of need will provide official protection.

Article 6

Clerics and religious are freed from any obligation to succession to public offices and such obligations as, according to the provisions of canon law, are incompatible with the holy or religious orders. This applies particularly to the office of lay judge, juryman, member of taxation committee or member of the Finance Courts.

Article 7

For the acceptance of an appointment or office in the state, or in any corporation under public law dependent on the state, the clerics need the *nihil obstat* of their diocesan ordinary, as well as that of the ordinary at the seat of the corporation under public law. The *nihil obstat* may be withdrawn at any time for important reasons affecting ecclesiastical interests.

Article 8

The official income of the clerics is exempt from compulsory execution to the same extent as is the official remuneration of civil servants of the Reich and state.

Article 9

The clerics may not be required by judicial and other authorities to give information concerning matters which have been entrusted to them while exercising the cure of souls, and which therefore come within the obligation of pastoral secrecy.

Article 10

The wearing of clerical dress or of a habit of an order on the part of lay folk, or of clerics or religious who have been forbidden to wear them by a final and valid injunction made by the competent ecclesiastical authority and officially notified to the state authority, is liable to the same penalty on the part of the state as the abuse of military uniform.

Article 11

The current diocesan organisation and circumscription of the Catholic Church in the German Reich shall persist. A new establishment of a bishopric or of an church province appearing to be required in future or other alterations of diocesan circumscriptions, so far as they concern new formations within the boundaries of a German Land, remain subject to the understanding with the competent Land Government. If new establishments and alterations which extend beyond the boundaries of a German Land communication with the Reich Government takes place, to whom it shall be left to bring about the consent of the Land Governments in question. The same applies to new establishments or alterations of church provinces involving several German Länder. The foregoing conditions shall not apply to such shifts of ecclesiastical borders taking place merely in the interests of local cure of souls.

In the case of any territorial reorganisation within the German Reich, the Reich Government will get in touch with the Holy See for rearrangement of the diocesan organisation and circumscription.

Article 12

Irrespective of the provisions of article 11, church offices may be established and transformed freely, if no expenditures are claimed from state funds. The state's cooperation in forming and altering parishes shall be carried out according to guidelines to be agreed upon with the diocesan bishops, and for which the Reich Government will endeavour to secure uniform formation as far as possible from the Länder Governments.

Article 13

Catholic parishes, parish and diocesan associations, Episcopal sees, bishoprics and chapters, religious orders and brotherhoods, as well as institutions, foundations and property of the Catholic Church which are under the administration of ecclesiastical organs, shall retain or acquire respectively legal capacity in the sphere of the state according to the general provisions of law. They shall remain corporations under public law in so far as they have been such hitherto; similar rights may be granted to the remainder in accordance with those provisions of the law which are applicable to all.

Article 14

The church shall have principally the right to appoint freely to all church offices and benefices without the co-operation of the State or of civil communities, in so far as other provisions have not been made in the concordats mentioned in article 2. The regulation made for appointment to the Metropolitan See of the Upper Rhine Church Province of Freiburg shall apply *mutatis mutandis* to the two Suffragan Bishoprics of Rottenburg and Mainz, as well as to the Bishopric of Meißen. With regard to Rottenburg and Mainz the same applies to appointments to the Cathedral Chapter bodies, and to the regulation of the right of patronage.

Furthermore, there is accord on the following points:

1. Catholic clerics who hold an religious office or who exercise pastoral or teaching functions in Germany must:
 - a) be German citizens,

- b) have an school leaving certificate entitling them to studies at a German secondary school,
 - c) have studied philosophy and theology for at least three years at a German state university, a German ecclesiastical academic educational institution, or a papal university in Rome,
2. The Bull nominating Archbishops, bishops, coadjutors *cum jure successionis*, or a *Praelatus Nullius*, will not be issued until the name of the person designated has been communicated to the governor of the Reich in the competent Land, and until it has been ascertained that no objections of a general political nature exist.

In case of church and state accord, the requirements named in paragraph 2 No. 1, (a) (b) and (c) may be disregarded.

Article 15

Religious orders and brotherhoods are not subject to any special restrictions on the part of the state, as regards their foundation, establishment, their number, and – subject to article 15, paragraph 2 - the qualities of members, their activity concerning cure of souls, education, sick-nursing and charitable work, or as regards the management of their affairs and the administration of their property.

Religious superiors whose headquarters are within the German Reich must be German citizens. Heads of provinces and superiors of religious orders, whose headquarters lie outside the territory of the German Reich, have the right of visitation of those of their establishments which lie within Germany even if they are foreign nationals.

The Holy See will make sure that the provincial organisation of establishments of orders within the German Reich shall be such that, as far as possible, German establishments do not fall under the jurisdiction of foreign heads of provinces. Exceptions may be made in accordance with the Reich Government particularly in cases where the small number of establishments makes the formation of a German province impracticable, or where special grounds exist for the retention of a provincial organisation which is firmly established and has acquired an historic nature.

Article 16

Before bishops take possession of their Dioceses they are to take an oath of loyalty either to the governor of the Reich in the competent Land, or to the President of the Reich, according to the following formula:

»Before God and on the Holy Gospels I swear and promise as becomes a bishop, loyalty to the German Reich and to the Land of ... I swear and promise to respect the in accordance with the constitution legally constituted government and to cause the clerics of my Diocese to respect it. In my dutiful care for the welfare and the interests of the German polity I will in the performance of the office transferred to me, strive for averting all detrimental acts which might endanger it.«

Article 17

The property and other rights of corporations under public law, institutions, foundations and associations of the Catholic Church regarding their assets, are guaranteed according to the general state law.

No building dedicated to public worship may be demolished for any reason whatsoever unless with the previous consent of the competent ecclesiastical authorities.

Article 18

If the public subsidies towards the church, based on law, contract or special legal title, should be detached the Holy See and the Reich will bring about an amicable accord in due time prior to the elaboration of the principles to be established for the redemption .

Also the convention establishing a right is to be considered as special legal title.

The redemption must grant suitable compensation of the claimant for the loss of the state benefits.

Article 19

Catholic theological faculties in state universities are to be maintained. Their relation to ecclesiastical authorities shall be governed by the provisions laid down in the respective concordats and in the final protocols attached to the same, and with due regard to the ecclesiastical provisions in their regard.

Article 20

Where other agreements do not exist, the church has the right to establish theological and philosophical colleges for the training of its clerics, which institutions are exclusively dependent on the ecclesiastical authorities if no state subsidies are in demand.

The establishment, management and administration of seminaries for candidates for Roman Catholic priesthood and ecclesiastical residences for seminarians, within the limits of the law applicable to all, is exclusively the prerogative of the ecclesiastical authorities.

Article 21

Catholic religious instruction in elementary, intermediate, secondary and vocational schools constitutes a part of the regular curriculum, and is to be taught in compliance with the principles of the Catholic Church. In religious instruction, the education to patriotic, civic and social conscientiousness in the spirit of Christian faith and the moral code will be cultivated with special emphasis, as is done in the complete remainder of instruction. The subjects taught and the selection of textbooks for religious instruction will be determined in accordance with the higher ecclesiastical authorities. The higher ecclesiastical authorities will in accordance with the education authority have the opportunity to investigate whether pupils are receiving religious instruction in compliance with the doctrine and demands of the church.

Article 22

With regard to the appointment of teachers of Catholic Religion, communication will take place on the part of the bishop and the Land Government. Teachers declared by the bishop unfit for the further exercise of their teaching functions, either on grounds of their teachings or by reason of their moral conduct, may not be employed as teachers of religion so long as that obstacle exists.

Article 23

The retention of Catholic denominational schools and the establishment of new ones remains ensured. In all communities in which parents or those entitled to bring up the children apply for it, Catholic elementary schools will be established, provided that the number of pupils available appears to be sufficient for a school managed and administered in accordance with the standards prescribed by the state, due regard being had to the local conditions of school organisations.

Article 24

In Catholic elementary schools only such teachers are to be employed as are members of the Catholic Church, and who guarantee to fulfil the special requirements of a Catholic denominational school.

