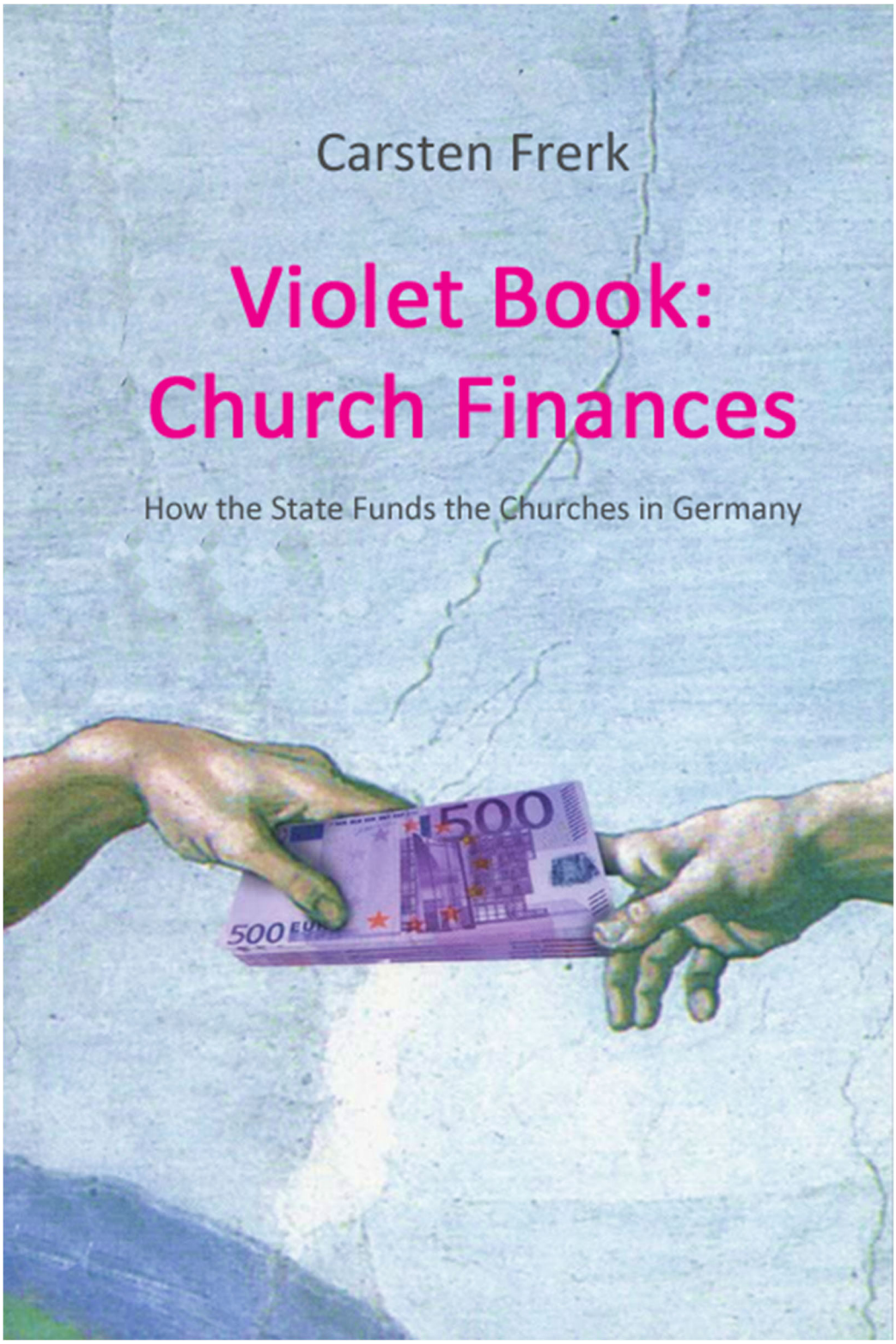
Carsten Frerk

Violet Book: Church Finances

How the State Funds the Churches in Germany



“Religion is true to the common man, false to the wise, and useful to the ruler.” (Seneca)

“The highly endowed clergy fears nothing more than the enlightenment of the lower masses.” (Johann Wolfgang von Goethe)

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Introduction

There is hardly any other topic that is as ubiquitous in everyday life and yet about which so few people know as much as the existing financial ties between church and state in Germany. This is not surprising, however, since the issue has far-reaching dimensions that are not easy to grasp. Moreover, neither the state nor the churches address the issue of these financial transfers. And for good reason, as will become clear.

When it comes to financial matters, the churches have an interest in keeping their cards close to their chest from their own congregants. The well-meaning faithful might want to spend all that money on the poor in Africa and Asia. Yet the money is needed right here to finance the many employees and the buildings of the two church organizations. These ordinary members are not only theological laypeople but are often also uninformed about the church's financial matters. Thus, they cannot know that the goal is to finance a labour-intensive enterprise.

At a Protestant conference on the issue of church-owned real estate, one of the parish leaders in attendance said to the real estate agents: "It's well-intentioned of you to point out that our beautiful, large parsonage—which we no longer need because the pastor prefers to live in a rental apartment where he can have some peace and quiet after work—has a market value of two million. But I won't be reporting that to my parish council. It immediately stirs up all sorts of greed, because every department feels they're not getting enough money, and we'd instantly have a social war of resentment among the members. So things may be barely getting by, but we have peace in the congregation."