Within the framework of the general vocational training of teachers, institutions will be formed ensuring training of Catholic teachers according to the special requirements of Catholic denominational schools.

Article 25

Religious orders and religious congregations are entitled to establish and conduct private schools, subject to the general laws and legal conditions applying to this. In so far as these schools follow provisions prescribing the curriculum for state schools, those attending them acquire the same qualifications as those attending state schools.

The admission of members of religious orders or religious brotherhoods to the teaching profession, and their appointment to elementary, intermediate, or secondary schools, are subject to the general conditions.

Article 26

Subject to a later comprehensive regulation of marriage law, it is understood that, apart from cases of critical illness of one member of an engaged couple which does not permit of a postponement, also in cases of severe moral emergency, the presence of which must be confirmed by the competent ecclesiastical authority, the ecclesiastical marriage ceremony may precede the civil ceremony.⁸⁰ In such cases the parish priest is obliged to inform the registrar's office of the matter without delay.

⁸⁰ Cf. on this the "Determinations on the interpretation of article 26 of the Reich Concordat" (Bulletin of the Press and Information Office of the Federal Government No. 23 /1957, p. 203): (...)

1. A severe moral emergency justifying the ecclesiastical marriage ceremony preceding the civil ceremony does not pertain if conclusion of the civil ceremony would entail exclusively economic disadvantages for the engaged couple.

2. In accordance with article 26 of the Reich Concordat, if the circumstances therein provided are present, the ecclesiastical marriage ceremony may precede the civil ceremony. In this provision is presupposed that the civil ceremony is to follow the ecclesiastical marriage ceremony in the cases it mentions. Hence, this provision is not applicable if the reasons submitted in the request of the engaged couple to conclude the ecclesiastical marriage ceremony rule out the conclusion of civil marriage after the ecclesiastical marriage ceremony.

The agreement reached for the rest on reserve of the bilateral legal points of view does not permit in future to rely on article 26 of the Reich Concordat with 'pension concubinage' because also in the view of the Holy See article 26 of the Reich Concordat can only apply in cases in which the couple intends to get married at the

Article 27

The German army is granted cure of souls for its Catholic officers, personnel and other officials, as well as for the families of the same exempt from the territorial competent Catholic community.

The management of military chaplaincy lies with the Army Bishop. His ecclesiastical appointment is to be made by the Holy See after contact has been made by the latter with the Reich Government in order to appoint a suitable personality in accordance with it.

The ecclesiastical appointment of military chaplains and other military clerics will be made after previous consultations with the competent authority of the Reich by the Army Bishop. The latter may nominate only such clerics as received permission from their Diocesan Bishop to engage in military chaplaincy. Military clerics have the rights of parish priests with regard to the troops and other army personnel assigned to them.

Detailed provisions relating to the organisation of military chaplaincy will be supplied by an Apostolic Brief. Regulations for the legal aspects of civil service will be drawn up by the Reich Government.

Article 28

In hospitals, penal establishments, and similar institutions of public purse the church is to be permitted for undertaking of pastoral visitation and of religious ceremonies, subject to the general house regulations of the said institutions. If regular cure is established in such institutions, and if clerics have to be appointed as state or other civil servants, such appointments will be made in accordance with the higher ecclesiastical authority .

Article 29

Catholic members of a non-German ethnical minority living within the German Reich, in matters concerning the consideration of their mother tongue in church services, religious instruction and the clubs, societies, and associations of the church, will be treated no less favourable than as it corresponds to the legal and actual situation of members of German origin and language within the boundaries of the corresponding foreign state.

Article 30

On Sundays and the mandatory holidays, a prayer, conforming to the Liturgy, will be inserted following the main religious service for the welfare of the German Reich and its people in all Episcopal, parish, subsidiary and conventual churches of the German Reich.

Article 31

Those Catholic organisations and associations which pursue exclusively religious, cultural or charitable purposes, and, as such, are subordinate to the ecclesiastical authority, will be protected in their establishments and activities.

registrar's office after the ecclesiastical marriage ceremony. This precondition is however not met with 'pension concubinage' because the couple in this case are attempting from the outset to circumvent a registrar's office marriage, and wish only to enter into ecclesiastical marriage in order to retain their pensions.

Those Catholic organisations which besides their religious, cultural and charitable purposes pursue also others, among them social or professional tasks, irrespective of a possible integration into state associations, are to enjoy the protection of article 31, section 1, provided they guarantee to develop their activities outside all political parties.

It is reserved to the Reich Government and the German episcopate, in joint agreement, to determine which organisations and associations come within the scope of this article.

In so far as the Reich and the Länder take charge of sport and other youth organisations, care will be taken that it shall be made possible for the members of the same regularly to practice their ecclesiastical duties on Sundays and holidays, and that they shall not be induced to do anything incompatible with their religious and moral convictions and obligations.

Article 32

On the basis of the special circumstances existing in Germany, and in view of the safeguardings provided through the above provisions of this concordat of a legislation directed to preserve the rights and liberties of the Roman Catholic Church in the Reich and its Ländern, the Holy See will issue provisions for the exclusion of clerics and members of religious orders from membership of political parties, and from engaging in work on their behalf.

Article 33

All matters relating to clerical persons or ecclesiastical affairs, which have not been treated of in the foregoing articles, will be regulated for the ecclesiastical sphere according to current canon law.

Should a difference of opinion arise in future regarding the interpretation or execution of any of the provisions of this concordat, the Holy See and the German Reich will reach a friendly solution by mutual agreement.

Article 34

This present concordat, whose German and Italian texts have equal binding force, shall be ratified, and the documents of ratification shall be exchanged. It comes into force from the day of their exchange.

*Final Protocol*⁸¹ *in re Article 3*

The Apostolic Nuncio to the German Reich, according to the exchange of notes between the Apostolic Nunciature in Berlin and the Reich Foreign Office on 11 and 27 March, shall be the Dean of the Diplomatic Corps thereto accredited.

Final Protocol in re Article 13

It is understood that the church the right to levy taxes remains ensured.

⁸¹ Note: The final protocol forms an "integral part of the concordat itself".

Final Protocol in re Article 14 Para 2 No. 2

It is understood that when objections of a general political nature exist, they shall be presented within the shortest possible time. If after twenty days such representations have not been made, the Holy See will be entitled to assume that no objections exist to the candidate in question. The names of the personalities in question will be kept completely confidential until the announcement of the appointment. A veto power of the state shall not be derived from this article.

Final Protocol in re Article 17

In so far as public buildings or properties are devoted to purposes of the church, these are to be left to them as before, with adherence to possibly existing contracts.

Final Protocol in re Article 19 Second Sentence

This clause is based, at the time of signature of this concordat, particularly on the Apostolic Constitution, "Deus Scientiarum Dominus" of 24 May 1931, and the Instruction of 7 July 1932. It will be a matter for the Reich Government to ensure for all Catholic faculties in Germany coming into question a uniform practice corresponding to the totality of pertinent provisions.

Final Protocol in re Article 20

Ecclesiastical residences at universities and secondary schools which are managed by the church, will be recognised, from the point of view of taxation law, as essentially ecclesiastical institutions in the proper sense, and as component parts of diocesan organisation.

Final Protocol in re Article 24

In so far as private institutions are able after the rearrangement of the teacher training system to meet the state demands valid for all with regard to the training of teachers, existing institutions of religious orders and congregations will be given due consideration in the admission of these institutions.

Final Protocol in re Article 26

A severe moral emergency exists when there are insurmountable or only with disproportionately great expense removable difficulties in procuring the documents necessary for the marriage in due time.

Final Protocol in re Article 27 Para 1

The Catholic officers, civil servants and ranks, as well as their families, do not belong to local parishes, and do not contribute to their maintenance.

Final Protocol in re Article 27 Para 4

The issuance of the Apostolic Brief takes place on consultation with the Reich Government.

Final Protocol in re Article 28

In cases of urgency admittance has to be granted to the clerics at all times.

Final Protocol in re Article 29

Since the Reich Government has seen its way to make concession regarding non-German minorities, the Holy See declares -- in confirmation of its principles it has constantly maintained regarding the rights of the mother tongue in the cure of souls, religious instruction and the conduct of church associations -- that it will take the insertion of a clause of equal value protecting the rights of the German minorities into consideration when establishing concordats with other countries.

Final Protocol in re Article 31 Para 4

The principles laid down in article 31, para 4 apply also to the Labour Service.

Final Protocol in re Article 32

It is understood that equal provisions regarding party political activity will be induced by the Reich for non-Catholic denominations.

The conduct, which has been made an obligation for the clerics and members of religious orders in Germany in fulfilment of article 32, does not mean any sort of restriction of dutiful preaching and interpretation of the dogmatic and moral doctrines and principles of the church.

Secret Appendix to the Reich Concordat

In the case of a transformation of the current German military system entailing the introduction of general compulsory military service, the call up of priests and other members of the clerics of religious orders and of the clergy of the world to render compulsory military service will approximately be regulated in accordance with the Holy See under the terms of the following guiding principles:

- a) Those studying philosophy and theology in ecclesiastical institutions in preparation for the priesthood are exempt from military service and exercises in preparation thereof, excepting in the event of a general mobilisation.
- b) In the case of a general mobilisation, those clerics engaged in diocesan administration or cure of souls will be exempted from appearance before the draft board. As such shall be deemed the diocesan authorities, the members of the diocesan authorities, directors of seminaries and ecclesiastical religious residences, professors of the seminaries, parish priests, curators, rectors, coadjutors and those clerics who are in continual charge of a church providing public religious service.
- c) The remainder of the clerics, provided they will be passed as fit, join the armed forces of the state, in order to provide cure of souls to the troops under the ecclesiastical jurisdiction of the Army Bishop, unless they are called up for medical service.
- d) The remainder of the clerics *in sacris* or members of religious orders who are not yet priests will serve in the medical service. The same should happen where possible in the case of candidates for the priesthood mentioned at a) who have not yet been ordained to the priesthood.

2. Treaty between the Free State of Prussia and the Holy See
(Vertrag des Freistaates Preußen mit dem Heiligen Stuhle - Preußenkonkordat)
of 14 June 1929 (Prussian Law Collection p. 152)

His Holiness Pope Pius XI. and the Prussian Ministry of State, being one mind in the desire to adapt the legal position of the Catholic Church in Prussia to the changed circumstances, have decided to rearrange it permanently in a formal treaty.

For these purposes, His Holiness has nominated as his plenipotentiary His Excellency the Apostolic Nuncio in Berlin and the Archbishop of Sardes Dr. Eugen Pacelli, and the Prussian Ministry of State as its plenipotentiary the Prussian Prime Minister Mr. Dr. Otto Braun, the Prussian Minister of State and Minister of Science, Art and National Education Mr. Professor D. Dr. Carl Heinrich Becker and the Prussian Minister of State and Finance Mr. Dr. Hermann Höpker Aschoff, who, having exchanged their respective certificates of authority and found them to be good and accurate, have agreed to the following provisions:

Article 1

The Prussian State shall grant statutory protection to the freedom of confession and the exercise of the Catholic Religion.

Article 2

(1) The current diocesan organisation and circumscription of the Catholic Church of Prussia shall persist unless amendments result from the following .

(2) An Episcopal see shall once more be established in Aachen, and the collegiate chapter shall be transformed into a Chapter of a Cathedral. The Bishopric of Aachen shall comprise of the governmental district of Aachen, as well as the districts of Grevenbroich, Gladbach, M. Gladbach, Rheydt, Krefeld (urban and rural areas) and Kempen and shall belong to the Church Province of Cologne.

(3) The mission territories previously supervised by the Bishop of Osnabrück shall be incorporated into his bishopric. It shall be in future a Suffragan Bishopric of the Metropolitan of Cologne.

(4) The Episcopal See of Paderborn shall be conferred the character of a Metropolitan Bishopric; the Chapter of a Cathedral there shall become a metropolitan chapter. In addition to the Archbishopric of Paderborn, the Church Province of Paderborn shall also include the Bishoprics of Hildesheim and Fulda. The Paderborn Diocese shall assign to the Diocese of Fulda the districts of its Heiligenstadt Commissariat and its Erfurt Deanery.

(5) The Bishopric of Fulda shall leave the district county of Schaumburg to the Bishopric of Hildesheim and the part of the city of Frankfurt previously belonging to it to the Bishopric of Limburg. As in the case of Fulda, this shall also be removed from its previous metropolitan association, but incorporated into the Church Province of Cologne.

(6) The Episcopal See of Breslau shall become the seat of a Metropolitan, the Breslau Chapter of the Cathedral shall be made a metropolitan chapter. The Delegation District of Berlin previously under the authority of the Bishop of Breslau shall become an independent bishopric whose bishop and Chapter of a Cathedral shall take their seat at St. Hedwig in Berlin. A *Praelatura Nullius* shall be established in Schneidemühl for the Western remaining territories of the Archbishopric (Gnesen-)Posen and the Bishopric of Kulm currently administrated by an

Apostolic Administrator. The territory of Pomesania currently co-administrated by the Bishop of Ermland as Apostolic Administrator, previously belonging to the Diocese of Kulm shall be combined with the Bishopric of Ermland. The Bishoprics of Ermland and Berlin and the Prelacy of Schneidemühl shall form, together with the Archbishopric of Breslau, the Breslau Church Province.

(7) The Chapter of the Cathedral in Aachen shall consist of the provost, six residing and four non-residing capitulars and six locum tenens, the Chapter of the Cathedral in Berlin of the provost, five residing and a non-residing capitular and four locum tenens, the Chapter of a Cathedral in Frauenburg in future of the provost, the dean, six residing and four non-residing capitulars and four locum tenens. In the metropolitan chapter of Breslau, the post hitherto reserved to the provost of St. Hedwig in Berlin shall be abolished. In Hildesheim and in Fulda the number of the residing canons shall amount five in future.

(8) One of the non-residing members of the metropolitan chapters of Cologne and Breslau and of the Chapter of the Cathedral of Münster should be taken from the theological faculty existing in the Archbishopric or bishopric in question.

(9) Any new establishment of a bishopric or of an church province appearing to be required in future or other alteration in the diocesan circumscription shall be the subject to supplementary subsequent agreement. This form shall not be required if borders are shifted merely in the interests of local cure of souls.

(10) In order to support the Diocesan Bishop, in future the Archiepiscopal Sees of Cologne, Breslau and Paderborn and the Episcopal Sees of Trier, Münster and Aachen shall be allocated a Auxiliary Bishop nominated by the Holy See at the request of the Diocesan Bishop. According to demand, further Auxiliary Bishops may be appointed in the same manner for the named and other bishoprics. Another place than the seat of the Diocesan Bishop shall only be determined as the seat of a Auxiliary Bishop after consultation with the Prussian State Government.

Article 3

Irrespective of the provisions of article 2, church offices may be established and transformed freely if no expenditures are claimed from state funds. The state's cooperation in forming and altering parishes shall be carried out according to guidelines to be agreed upon with the Diocesan Bishops.

Article 4

(1) The dotation of the Dioceses and diocesan institutions shall amount in future two million eight hundred thousand Reichsmark. In detail it shall be distributed in according to special agreement.

(2) The official dwellings and the buildings serving diocesan purposes shall remain the property of the church. The existing rights of ownership and use shall be secured on request by being entered in the land register.

(3) The previous legal position on diocesan dotations shall continue to be decisive for the redemption of public subsidies in accordance with article 138 para 1 of the Constitution of the German Reich⁸².

Article 5

(1) The ownership and other rights of the corporations under public law, institutions and foundations of the Catholic Church as to their property shall be ensured under the terms of the Constitution of the German Reich.⁸³

(2) As far as state buildings or land are devoted to purposes of the church, they shall remain left to them irrespective of any possibly existing contracts.