When asked about their own assets, the churches almost mechanically repeat the same answer: "Our wealth is "The poor!".

This statement, which may seem puzzling at first, actually has a surprising meaning, as it accurately describes the marketing strategies of religious organizations. On the one hand, by downplaying material wealth, the "spiritual wealth of the churches" is presented in a positive light—even if one must be a believer to recognize this "wealth." On the other hand, it is indeed the poor who are the primary clientele of religious organizations: “Necessity teaches prayer.” Or, as a philosopher and economist put it, in different words but with the same meaning: “Religion is the opium of the people,” with which they numb themselves and escape into pleasant fantasies. So it is hardly surprising that Karl Marx, who said this, and the churches are almost of the same opinion on this subject.

It is also striking that all religions view the world in which we live as fundamentally full of suffering. In Christian terms, this means: “The earth is a vale of tears.” Who else would be interested in the “promises of life after death” or the “allure of paradise” if one were actually doing quite well here in this world? But only those who, as church members, have previously contributed to the churches’ funding on a pro rata basis can enjoy the “allures of paradise” after death.

Another strategy for extracting money from the faithful is that of predestination. This is the belief that everything in the world is predetermined by God. Financially, it is the church’s alliance with the wealthy, to whom God supposedly shows that they are living and working in a way pleasing to Him if they are already doing well here on earth and allow the church officials to share in that prosperity financially.

Thus, as organizations, the churches are well advised not to discuss their finances, for otherwise some of their believers would likely ask who is actually dancing around the “golden calf” of state funding. From the church’s perspective, it is consistent and prudent to provide even its own members with only very general information on the matter—effectively withholding it.

Much of the publicly available information was compiled for this book. It is intended to provide readers with an introduction and a knowledgeable overview.

1. Finances are not discussed in detail

The churches’ silence is not about specific questions, but rather a fundamental stance that financial matters should not, in principle, be discussed publicly is rarely discussed.

Unless, of course, one is complaining about the serious financial problems one faces (it's all part of the job). When revenues rise, things quiet down again.

Apparently, though, there is another way. The *Protestant Church in Germany* (EKD) has now published a comprehensive website on "EKD Church Finances"[1]. All topics related to finances and assets are addressed, so they're speaking plainly. However, this impression is deceptive.

The figures are so broad and general that everyone seems to understand them, which serves the purpose. So why should the EKD delve into the depths of details that only a few specialists are interested in or can understand anyway?

For example, under the heading "Assets," real estate is mentioned and quantified right at the outset as approximately 325,000 hectares. The fact that this real estate is then reduced to agricultural land and estimated to generate around 110 million euros in revenue from cultivation is strikingly misleading, as the lucrative inner-city properties are omitted. However, the article only hints at the value of these agricultural lands —the article is about church assets, and these lands are valued at around 3.5 billion euros. Perhaps the assumption is that details would only confuse the hurried visitor and raise further questions. So, of course, it makes no sense at all to point out that the smaller share of building plots in urban locations generates the highest returns. The church is well advised to cite only two figures, otherwise to remain silent with many words as always, and everyone is satisfied.

2. Caution: Budget plans

The common counterargument to the view that churches are reluctant to disclose information about their finances—and do so only rarely—is that there are, in fact, plenty of budget plans available, whether in print or published online. This appears to be true, for if one enters the two terms "church" and "budget" into a search engine for German websites, one gets (as of September 2010) around 900,000 results. But this is misleading. And massively so.

One is strongly warned against taking these budgets at face value. If a document is titled "The "Budget of the [...] Regional Church" or "The