Article 6

(1) After an Archiepiscopal or Episcopal See ended, both the Metropolitan or Chapter of a Cathedral in question, as well as the Diocesan Archbishops and Bishops of Prussia shall submit to the Holy See lists of canonically qualified candidates. Estimating these lists, the Holy See shall nominate to the chapter three persons from whom the latter shall elect the Archbishop or bishop in a free, secret ballot. The Holy See shall not appoint anyone as an Archbishop or bishop unless the chapter after election has determined by enquiring of the Prussian State Government that no reservations of a political nature exist against him.

(2) The non-residing canons shall contribute towards setting the list of candidates and in the elections.

Article 7

The Holy See shall not nominate anyone as *Praelatus Nullius* and coadjutor of a diocesan bishop with the right of succession without having determined by enquiring of the Prussian State Government that no reservations of a political nature exist against him.

Article 8

(1) The dignities of the metropolitan chapters and the Chapters of Cathedrals shall be conferred by the Holy See, where there are two dignities, the first (Cathedral Provostry) at the request of the Chapter, the second (Cathedral Deanery) at the request of the Diocesan Bishop, where there is only one dignity (Cathedral Provostry or Cathedral Deanery) this alternately at the request of the chapter and of the Diocesan Bishop.

(2) The canonicates of the chapter shall be filled by the Diocesan Bishops alternately after hearing and with the consent of the chapter. Alternation shall take place separately with residing and non-residing canonicates.

(3) The positions of the Cathedral Locum Tenens shall be filled by the Diocesan Bishop after hearing the chapter.

⁸² Note: Article 138 of the Weimar Constitution is printed in Part I at item A in the context of its being referred to in the Basic Law.

⁸³ Cf. inter alia article 138 para 2 of the Weimar Constitution, first part, item A.

Article 9

(1) In view of the dotation of the Dioceses and diocesan institutions assured in this treaty, a cleric shall only be appointed as ordinary of an Archbishopric or bishopric or the *Praelatura Nullius* as a Auxiliary Bishop, a member of a Chapter of a Cathedral, a Cathedral Locum Tenens, a member of a diocesan authority or as a head or teacher at a diocesan educational establishment if he

- a) has the citizenship of the German Reich ,
- b) has a school-leaving certificate entitling to study at a German university,
- c) has completed at least three years of philosophical-theological studies at a German state university or at one of the Episcopal seminaries determined therefor according to article 12 or at a papal university in Rome.

(2) With church and governmental approval, the requirements named in para 1 (a), (b) and (c) may be waived: in particular studies at other German-language universities than those named at (c) may be recognised.

(3) At least two weeks prior to the intended appointment of a cleric as a member of a Chapter of a Cathedral or as the head or teacher at a diocesan seminary, the competent ecclesiastical body shall give the state authority notice of this intention and, with particular regard to para 1 of this article, and where appropriate to para 2 of article 12, of the personal particulars of the cleric in question. Such a information shall be given immediately after the appointment of a Bishopric (Prelacy) Locum Tenens, of a Auxiliary Bishop and of a Vicar-General.

Article 10

(1) The Diocesan Bishops (the *Praelatus Nullius*) shall make at least the demands made in article 9 para 1 (a) to (c) of clerics to whom an incumbency is to be permanently transferred and those demands named at (a) and (b) of the other clerics to be employed in parish cure of souls. Article 9 para 2 shall apply in both cases.

(2) In the case of the permanent transferral of an incumbency, the Diocesan Bishop (*Praelatus Nullius*) shall immediately after nomination to give notice of the personal particulars of the cleric to the state authority, with special regard to para 1 of this article.

Article 11

Until such time as a new agreement is reached, in particular in case of issuance of the statute provided for in article 83 of the Constitution of the Free State of Prussia⁸⁴, the presentation shall take place on the basis of a so-called state patronage by the state authority only after consultation with the Diocesan Bishop or *Praelatus Nullius* in accordance with an instruction to be separately agreed.

⁸⁴ Note: Article 83 of the Constitution of the Free State of Prussia of 30.11.1920 (Collection of Laws. Prussia p. 543) reads as follows:

At the request of a party concerned, an existing patronage shall be rescinded as soon as the property law obligations have been redeemed. The statute shall regulate the procedure and lay down the principles to be applied in redemption.

Article 12

(1) For the academic preparatory training of the clerics, the Catholic theological faculties shall persist at the universities in Breslau, Bonn and Münster and at the academy in Braunsberg. Their relationship with the ecclesiastical authority shall be governed in accordance with the rules applicable to the Catholic theological faculties in Bonn and Breslau.

(2) The Archbishop of Paderborn and the Bishops of Trier, Fulda, Limburg, Hildesheim and Osnabrück shall be entitled to possess a seminary in their bishoprics for the academic preparatory training of clerics. Instruction at these seminaries shall correspond to German theological instruction at higher education institutes just as it does to the ecclesiastical provisions. The named Diocesan Bishops shall give to the Prussian Minister of Science, Art and National Education notice of the rules and the curriculum of the seminaries. Only that clerics shall be appointed as teachers at the seminaries who have the corresponding qualification for teaching the subject to be represented in line with the demands of the German universities .

Article 13

The High Contracting Parties will settle any difference of opinion possibly occurring between them in future by interpreting a provision of this treaty in an amicable manner.

Article 14

(1) This treaty, whose German and Italian texts have equal binding force, shall be ratified, and the documents of ratification shall be exchanged in Berlin as soon as possible. It comes into force from the day of their exchange.

(2) At the same time as the coming into force of this treaty, the statutes and ordinances conflicting with its provisions shall become invalid.

Final Protocol⁸⁵ in re Article 4 Para 1 First Sentence

In calculating the dotation, the current status of the expenditures of the Prussian State has been used as a basis for comparable personal and material purposes. It is understood that in future any possibly occurring alterations thereto should be taken into consideration concerning the dotation *mutatis mutandis*.

Final Protocol in re Article 9 Para 1 (c)

Philosophical-theological studies completed at an Austrian state university shall have equal rights in accordance with the principles that will apply to other subjects relating to humanities.

Final Protocol in re Article 9 Para 3 First Sentence

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

⁸⁵ Note: The final protocol forms an "integral part of the concordat itself".

Final Protocol in re Article 12 Para 1 Second Sentence

The meaning of section 4 Nos. 1 and 2 of the Bonn and of section 48 (a) and (b) of the Breslau statutes is as follows:

Before anyone is to be employed or licensed to practice the teaching profession at a Catholic theological faculty, the competent bishop shall be heard as to whether he has to raise reasoned demurs to the teaching or the moral conduct of the person proposed. A person against whom such objections are raised shall not be employed or licensed.

The designation prior to employment (para 1), i.e. offering of the chair in question by the Minister of Science, Art and National Education, shall take place in confidential form and subject to a hearing of the Diocesan Bishop. At the same time, the bishop will be notified and asked for his statement, for which he will be given a sufficient period. In the statement, objections to the teachings and the moral conduct of the person proposed shall be pointed out; how far the bishop may go in this explication shall be entrusted to his dutiful discretion. The designation shall not be published until the bishop has declared to the minister that he has no demurs to the teachings or the moral conduct of the person designated.

If a teacher being a member of a Catholic theological faculty in his teaching or in writings offends the Catholic doctrine or commits a serious or vexing breach of the requirements of the priestly moral conduct, the competent bishop shall be entitled to inform the Minister of Science, Art and National Education of this. In such a case, the minister shall take remedial measures irrespective of the rights of the person concerned emerging from the employment in the civil service, and in particular shall find a replacement in line with the teaching requirement.

Final Protocol in re Article 12 Para 2 Fourth Sentence

Suitability shall be mainly proven by an academic thesis corresponding to the thesis for the habilitation: where this is of particular academic significance, the need to obtain a doctorate in theology may be waived.