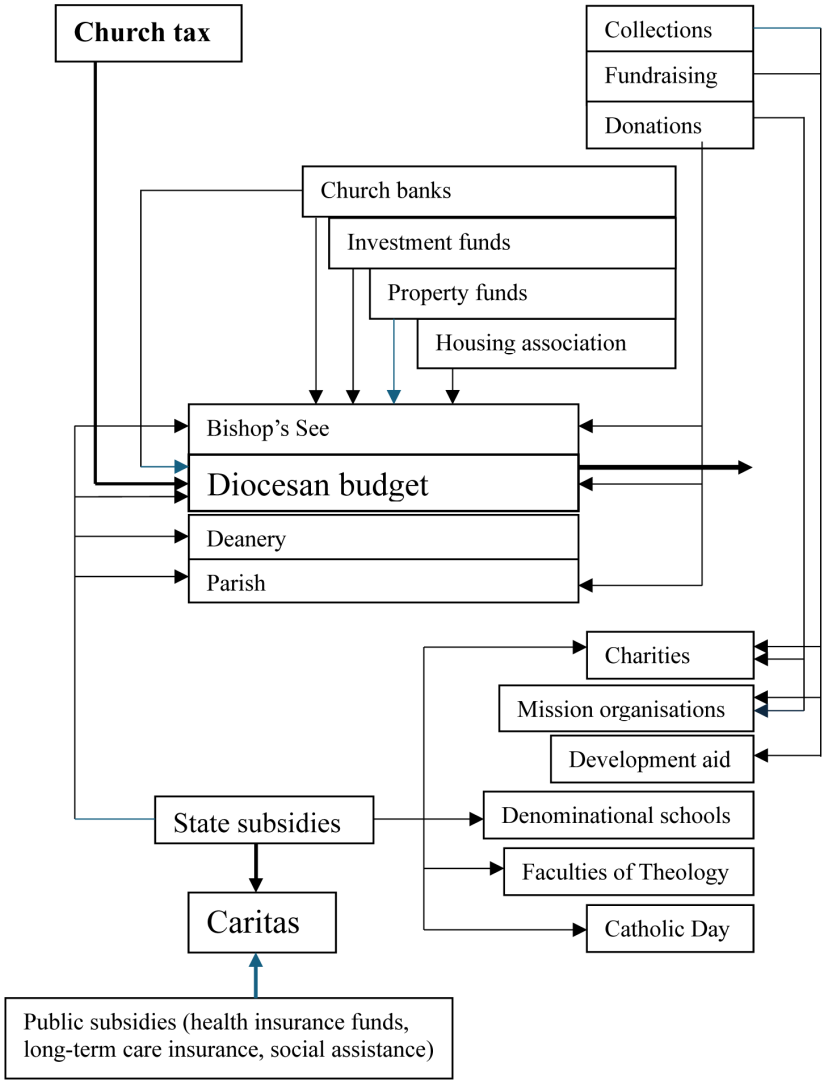

Figure 1: (Schematic) Cash Flows in a Diocese

Budget of the Diocese [...],” any ordinary person would rightly assume that all revenues and expenditures of the regional church or the diocese are included therein, and that it should therefore be viewed as a comprehensive overview. However, this is incorrect. Only the budget of the relevant legal entity is presented, i.e., only what this legal entity actually “covers.”

Since a diocese, apart from expenditures on priests’ salaries and church maintenance, is responsible for only a few institutions (in addition to its own administrative buildings, typically only the seminary, a residence for clergy, and an educational centre), only these are included. The multitude of other church institutions, which in turn are legal entities in their own right, have their own separate budgets that are not integrated into the diocese’s budget. Thus, in diocesan budgets, just as in regional church budgets, expenditures for pastoral care (salaries and buildings) always account for a very high proportion.

When depicted schematically in a diagram, the cash flows show that there are several different, direct connections between the source of funds (e.g., the state) and a wide variety of legal entities.
The diagram illustrates, for example, that state subsidies for a wide variety of church entities do not appear in the diocesan budget at all. This easily explains why these state funding shares are always presented as very small in the diocesan budget. The same applies to the budgets of the regional churches, with the sole difference that there is no legal entity called the “Bishop’s See” in the Protestant Church.

When I remarked during a conversation at the administrative office of a Protestant regional church that churches were quite good at hiding their finances, the president of the administrative office replied that he didn’t understand that. He said it wasn’t true, because: “You can view all the budgets of the parishes, the church districts, and the regional church publicly!” That seemed astonishingly true, but only on the surface. It would only have been possible if I had set out and personally visited around 280 parishes and 20 church districts, which would likely have taken half a year. That was unrealistic. But it’s a good example of how one is meant to be taken for a fool.

3. Sensitivities

Just how sensitive church authorities are to specific financial issues became clear when the leader of the Green Party faction in the Bavarian state parliament (in the summer of 2008) demanded that the Bavarian dioceses please pay for their bishops themselves and not receive general tax funds for that purpose. Mind you: just the seven bishops. A clerical and conservative outcry swept through Bavaria. The downfall of Bavaria seemed imminent; the axe had been set to the religious roots of the Bavarian identity. However, the amount in question was only the roughly 692,000 euros that the Bavarian state spent in 2007 from tax revenues to pay the salaries of the bishops in the seven dioceses in Bavaria. A large sum? The answer is relative. Certainly, around 700,000 euros is a large sum in and of itself, but in the same year, the seven Bavarian dioceses collected a total of 1.23 billion euros from church taxes alone. The contentious issue of bishops' salaries would have amounted to only 0.06 percent of this revenue.

This example shows that financial matters always concern the "core business" of the churches, no matter how small the amounts may be.

4. Parts of a financial puzzle

The situation varies from one diocese to another and from one regional church to another. Not to mention the multitude of other legal entities. Given these circumstances, this book does not claim to provide a comprehensive and complete account of the financial ties between the Church and the State in Germany. Only individual, publicly available pieces of a financial puzzle can be presented.

One would also have to develop a separate semantic system to describe the various situations by clarifying "Who owns it?",
"Who is the sponsor?", "Who has rights of use?", and "Who finances it?" in a concise matrix format.

It is this jumble and coexistence of legally established, newly emerged, recently constructed, legally secured, or disputed claims to property, ownership, and interdependencies that makes even a simple description of the various facets of the partnership between church and state so difficult.

Such a tangled thicket cannot be completely untangled, because even in the ecclesiastical sphere, forms and structures are in a state of constant flux and change, albeit slowly. It is only possible to provide cross-sections and examine individual areas more closely to approach the whole.

Thus, this book makes no attempt whatsoever to present a comprehensive assessment of the churches' financial dependence on the state—that is, a complete overview of their revenues. If such a comprehensive assessment were possible, the simple question arises: why don't the churches (or the generous state) themselves present some kind of annual report to the public?

"They cannot," would be a polite answer, referring to the multi-tiered church structures and considering the multitude of coexisting church entities. "They do not want to," would be the political—and likely correct—answer. Otherwise, for example, it would become clear just how heavily the major churches depend on state funding and receive billions in taxpayer money year after year for their very own, purely ecclesiastical institutions and purposes. Facts that are now no longer easy to explain to a critical public.

5. Bundestag Lacks a Clear View

Even in the political sphere, there is little interest in getting to the bottom of the German state's financial contributions to the churches.

As early as 1990, Member of the Bundestag Petra Kelly and the Green Party parliamentary group had submitted a minor interpellation to the Federal Government (Bundestag Document 11/7894). It concerned "The Economic Situation and Wealth of the Churches in the Federal Republic of Germany and the Church Tax System" and specifically inquired about government payments. The federal government's response (Bundestag Print 11/8102)[2] understandably addressed only those issues "directly affecting the federal government's purview." Thus, regarding the 25 questions, 14 answers state: "The federal government has no information on this matter." Only the known figures on church tax revenue and military chaplaincy are cited.

One might assume that, some 20 years later, thanks to computers and the internet, more information is available; however, this is not the case. The Research Service of the German Bundestag has provided a paper: "Various Questions on the Financial Support of the Catholic and the Pro-

testant Church by the Federal Government, the States, and Local Governments" is an internal report[3] that cites only three figures. The first is state subsidies in the narrower sense. The second figure cited (according to the EKD's 2004 statistics) was general funding and grants totalling 1.781 billion euros. The Catholic Bishops' Conference was unable to provide any information on this to the staff member of the Scientific Service of the Bundestag. The third figure represents the loss of tax revenue resulting from the deduction of church tax from income tax as a special expense, according to the subsidy report of the Federal Ministry of Finance. That is all. It is stated succinctly: "The churches' income and assets are not disclosed to state institutions."

All other available information and critical objections to state funding of the churches were not accepted. The reasoning is both typical and incorrect:

> "[…] apart from the endowments based on the legal obligations of the states — the remaining state subsidies and tax benefits [must] be regarded as partial cost compensation for the services provided to the general public by the major churches and their institutions with financial co-participation."

This factually outrageous and false blanket claim regarding cost-sharing is a line of reasoning typical of the church. When asked directly and personally, the author was unable to provide any evidence or figures. Members of the Bundestag are thus not provided with information on the financial ties between church and state, even though reliable data is certainly available. It is therefore no surprise that politicians — including the so-called church representatives of the parliamentary caucuses — have no idea about state funding of the church. How could they?

6. Unity of the Church and Churches

The churches themselves repeatedly present themselves as a unified entity. This is evident in the weekly newspaper **Die Zeit**, which in June 2009 ran a headline above its church job listings reading: "Second-largest employer after the state: the church." Under this headline, the subsequent job listings mention not only "pastors, priests, vicars, and deacons," but also the fields of work in hospitals, social service centres, senior living facilities, and nursing homes, as well as church educational institutions

and schools, church-run academies and universities, the media, and the fields of music and culture.

In keeping with this concept of unity, this book must therefore also address the Diakonisches Werk and Caritas—the two largest non-governmental employers in Europe—for which a separate, detailed study is required, one that is already available.[4]

7. On the Structure of the Book

The first section addresses church taxes and related issues. It becomes clear how much the state acts in favour of the churches in this matter, which is essentially an internal church issue.

The second section deals with state subsidies in both the narrow and broad senses. On the one hand, these are contractually agreed obligations of the state; on the other hand, they are grants based on legal regulations that are not, however, necessarily legally binding.

The third section (The Welfare State and the Cultural State) begins by outlining the two welfare organizations, which, although largely publicly funded (through health insurance funds, health budgets, etc.), receive only partial direct state funding. Nevertheless, they play a significant role in shaping the churches' public image. In the second part of this section, under the heading "Culture," it is finally described in considerable detail how the churches attempt to portray themselves as essential cultural institutions that must be state-funded.

Finally, there is an estimate of the educational funding the state provides to the churches, the amounts involved, and the successful strategies the churches employ to maintain their privileges.

8. Reference years for the data

Wherever possible, 2009 was chosen as the reference year, i.e., the most recent figures available at the time the text was written (2009 and 2010). However, many other figures are published only after a complex process of collection and processing. This can sometimes take several years, a fact that is understandable to statisticians, so that older data may also appear, though these are always identified as such.

9. Regarding the sources cited at

The sources of the figures and information are listed in the notes in the appendix. However, specific individuals are *not* named if it could be assumed that doing so might result in personal, political, or economic disadvantages for the person in question. Finally, the basic principle governing career opportunities within the churches, as in any business enterprise, is based, among other things, on confidentiality regarding internal financial and personnel matters. This includes everything that has not already been published— and sometimes even that.

Internet sources are cited only if the reference is difficult to locate. All other sources, such as the website of an organization that can be found immediately online by entering the organization's name, have been omitted for the sake of clarity.

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The book is a "Violet Book" because it is neither a Black Book (All is bad) nor a White Book (All is good) but rather paints a more realistic picture of the churches.