3. Lower Saxony:

a) *Treaty between the Land of Lower Saxony and the Protestant Land Churches in Lower Saxony - Loccum Treaty (Vertrag des Landes Niedersachsen mit den Evangelischen Landkirchen in Niedersachsen [Loccumer Vertrag])*

of 19 March 1955 (Law and Ordinance Gazette of Lower Saxony [Nds. GVB1.] Sb. I p. 369)

The Land Government of Lower Saxony and the constitutional representatives of the Protestant Land Churches in Lower Saxony,

Conscious of the joint responsibility for the Protestant part of the Lower Saxon population and led by the desire to consolidate and promote the amicable relationship between the Land and the Land Churches, based on the fact that the Treaty between the Free State of Prussia and the Protestant Land Churches of 11 May 1931, as well as the appurtenant final protocol between the Land on the one hand and the Protestant-Lutheran Land Church of Hanover and the Protestant Reformed Church in North Western Germany on the other hand remains unchallenged valid, and in appreciation of that treaty as a step towards gaining the free order of

the relationship between the state and the church required by the German Constitution of 11 August 1919,

have in compliance as to the public assignment of the churches and their independence decided to develop the treaty further with adherence to the rights of the churches within the meaning of true free order and to formulate the uniform formation of the relationship of the Land towards all Land Churches as follows⁸⁶:

Article 1

(1) The Land of Lower Saxony shall grant statutory protection to the freedom of confession and the exercise of the Protestant faith.

(2) The Protestant churches shall regulate and administer their affairs independently within the limits of the law that applies to all. They shall remain corporations under public law; their service shall remain civil service.

Article 2

(1) The Land Government and the church managements shall strive to have regular meetings to deepen their relations. They will at all times make themselves available to discuss questions concerning their mutual relationship.

(2) The churches will enter into close cooperation among themselves in order to uniformly represent their interests towards the state. They will appoint joint agents and establish an agency at the seat of the Land Government.

b) Treaty between the Land of Lower Saxony and the Non-denominational Religious Land Community of Lower Saxony (Vertrag zwischen dem Lande Niedersachsen und der Freireligiösen Landesgemeinschaft Niedersachsen)⁸⁷

of 8 June 1970 (Law and Ordinance Gazette [GVBl.] of Lower Saxony. p. 505)

The following treaty shall be concluded between the Land of Lower Saxony, represented by the Lower Saxon Prime Minister, and the Non-denominational Religious Land Community of Lower Saxony, corporation under public law, represented by its Presidium:

Section 1

(1) The Land shall ensure the Non-denominational Religious Land Community its free activity in the framework of the Basic Law of the Federal Republic of Germany for the free religious humanist care of its members and of other persons not belonging to a religious and ideological community.

(2) The Non-denominational Religious Land Community avows itself to the Basic Law of the Federal Republic of Germany and to the Temporary Lower Saxon Constitution. It shall exercise its activities in view of the common public welfare.

⁸⁶ Note: The printed articles are only an excerpt from the treaty.

⁸⁷ Note: The legal successor of the Non-denominational Religious Land Community of Lower Saxony is the Organisation of Free Humanists of Lower Saxony.

Section 2

The Land will continue to be deliberate that the instruction in the different religions⁸⁸ provided for in section 5 subsection 6 of the Lower Saxon Schools Act (Niedersächsisches Schulgesetz) at the public schools shall be given with equal rights in addition to religious instruction within the meaning of the Christian confessions. It shall in particular take care that those entitled to bring up the children, if they are concerned, shall be regularly referred to the instruction events coming into question.

Section 3

The Land shall in the sphere of university facilitate academic preparatory training for instruction in different religions. The teaching assignment issued at the Pedagogical University of Lower Saxony, Hanover department, for religious science and didactics of instruction in different religions shall remain.

Section 4

The Land shall with regard to broadcasting corporations in which it holds a share continue to be deliberate that the statutes contain provisions in accordance with which the Non-denominational Religious Land Community is given suitable on air times and that it is facilitated a suitable representation of its interests in questions of programming.

Section 5

The freedom of the Non-denominational Religious Land Community to act in adult education shall be ensured.

Section 6

The Non-denominational Religious Land Community and its communities shall be entitled to collect from its members for non-denominational and charitable purposes.

Section 7

(1) The Land shall pay to the Non-denominational Religious Land Community from the year 1970 onwards as an annual subsidy towards personnel costs the sum of one hundred thousand

⁸⁸ Note: Knowledge about the different religions is provided in the subject "Values and Standards" (ethics) in accordance with the Lower Saxon School Act (Niedersächsisches Schulgesetz) of 30.5.1974 (Nds. GVBl. p. 289), in the version of 3.3.1998 (Nds. GVBl. p. 137), last amended on 17.12.1999 (Nds. GVBl. p. 430), which is regulated in section 128 of the Lower Saxon School Act as follows:

Section 128 Instruction in Values and Standards

(1) Anyone not attending religious instruction shall be obliged instead to attend classes in values and standards if the school offers this instruction. This shall not apply to those for whom religious instruction of their religious community cannot be offered. The school shall offer instruction in values and standards as a part of the regular curriculum from the fifth year of school onwards if at least twelve pupils are obliged to attend.

(2) In the subject values and standards, knowledge about the different religions, an understanding of the moral concepts and standards applicable in society and access to philosophical, ideological and religious questions are to be imparted.

Deutsche Mark. The amount of the sum shall be adjusted to the changes in the remuneration of the Land civil servants, as in the case of comparable public subsidies.

(2) The public subsidy shall be paid on a quarterly basis with one quarter each of the annual amount being paid in advance.

(3) The Land Court of Audit shall be entitled to check the use of the financial support in situ, to inspect the required documentation and to require information.

4. Saxony-Anhalt:

Treaty between the Land of Saxony-Anhalt with the Jewish Community in Saxony-Anhalt (Vertrag des Landes Sachsen-Anhalt mit der Jüdischen Gemeinschaft in Sachsen-Anhalt) of 23 March 1994 (Law and Ordinance Gazette [GVBl.] of the Land of Saxony-Anhalt p. 795)

The Land of Saxony-Anhalt (hereinafter referred to as the Land), represented by the Prime Minister, Mr. Dr. Christoph Bergner, and the Jewish communities in Saxony-Anhalt, represented by the Land Association of Jewish Communities in Saxony-Anhalt, Mecklenburg-Western Pomerania and Brandenburg (hereinafter referred to as the Land Association), as well as the Land Association of Jewish communities in Saxony-Anhalt, Mecklenburg-Western Pomerania and Brandenburg (hereinafter for the Jewish contracting party: the Jewish Community in Saxony-Anhalt), represented by the statutory representatives,

- in responsibility before the history of Germany also shaped by the persecution and destruction of people of the Jewish faith and Jewish origin,
- in the knowledge of the measures of bare or hidden violence in the time of the Communist tyranny,
- conscious of the great loss suffered by the Land of Saxony-Anhalt through the destruction of Jewish life and Jewish culture,
- in the desire to make it easier for the Jewish Community in Saxony-Anhalt to rebuild a community life,

have agreed as follows for the territory of the Land of Saxony-Anhalt:

Article 1 Freedom of Faith and Independence

(1) The Land guarantees on the basis of its Constitution and of the Basic Law for the Federal Republic of Germany the unrestricted freedom of the Jewish faith, and grants statutory protection of the practice of religion.

(2) The Jewish congregations in the Land of Saxony-Anhalt and the Land Association shall regulate and administer their affairs in accordance with Jewish traditions and laws within the limits of the law applies to all.

Article 2 Coaction

(1) The Land Government and the Land Association shall regularly and where needed meet to discuss questions that are tangential to their relationship to each other or other questions which are of mutual interest.

(2) In intended law-making and manifestos in fields directly concerning the interests of the Jewish Community in Saxony-Anhalt, the Land Government shall suitably involve the Land Association.

(3) The Land will involve the Land Association in particular within the scope of work concerned with memorials where Jewish concerns are affected.

Article 3 Protection of the Jewish Community

The Land shall ensure the protection of the institutions of the Jewish Community in Saxony-Anhalt and shall promote the maintenance of historical sites.

Article 4 Holidays

The Land shall ensure the rights of indemnity contained in the Act on Sundays and Holidays (Gesetz über die Sonn- und Feiertage) of 22 May 1992 (GVBl. LSA p. 356) on Jewish holidays.⁸⁹

Article 5 Property Protection

In applying expropriation law provisions the Land and the municipal territorial authorities shall take account of the concerns of the Jewish Community in Saxony-Anhalt and where appropriate shall assist in acquiring indemnity land of equal value.