The coincidence that violet is also the liturgical colour of penance and fasting in the church can certainly be seen as meaningful in this context.

I. Church taxes

Church tax revenue totalled approximately 9.7 billion euros in 2008 (4.6 billion euros for the Protestant Church and 5.1 billion euros for the Catholic Church). In 2009, revenue fell by approximately €400 million to €9.3 billion (€4.4 billion for the Protestant Church and €4.9 billion for the Catholic Church). Because church tax is deductible from income tax as a special expense, the federal and state governments forgo approximately €3 billion in tax revenue annually. By having the state collect church tax instead of maintaining their own church tax offices, the churches save approximately €1.7 billion in costs. The payment of church payroll tax by employers represents an additional approximately 300 million euros in free monetary benefits for the churches. The total volume thus amounts to approximately 5 billion euros. In this respect, church tax in Germany in 2009 was supported by government measures to more than 50 percent.

The church tax system in Germany is unique in the world, and the two partners—the church and the political establishment—see no reason to change it. (Less lucrative versions of this system still exist in Sweden, Denmark, and, with significant variations from canton to canton, in Switzerland.)[5]

The history of church taxes in Germany is an outstanding example of the churches' effective legal and political lobbying. They have managed to expand, reinterpret, or alter all legal regulations formulated at the dawn of Germany's first democracy in 1919 to their advantage, thereby making use of every political system. An unparalleled success story.

10. The Origins of the Church Tax in the Federal Republic of Germany

Although it is repeatedly portrayed as if church taxes had something to do with the Reichsdeputationshauptschluss of 1803 (see State grants, p. 69), this is not true.

Also the portrayal on the website of the Federal Ministry of Finance is incorrect in this regard. It states the following regarding the history of the church tax (in the context of church financing):

"The Reformation led in Protestant areas to the widespread secularization of ecclesiastical sovereign rights and property, after which the Protestant churches were initially dependent on voluntary donations. In the course of general secularization following the Imperial Deputation Main Resolution of 1803, the churches definitively lost not only their property but also the right to collect tithes; however, the beneficiary sovereigns were simultaneously obligated to provide financial compensation to the churches. To fulfil this obligation, regulations for the introduction of the modern church tax were gradually established at the state level, beginning in Oldenburg in 1831, followed by church tax laws in Hesse-Darmstadt in 1875, Prussia in 1875/1905, Württemberg in 1887/1906, Baden in 1888, and Bavaria in 1912. Article 137, Paragraph 6 of the Weimar Constitution of 1919 guaranteed for the first time under imperial law the right of taxation of "religious societies that are corporations under public law," in accordance with state law provisions. This right was mutually reaffirmed in the Reich Concordat of 1933, in state concordats (Bavaria, Baden), and in the Protestant church treaties. In 1949, the aforementioned Weimar church article became part of the Bonn Basic Law."[6]

This account contains conceptual and linguistic errors regarding 1803. In addition to the terms "general secularization" and "their estates," there is the use of the term "church" in a general sense. It is consistent with the historical facts that in 1803 the ecclesiastical territories were abolished and transferred to secular princes. However, the rest of the account makes no mention of the fact that it was only for these former ecclesiastical and secular rulers (prince-bishops, etc.) and their, to put it simply, court that the secular princes had assumed the responsibility for their maintenance during their *lifetimes*. The assets and property of the parishes, monasteries, and foundations responsible for education, pastoral care, and welfare remained in the Church's possession in 1803 and thereafter.

These former "ecclesiastical territories," for the "loss" of which the bishops now receive state funds, encompassed some 3.2 million inhabitants—that is, about 12.5 percent, or one-eighth, of the population of the empire at that time. This relatively small share of the territory alone makes it clear that the subsidies derived from it for the higher clergy are something different from the national, nationwide church tax. More on this later.

Before the introduction of the church tax (at the local level), parishes were funded primarily from three sources: The pastor had to generate part of the funds from his own benefice (garden, fields, livestock); another portion came from church endowment income and fees (stola fees—from the stola, which the pastor wore around his neck for ritual services), as well as municipal subsidies; and the third portion consisted of donations.

With industrialization came a large-scale labour migration, e.g., of Polish miners to the Ruhr region. New parishes were also established for these newcomers, but they possessed no endowments whatsoever. In this situation of scarcity, Prussia requested state approval for an additional levy, which the state granted. This marked the beginning of the history of the church tax, imposed at varying rates as needed and to finance deficits when other revenues and donations were insufficient. This development ran parallel to the state's increasing separation from the churches in the 19th century. Previously, for example, civil registration—including church records and the certification of births, marriages, and deaths—was exclusively in the hands of the church. This former connection has been preserved in the old term for the smallest unit of state administration, the political municipality (modern: commune), which at the time was identical to the parish. Introduced at different times in the various imperial states, the church tax was finally established in all parishes in Prussia in 1905.

11. Free Church in a Free State

The Weimar Constitution of 1919 introduced a church tax throughout the nation-state. The purpose was to provide financial security for the churches, which, under the Weimar Constitution, were freed from state supervision (as "state churches") and thus also from state funding ("free churches" in a "free state"). The intention was to create a secure source of income for them. The state assisted them only to the extent that it undertook to provide the churches with the state tax rolls, which indicated who was a member of the church tax association and how much income tax they paid. No further connection or even "partnership" was intended.

On the contrary, this was part of the program for *the complete financial separation* of church and state.

The fact that the state, through the introduction of the church tax and state tax rolls, very generously helped the churches to "get off the ground" was not seen as a contradiction.

This national church tax was originally planned and levied
(1) as a local church tax (the recipients were the parishes),
(2) as a retroactive measure (the churches could only collect this tax after the tax lists were available), and
(3) without any further active involvement of the state or even employers.

The churches were ultimately able to change all three points in their favour and – in keeping with historical continuity – had no qualms whatsoever about exploiting any political system to do so.

In 1934, the National Socialists introduced the collection of church tax by employers (as a "state" task) effective January 1, 1935. This occurred in conjunction with the Reich Concordat of July 20, 1933, and the passage of the "Enabling Act" (March 23, 1933), through which the National Socialists' dictatorial "seizure of power" took place.

Thus, the payroll church tax was converted into a current tax, which was immediately calculated and remitted along with the payroll tax.

In the Federal Republic of Germany, church tax collection was eventually centralized at the regional church and diocesan levels, a move officially justified by the national burden-sharing scheme established after World War II. Only the Protestant Regional Church of the Rhineland still retains the original parish-based structure. There, church tax is collected at the parish level, and from there a certain percentage is then remitted "upward" to the church leadership. With the diocesan/regional church arrangement, the parishes (except in the Rhineland Regional Church) were stripped of their authority, as they no longer had direct access to church tax revenues.

In general, it was also agreed that church taxes would be collected automatically—and thus highly efficiently—by the state finance administrations. This state-administered collection is a clear violation of the principle of separation of church and state, a fact that apparently did not concern the CDU's Rhineland Catholicism during the founding phase of the Federal Republic.

12. A Unique Case in Financial Constitutional Law

In Germany, you become liable for church tax – regardless of your age – upon receiving a church baptism, which establishes membership in the relevant religious community. Since the church tax is an ancillary tax – that is, a surcharge on wage and income tax – all church members who are subject to state taxation are also obligated, in accordance with the tax regulations of the dioceses or regional churches, to pay their church tax in conjunction with their income tax.

The very term "church tax" makes it clear that, although it constitutes the churches' own revenue, it requires substantial state assistance. Using all the powers of state authority for tax collection, the funds allocated to the churches are deducted from church members' income in accordance with church tax laws.

Any characterization of this as merely a membership fee or something similar is misleading, since it is a compulsory levy on church members that is calculated and remitted by the employer in accordance with tax rates, collected by the state, and (after deduction of a processing fee) forwarded to the churches, and which may also be enforced through administrative proceedings if necessary.

Legal scholars specializing in state church law have formulated a specific description of the unique nature of the church tax:

"In the case of church tax, the general concept of taxation is supplemented by the specific feature that tax sovereignty is vested in a religious community. This makes church tax a 'unique phenomenon in financial constitutional law,' insofar as it constitutes the only case in which tax sovereignty is exercised by, in principle, non-state, social corporations."[7]

However, church tax is not only a surcharge on wage and income tax but also on the flat-rate tax on income from capital assets, which has been in effect since 2009. Church tax also applies to severance payments in cases of termination and dismissal, and in some federal states it exists as a surcharge on property tax A (agricultural, for land used for agriculture and forestry).

However, the church knows how to distinguish between short-term and long-term interests. Out of concern over people leaving the church, the Evangelical Regional Church of Bavaria has been offering church tax rebates since the summer of 2009 in special financial situations, such as severance payments: Normally, a relatively high proportion of church tax would have to be paid on these amounts due to progressive taxation.

"We want to church members an undue burden," emphasized Johannes Minkus, spokesperson for the Bavarian Regional Church. They should not be faced with the choice of paying the full tax rate or having to leave the church. A complete waiver of church tax by the church is also possible.[8]

13. Church tax payers

In reality, however, this tax affects only a portion of church members. According to data from the EKD[9] (2001), only 50 percent of Protestant church members are subject to state taxation, and only 34 percent of church members pay church taxes. No such information is available for the Catholic Church.

The Protestant free churches do not participate in this agreement with the state and typically receive the traditional "tithe" (of pre-tax income) from their working members. This amounts to considerably more per capita than the church taxes collected by the major established churches.

In the summer of 2010, a 79-year-old retiree in Remlingen, Bavaria, experienced firsthand how the state's sovereign powers are used to serve the interests of the church. In 2000, the tax office had informed him that his tax ID number had been deleted and that he was no longer required to pay church tax. In 2004, he then received a demand for payment of Church Property Tax A (Agricultural) for the past four years. The retiree refused, as he was already paying Property Tax A to the local municipality and did not see why he should pay an additional ten percent of that amount to the church. After several discussions with the local Protestant pastor, he finally transferred half of the amount—though directly to the Remlingen kindergarten. The other half was waived. In November 2009, the next church property tax notice arrived. The retiree ignored it and, in a huff, left the church. This was followed by a reminder and an unsuccessful visit by a bailiff, who found no one at home. In July 2010, the Würzburg Tax Office enforced the judgment and seized his bank account.[10] Legally, this is correct.