Article 6 Cemeteries

(1) The Land and the municipal territorial authorities will observe the intangibility of the authorised Jewish burial places that have not been abandoned.

(2) Jewish cemeteries shall enjoy the same state protection as municipal cemeteries. The Jewish communities shall have the right to establish new cemeteries within the framework of the legal provisions. When establishing new cemeteries, the Land and the local territorial authorities shall examine possibilities for promotion within the framework of the budgetary funds available.

(3) Within the framework of agreements between the Federation and the Länder, the Land shall grant subsidies for the maintenance and care of those Jewish cemeteries or parts thereof which cannot be reoccupied in accordance with the provisions of the community⁹⁰.

⁸⁹ Note: The wording of the referenced section 6 of the Act on Sundays and Holidays [of the Land of Saxony-Anhalt] of 22.5.1992 (GVBl. LSA p. 356), last amended on 16.12.1994 (GVBl. LSA p. 1044) is as follows:

Section 6 Release on Religious Holidays

(1) Members of a church or religious community in training or employment shall on application be granted unpaid release on the religious holidays of their confession unless opposed by operational necessities.

(2) In order to observe the religious holidays of their church or religious community, pupils shall obtain release from instruction on application.

⁹⁰ Note: This refers to the religious provisions of the Jewish communities.

Article 7 Preservation of Monuments

(1) The Jewish Community in Saxony-Anhalt undertakes to maintain and preserve buildings with a value as monuments together with the appurtenant real estates, as well as their works of art and culture where these obligations do not lead in an individual case to unacceptable strains on the Jewish community concerned or on the Land Association. The monument authorities shall with cultural monuments of the Jewish Community in Saxony-Anhalt which are intended to serve the purposes of religious services or other acts of worship to pay prior regard to the worship and religious concerns to be ascertained by the competent board. Prior to the implementation of measures, the authorities shall consult with the competent board.

(2) In allocating the Land funds for the preservation of monuments, the Jewish Community in Saxony-Anhalt will be suitably taken into consideration with due regard to the regulations of the Monument Protection Act. The Land shall advocate that the Jewish Community in Saxony-Anhalt also receives assistance from facilities active at national and international level for the preservation of culture and other monuments.

Article 8 Schools Beared by Jewish Organisations

(1) The Jewish Community in Saxony-Anhalt shall have the right to establish and operate general schools beared by Jewish organisations on a confessional basis.

(2) Detailed regulations of the procedure for governmental approval and recognition of such schools and their co-financing from public funds shall remain reserved to Land law.

Article 9 Own Educational and Social Facilities

The Jewish Community in Saxony-Anhalt shall have the right to maintain its own facilities in the educational and social fields, as well as in health care.

Article 10 Synagogue Gröbzig

The Contracting Parties shall advocate giving the only remaining synagogue building of this type in Germany in Gröbzig an enduring basis and to make it permanently accessible to the public.

Article 11 Culture Promotion

(1) The Contracting Parties shall strive to hold Jewish cultural festivals at intervals of three years preferably, where needed also in cooperation with other facilities and organisations.

(2) The Land shall support within the bounds of its possibilities the Jewish Community in Saxony-Anhalt in researching Jewish history and in dealing with German-Jewish heritage.

Article 12 Broadcasting

The Land shall work towards providing suitable on air times by the public broadcasting corporations to the Jewish Community in Saxony-Anhalt for broadcasting religious programmes. In the supervisory bodies (broadcasting councils, programme committees and comparable bodies) the Jewish Community in Saxony-Anhalt should be represented.

Article 13 Public Subsidy

(1) The Land shall pay to the Land Association a total subsidy (public subsidy). Over and above this public subsidy, further benefits shall only be effected to the Jewish Community in Saxony-Anhalt if they are provided for in this treaty or by the general statutes.

(2) The public subsidy shall be:

1991 DM 1,150,000

1992 DM 1,150,000

1993 DM 1,450,000

1994 DM 1,500,000.

(3) If subsequently 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, two children.

(4) The public subsidy shall be paid monthly in advance to the Land Association in twelfths of the annual amount.

Article 14 Fees

The Land shall extend the remission of fees based on Land law for the Land to the Jewish Community in Saxony-Anhalt and its public-law institutions, foundations, associations and clubs.

Article 15 Parity

If the Land 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.

Article 16 Friendship Clause

The Contracting Parties will settle any difference of opinion occurring between them in future as to interpreting a provision of this treaty in an amicable manner.

Article 17 Linguistic Equation

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

Final Protocol⁹¹ in re Article 2 Para 1

(1) Compliance exists between the Contracting Parties that "regular meetings" signifies conventions which preferable are to take place once per year.

⁹¹ Note: The final protocol forms an integral part of the treaty.

(2) The Land Association shall inform the Land Government of vacancies in and new appointments as to the senior offices (e.g. Chairpersons of the Land Association and of the Jewish communities).

Final Protocol in re Article 2 Para 2

The "suitable" participation in intended law-making shall as a rule consist of a timely hearing before resolution by the Land Government on the introduction of the draft bill.

Final Protocol in re Article 3

Details shall remain reserved for special agreements.

Final Protocol in re Article 4

Jewish holidays are:

1. Rosh Hashanah (Jewish New Year) on the 1st and 2nd days, starting on the previous day at 4 p.m.
2. Yom Kippur (Day of Atonement), starting on the previous day at 4 p.m.
3. Sukkoth (Feast of Tabernacles) on the 1st and 2nd days, starting on the previous day at 5 p.m.
4. Shemini Azeret (Eighth Day of Sukkoth), starting on the previous day at 5 p.m.
5. Simchat Torah (Rejoicing of the Law), starting on the previous day at 5 p.m.
6. Pessach (Passover - exodus of the Jewish people from Egypt) on the 1st, 2nd, 7th and 8th days, starting on the previous day at 5 p.m.
7. Shavuoth (Feast of Weeks) on the 1st and 2nd days, starting on the previous day at 5 p.m.

The Land Association shall communicate the dates of the holidays to the Land Government two years in advance.

Final Protocol in re Article 5

(1) Accord exists that article 5 shall not give rise to a right to conveyance of state or municipal land, but to support in looking for indemnity land and - within the bounds of the legal possibilities- where appropriate preference in allocation of public real estates if there are several interested parties.

(2) If in the case of expropriation of Jewish corporations, a claim to compensation is asserted in the form of land, and if recognition of this claim depends on weighing up the interests of the public and of those concerned, the Land and municipal authorities will take into consideration that the protection of the property of the Jewish Community in Saxony-Anhalt is a priority. If hindrances exist in respect of other corporations with regard to the acquisition of real estate, these shall, as a rule, also apply to the Jewish Community in Saxony-Anhalt; no general special regulation is possible.

Final Protocol in re Article 6 Para 2

The Land shall strive that the municipal territorial authorities, where necessary, conclude agreements with the bearers of Jewish cemeteries on the erection or maintenance of cemetery buildings.

Final Protocol in re Article 11 Para 2

The provision shall refer primarily to political and organisational support; this shall not give rise to a right to financial promotion.

Final Protocol in re Article 12

This request has been accommodated for the Central German Broadcasting Corporation by section 14 subsection 3⁹² and section 19 subsection 1 No. 5, subsection 2⁹³ of the Treaty on the Central German Broadcasting Corporation of 30 May 1991 (Annex to the act of 25 June 1991, Law and Ordinance Gazette of the Land of Saxony-Anhalt [GVBl. LSA] p. 111) and for the German Television Channel II by article 3 section 11 para 3 and section 21 para 1 (f) of the Treaty on Broadcasting in the Unified Germany of 31 August 1991 (Annex to the act of 12 December 1991, GVBl. LSA p. 478)⁹⁴ and for the “Deutschlandradio” (Radio Germany) by article 11 para 3 first sentence⁹⁵ and article 21 para 1 (e)⁹⁶ of the Treaty on the Corporation

⁹² Note: The wording of the provision is as follows:

Section 14 [On Air Time for Third Parties]

(...)

(3) The Protestant churches, the Catholic Church and the Jewish communities shall be conceded if desired suitable on air times to broadcast religious programmes.