14. Functions of the Church Tax Department

Dr. Jens Petersen, a Protestant senior church official and church tax advisor at the EKD Church Office, writes about the purpose of the church tax:

"The Church has the mission to proclaim the Gospel in word and deed. [...] In addition to proclamation and pastoral care, there are tasks in the areas of education and continuing education, schools and academies, youth and women's ministry, telephone and hospital pastoral care, public relations, journalism, mission and ecumenism, as well as development aid. The maintenance of buildings, administrative work, insurance, and other expenses must also be financed.
Diaconal work (e.g., kindergartens, diaconal and social service centers, assistance for those at risk of addiction, hospitals) is another major area in which the churches are active. [...] The Diakonie acts on behalf of the public sector. For this reason, it is supported by funds that the state has earmarked for these social purposes, so that it can carry out these tasks—which the state deems necessary—as an independent organization.
In order to carry out all these tasks, the Church and Diakonie need the dedicated cooperation of many people and a secure financial foundation. This solid foundation is provided by the church tax."[11]

A text on church tax from the Diocese of Münster (dated 2007) also consistently presents false information:

"Church tax makes the churches independent of the state; on the other hand, they fulfil numerous tasks that the state would otherwise have to take on: in daycare centres and schools, hospitals, and nursing homes."[12]

15. Deliberately False Representation

These passages correspond to the church's standard narratives found everywhere. However, as far as the funding responsibilities of church taxes are concerned, they are simply false. The usual state payments and other forms of funding are only subtly hinted at, while the importance of the church tax for the operation of denominational social institutions is, on the other hand, downright exaggerated. This misrepresentation, which can be described as deliberate, is likely explained by the fact that the aim is to make it as morally difficult as possible for the average church member to leave the church—i.e., to stop paying church taxes—since church taxes are used to finance "so much good."

It is not only in the chapters of this book on state subsidies that the actual sources of funding are presented (for example: only about 2 percent of the costs of Caritas and Diakonie are funded by the churches). Norbert Feldhoff, now provost of Cologne Cathedral, also listed and calculated in detail in an article on church tax[13] during his tenure as vicar general of the Archbishop of Cologne — that is, as head of administration for the Archdiocese of Cologne — how many of the archdiocese's employees

were funded by the church's own funds: approximately 19 percent of the workforce. All others are paid through service fees from social insurance agencies and state refinancing.

If we also consider that church taxes account for only about half of the church's revenue, then only about 10 percent — or one in ten — of all church employees (including Caritas and Diakonie) are actually paid from church tax revenue.

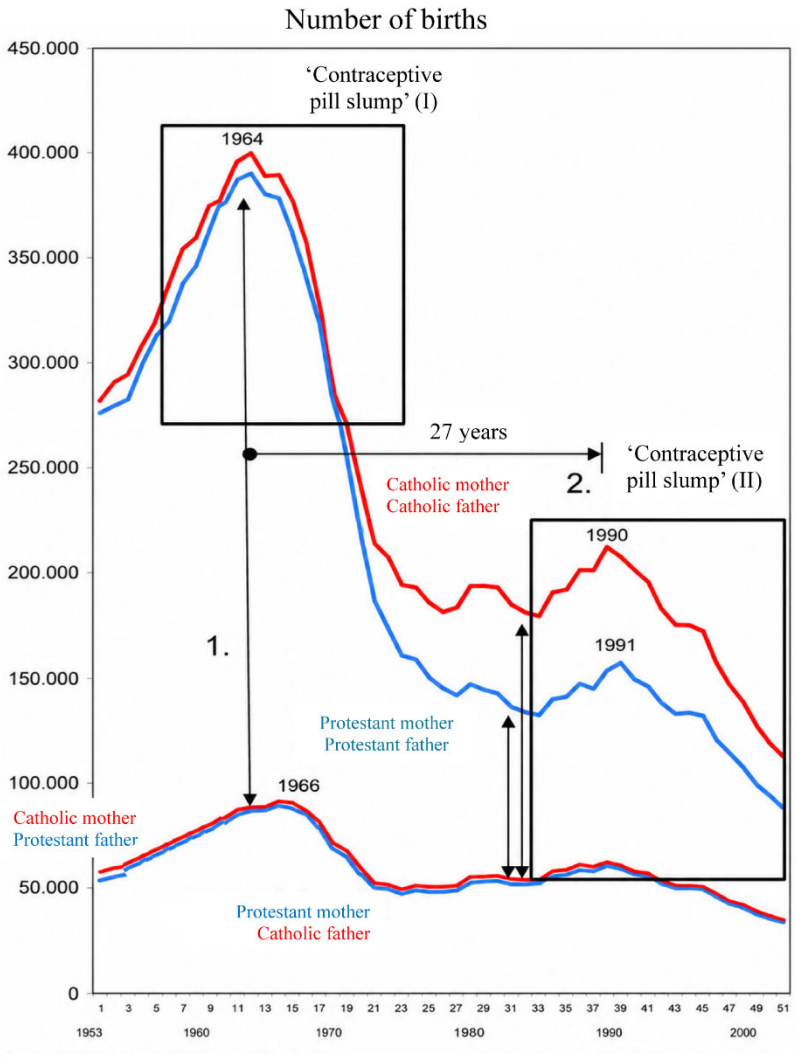
16. Demographics of Church Members and the Church Tax

Church tax revenue is based on the number of employed church members who pay church tax. (The other condition for church tax is that it is calculated as an ancillary tax, which follows income tax like a little dog on a short leash — more on this below.)