(...)

⁹³ Note: This provision contains the following directives:

Section 19 [Composition of the Broadcasting Council]

(1) The Broadcasting Council shall be composed of:

(...)

5. a member of the Jewish congregations from Saxony,

(...)

(2) In the cases falling under subsection 1 Nos. 3 to 5 and 10 to 15, the organisations and groups named therein may agree for the respective term of office of the Broadcasting Council a divergent Länder allocation. This may not change the number of members being apportioned to the respective Länder.

⁹⁴ Note: The named provisions are printed in the second part at item D No. 3.

⁹⁵ Note: The provision reads as follows:

Section 11 [Right to On Air Time]

(...)

(3) The Protestant churches, the Catholic Church and the Jewish communities shall if desired be granted suitable on air times for broadcasting religious ceremonies and celebrations, as well as other religious programmes, including those relating to matters of their public responsibility. (...)

(...)

⁹⁶ Note: The provision reads as follows:

under Public Law "Deutschlandradio" (Annex 1 to the act of 17 December 1993, GVBl. LSA p. 770, last amended by Treaty of 16.7.-31.8.1999, GVBl. LSA p. 364). In the event of amendments to the existing, and conclusion of new treaties on broadcasting, the Contracting Parties shall contact one another in advance concerning the consideration of the interests of the Jewish Community in Saxony-Anhalt.

Final Protocol in re Article 13 Para 1

The public subsidy shall be exclusively meant for the Jewish Community in the Land of Saxony-Anhalt. Accord exists that the public subsidy also covers subsidies for emerging communities and that the funds should flow proportionately to the communities, irrespective of their membership of the Land Association. Voluntary subsidies of the Land, for instance for the erection or maintenance of premises and facilities serving the purposes of worship, cure of souls and social tasks, shall not be ruled out by article 13.

Final Protocol in re Article 13 Para 3

The Contracting Parties agree that the escalator clause for the public subsidy shall apply from 1995, and shall become effective in the respective budget year.

Final protocol in re Article 13 Para 4

An examination of the use of the funds by state bodies shall not take place if the annual account is audited by an independent audit service.

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,

Section 21 [Composition of the Radio Council]:

(1) The Radio Council shall be composed of forty members, namely

(...)

e) a representative of the Central Council of the Jews in Germany,

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 availableness 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.

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.

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,
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.

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 Constitution^{99, 100}. Multi-purpose premises shall also be suitable.

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.

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.

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.

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.

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.

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.

(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

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

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 "*Solicitudo 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.

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.

Article 2

(1) Military chaplaincy as a part of the work of the church will be exercised on behalf of and under the supervision of the church.

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).

(2) The state shall take care for the organisational construction of military chaplaincy and shall bear its costs.

Article 3

(1) Military chaplaincy shall be carried out by clerics charged with this task on a full-time basis (military chaplains). One military chaplain will be appointed for every one thousand five hundred Protestant soldiers (article 7 para 1 Nos. 1 to 3).

(2) In special cases, clerics in the service of the member churches may be entrusted with tasks of military chaplaincy part-time (part-time military chaplains).

Article 4

The task of the military chaplains shall be to serve in word, sacrament and cure of souls. In this service, the military chaplain shall be independent within the framework of the ecclesiastical system. As holder of an ecclesiastical office, he shall remain bound to his member church concerning confession and doctrine.

Article 5

Soldiers shall be afforded the opportunity to participate in church life within the bounds of the possibilities of the service.

Part II: Personnel Cure of Souls Areas and Military Parishes

Article 6

(1) Military chaplaincy shall be carried out in personnel cure of souls areas. The personnel cure of souls areas shall be formed by the member churches involved.

(2) It shall be left to the member churches to establish military parishes as Land Church personnel military parishes.

(3) The formation, establishment and alteration in the individual personnel cure of souls areas and military parishes shall be agreed upon by the Military Bishop and the member churches involved after previous agreement with the Federal Minister of Defence.

Article 7

(1) The following shall be included in the personnel cure of souls areas or the military parishes:

1. professional soldiers,
2. soldiers on term,
3. conscripts during basic military service,
4. soldiers called up for an indefinite period in case of defence,
5. civil servants and employees active in the Federal Armed Forces who are to follow the troops in case of defence,
6. the wives and children under parental authority of the persons named at No. 1, 2 and 5 if they belong to their households at the post.

(2) The following shall cease to be a member of the personnel cure of souls areas or the military parishes:

1. persons who have declared their resignation from the church with legal effect,
2. persons whose legal relationship to the Federation giving rise to affiliation to the personnel cure of souls areas or to the military parishes ends
3. retired persons, as well as their wives and children under parental authority,
4. the wives and children under parental authority of deceased members of the personnel cure of souls areas or the military parishes.

(3) The Military Bishop and the Federal Minister of Defence may agree on an other definition of the group of persons named in para 1 Nos. 5 and 6.

Article 8

(1) The members of the personnel cure of souls areas shall be members of the local parishes where the personnel cure of souls areas are formed. The members of the military parishes shall not belong to local parishes.

(2) The military chaplain appointed for the personnel cure of souls area shall be responsible for official ecclesiastical acts in his cure of souls area. Parochial rights shall be connected with the military parishes.

Article 9

Military chaplaincy shall also take care of the soldiers who are not members of personnel cure of souls areas or military parishes.

Part III: Military Bishop

Article 10

The ecclesiastical management of military chaplaincy shall lie with the Military Bishop.

Article 11

(1) The Military Bishop shall be nominated by the Council of the Protestant Church in Germany. Prior to nomination, the Council of the Protestant Church in Germany shall get in touch with the Federal Government in order to make sure that from the state point of view, no weighty demurs are raised against the cleric designated for the office of the Military Bishop.

(2) The Council of the Protestant Church in Germany may remove the Military Bishop from office for important ecclesiastical reasons. It shall inform the Federal Government suitable time in advance of such an intention, and at the same time shall communicate the person envisaged as the new holder of that office to it.

Article 12

(1) The Military Bishop shall be competent for all ecclesiastical matters in connection with military chaplaincy, in particular for:

1. the installation of military chaplains in their ecclesiastical office in military chaplaincy,

2. the highest ecclesiastical supervision of military chaplains with the exception of discipline related to teachings and disciplinary power, which shall remain with the member churches,
3. the issuance of guidelines for training of military chaplains and the surveillance of their implementation,
4. holding periodical official meetings with the military chaplains,
5. the visitation of the personnel cure of souls areas and the military parishes,
6. the issuance of a field liturgy,
7. religious literature in military chaplaincy,
8. the ecclesiastical certification and reporting system and the keeping of church registers,
9. the consecration of premises of military chaplaincy for religious services,
10. the church collection system in military chaplaincy,
11. the issuance of guidelines for pastoral cooperation with ecclesiastical bodies of the civil area and with the military chaplaincy of foreign states,
12. cure of souls for Protestant prisoners-of-war.

(2) In the framework of military chaplaincy, the Military Bishop may approach the personnel cure of souls areas, the military parishes as well as the military chaplains by giving addresses, instructions and by other written announcements.

Article 13

Provisions and guidelines of the Military Bishop must keep up with the framework of the general canon law. Where they also concern state positions, they shall require the consent of the Federal Minister of Defence.

Part IV: Ecclesiastical Office

Article 14

To exercise the central administrative duties of Protestant military chaplaincy, at the seat of the Federal Ministry of Defence a "Protestant Ecclesiastical Office for the Federal Armed Forces" shall be established directly subordinated to the Federal Minister of Defence.

Article 15

(1) A general military superintendent shall be appointed head of the Protestant Ecclesiastical Office for the Federal Armed Forces at the proposal of the Military Bishop.

(2) The general military superintendent shall be subordinate to the Military Bishop. As far as he exercises state administrative duties connected with military chaplaincy, he shall be subordinate to the Federal Minister of Defence.

(3) The Military Bishop may charge the general military superintendent in individual cases with exercising the powers vested in him in accordance with article 12 para 1.

Part V: Military Chaplains

Article 16

Military chaplains shall have a clerical assignment in fulfilment of which they shall be independent of state directives. As to the rest, their legal status shall be regulated in accordance with the following provisions.

Article 17

(1) Military chaplains must:

1. have completed at least three years of theological studies at a German state university,
2. be entitled to exercise the incumbency in a member church,
3. have worked for at least three years in Land Church cure of souls.

(2) They should not have exceeded the age of thirty-five on appointment to the military chaplaincy service.

(3) It shall be possible to waive the requirements of para 1 No. 1 and 3 if agreement is reached between Federal Minister of Defence and the Military Bishop.

Article 18

(1) The military chaplains shall first be appointed for a three-month on a trial basis in the military chaplaincy service, at the proposal of the Military Bishop, who shall before make sure he has the approval of the competent member church. The probationary period may be extended with the consent of the competent member church.

(2) During their probationary period, military chaplains shall have employee status and shall receive emolument at least corresponding to their church official emoluments.

Article 19

(1) After their probationary period, military chaplains shall be appointed temporary civil servants; if they are to be permanently employed for managerial tasks in military chaplaincy, they shall be appointed as permanent civil servants.

(2) The provisions applying to permanent Federal civil servants shall apply to military chaplains appointed as permanent civil servants unless otherwise determined in this treaty.

(3) The remainder of the military chaplains shall be appointed as civil servants for a period of between six and eight years. On expiry of the tenure, their status as civil servants shall end. The set tenure may be extended by a maximum of four years; in this case, their status as civil servants shall be deemed not to have been interrupted. The provisions applying to permanent Federal civil servants shall apply to these military chaplains analogously unless otherwise stipulated in this treaty.

Article 20

(1) Proposals to nominate and promote or transfer military chaplains shall require the approval of the Military Bishop.

(2) Prior to other important decisions in personnel matters of military chaplains, the Federal Minister of Defence shall obtain a statement from the Military Bishop.

Article 21

There shall be no regular service career for the offices from military superintendent upwards.

Article 22

(1) In ecclesiastical matters, military chaplains shall be subordinate to the leadership and supervision of the Military Bishop (article 12 para 1 No. 2) as well as the supervision of the general military superintendent and the remainder of military chaplains entrusted by the Military Bishop with the supervision.

(2) For military chaplains as Federal civil servants,

1. the highest authority shall be the Federal Minister of Defence,
2. the direct superior shall be the general military superintendent.

Article 23

(1) Military chaplains shall also be dismissed:

1. in the event of loss of rights acquired on ordination or if removed from ecclesiastical office under disciplinary law,
2. on application of the Military Bishop if his employment in the service of the church is in the important interest of church.

(2) A military chaplain dismissed in accordance with para 1 shall subject to the provision in paras 3 and 4 have no right to support from the civil service. Section 154 of the Federal Act on Civil Servants (Bundesbeamtengesetz) shall remain unaffected, provided that para 5 also applies to the re-employment of the military chaplain in the service of the church. Furthermore, in the case of a military chaplain injured in an accident at work in the case of his dismissal in accordance with para 1 No. 1, sections 143 and 147 of the Federal Act on Civil Servants and in the case of his dismissal in accordance with para 1 No. 2, article 25 para 1 third sentence of this treaty shall apply.

(3) A military chaplain with a service period in accordance with section 106 subsection 2 of the Federal Act on Civil Servants of at least ten years, may in the case of his dismissal according to para 1 No. 1 be awarded a maintenance allowance up to the amount of the pension instead of the transitional money .

(4) If a military chaplain, who at the time of assumption to permanent civil service as a military chaplain, was a civil servant for reemployment within the meaning of the Act to Regulate the Legal Relationship of Persons falling under article 131 of the Basic Law (Gesetz zur Regelung der Rechtsverhältnisse der unter Artikel 131 des Grundgesetzes fallenden Personen) and is accommodated in accordance with his previous legal status, is dismissed in accordance with para 1, the rights according to the above referenced act shall revive.

Article 24

The time spent by a military chaplain prior to nomination as a civil servant in the service of the church as a cleric shall be counted towards pension.

Article 25

(1) A military chaplain with the legal status of a temporary civil servant whose civil service employment ends with expiry of the set tenure shall have no right to support from the civil service employment. Section 154 of the Federal Act on Civil Servants shall remain unaffected provided that para 5 also applies to re-employment of the military chaplain in the service of the church. Furthermore, a military chaplain injured in an accident at work shall retain the claims accruing from the law on accident welfare work applying to civil servants, that in the case of re-employment in the service of the churches are directed against the church employer in accordance with the law of the latter.

(2) If in the case of para 1 the cleric is reemployed in the service of the church, thus in the incidence of an event of support the Federation and the church employer shall bear the support payments rateably to the pensionable service periods the cleric served with them. Only full years shall be included in counting the service periods.

(3) If the cleric has been promoted in or after his assumption to the service of the church, the share of the Federation in the support payments shall be measured as if the cleric had remained in the office in which he was in prior to assumption.

(4) The church employer shall pay the full support payment. He shall have a claim against the Federation to a rateable refund. The church employer shall pay the full remuneration for the month of death and the death benefit if they are measured according to the official emoluments of the cleric.

Part VI: Assistants

Article 26

(1) Military chaplains shall be provided by the state with assistants required to support them in religious ceremonies and administrative duties connected with military chaplaincy.

(2) Assistants to military chaplains exercising supervision shall be taken into civil service employment.

Part VII: Final Provisions

Article 27

The Contracting Parties will settle any difference of opinion possibly occurring between them in future by interpreting a provision of this treaty in an amicable manner. In the same way they will agree on any special regulations possibly becoming necessary.

Final Protocol in re Article 3 Para 2

The tasks, rights and duties of part-time military chaplains shall be regulated by agreement between the Military Bishop and the Federal Minister of Defence.

Final Protocol in re Article 6 Para 3

The agreements on the formation, establishment and alteration of the personnel cure of souls areas and the military parishes shall be published in the Ordinance Gazette of the Military Bishop.

Final Protocol in re Article 7

The members of the personnel cure of souls areas and the military parishes shall be obliged to pay church levies; a detailed regulation shall remain reserved to the competent bodies.

Final Protocol in re Article 10

The Military Bishop shall receive a suitable service expense allowance from the state. All material expenses incurred in connection with the ecclesiastical management of military chaplaincy shall be refunded to him. He shall receive travel expenses in accordance with travel expenses level 1 a.

Final Protocol in re Article 11

(1) The Federal Government shall, if desired, communicate its reasons for having objections against the cleric proposed for nomination as Military Bishop. Equally, the Council of the Protestant Church in Germany shall communicate its reasons for recalling the Military Bishop.

(2) It is understood that the name of the envisaged Military Bishop is to be treated confidentially until his nomination has been published by the Council of the Protestant Church in Germany.

Final Protocol in re Article 12 Para 1 No. 1

If a member church reserves the right to transfer a military chaplain the ecclesiastical office by another cleric, the Military Bishop shall participate in installation by greeting the military chaplain and giving him the church document of appointment.

Final Protocol in re Article 12 Para 1 No. 8

The completed church registers shall be managed by the Protestant Ecclesiastical Office for the Federal Armed Forces.

Final Protocol in re Article 13

Provisions and guidelines of the Military Bishop shall be published in the Ordinance Gazette of the Military Bishop.

Final Protocol in re Article 15

The general military superintendent shall be entitled to speak directly to the Federal Minister of Defence on behalf of the Military Bishop.

Final Protocol in re Articles 16 to 25

(1) The official ecclesiastical dress of the military chaplains shall be determined by the Military Bishop.

(2) The consent of the Military Bishop shall be obtained prior to installation of an service dress for the military chaplains.

Final Protocol in re Article 26

- (1) An assistant shall be allocated to every military chaplain, with the exception of the military chaplain in the “Protestant Ecclesiastical Office for the Federal Armed Forces”.
- (2) The assistants to the military chaplains must be of the Protestant confession. They must, where necessary, prove their suitability for the auxiliary service in the military chaplaincy by taking an examination held with the involvement of the military superintendent, or of a military chaplain authorised by him.