According to the end of the war there was not only "economic miracle" but also a rising "fertility rate." Moreover, virtually all parents belonged to the same church ("religiously homogeneous marriages") and, with near certainty, had their children baptized into their own denomination. But then came the "pill." Figure 2 (opposite page) clearly shows the consequences of these developments: In 1964, 400,000 children were born in each of the religiously homogeneous marriages of Catholic and Protestant couples, for a total of 800,000 children were born (and, likely, also baptized). Pope Paul VI knew very well why he banned the birth control pill as a reliable method of contraception in the 1968 encyclical *Humanae vitae*: The number of children (and thus of those baptized and church members) from religiously homogeneous marriages was declining year by year.

By the early 1980s, this "pill slump" had ended, but birth rates (and thus the number of likely future church members and church tax payers) had fallen to half or less. In 1990/1991, at the birth rate curve's last peak to date, parents who were both Protestant still had 150,000 children, while the "religiously homogeneous" Catholics had more, but only 200,000 children.

This difference has persisted in relative terms, so that the Catholic Church now has significantly younger and working-age church members in its ranks than the Protestant Church, which has a more aged membership. Accordingly, church tax revenue of the Catholic Church is



Source: Statistical Yearbooks, Fachserie 1 Graphic: fowid/CF

Figure 2: Number of births by parents' religious affiliation

In religiously homogeneous marriages (both parents Catholic or Protestant), 400,000 children were still being born (and presumably baptized) in 1964. Due to the "birth control pill slump," the number dropped to 150,000 "Protestant" and 200,000 "Catholic" children by 1984. The rise in births up to 1990/1991 is merely the peak of 1964 shifted by an average birth interval (27 years). Since the number of children per partnership has also declined, this trend will continue.

now several hundred million euros higher per year (around €500 million in 2009) than that of the Protestant Church.

17. "Capping" of the Church Tax

Church tax regulations are always portrayed as fair, since they are (allegedly) based on the financial capacity of church members. However, this is not true, as the church tax is complicit in all the injustices and imbalances of the state income tax. The preferential treatment of those members who reduce their income tax liability—and thus also their church tax—through high deductions is just one example of how ordinary wage earners are relatively burdened more heavily. Another example is the so-called "capping" of the church tax.

Since the income tax liability serves as the tax base for church tax, this also results in a progressive church tax burden. However, once income reaches a certain threshold, the churches waive the top bracket of the progressive scale. This process is referred to as *the church tax cap*. While church tax is normally calculated as a percentage of the assessed income tax (8 or 9 percent, depending on the state), the capped church tax is determined using a specific cap rate (percentage) of the taxable income. Once the cap threshold is reached, the amount due remains constant.

Example (Berlin): Annual income €100,000, tax under the 2004 basic rate: €36,155, 9 percent church tax of that amount: €3,253.95. Capping rate in Berlin is 3 percent, i.e., for €100,000, the church tax amounts to a maximum of only €3,000.[14]

The rationale for this preferential treatment is simple. The churches want to prevent the wealthy from leaving the church to avoid paying church tax and therefore accommodate them.

18. State-Administrative flat rate

For state collection, the tax-authorized churches have agreed with the federal states on a flat rate that ranges between 2 and 4.5 percent of church tax revenue for the treasury.

In the Free State of Bavaria, however, a different system applies. Only the church tax on payroll tax is collected by the state. For all income taxpayers, on the other hand, the churches have maintained their own church tax offices since 1942, where the accounts of income taxpayers are managed; these offices were allowed to continue operating even after the end of the Third Reich. In Bavaria, because the state provides the taxpayers' income data, it receives only two percent of the church payroll tax revenue. There is an interesting rationale from church circles for maintaining their own church tax offices:

The church "can, in fact, collect significantly more church taxes through personal conversations with the self-employed and other income taxpayers in the nation than if it were to receive only the portion of the tax liability that these individuals have calculated themselves to be 'poor' in relation to the tax authorities."[15]

So, they know their flock and are more adept at handling them than the tax authorities.

19. Church Tax Waiver

In times of economic crisis, regional churches have certainly offered their members the possibility of considering a waiver in the event of financial difficulties on the part of those obligated to pay church tax (what a word!). Presumably, this is to prevent church members from leaving and the church from receiving nothing at all in the future. As denominational economic enterprises, the churches think in the long term and are quite willing to accept short-term losses in revenue.

Such matters are typically handled behind closed doors, whether to protect those involved or to avoid setting a precedent for others. In general, the rule is: "Through a waiver, the creditor waives, in whole or in part, a claim to which they are entitled and which remains outstanding." This decision is then irrevocable.

In the context of the parallelism between state tax laws and church tax laws, Section 227 of the State Tax Code states:

"The tax authorities may waive claims arising from the tax liability in whole or in part if their collection would be unreasonable under the circumstances of the individual case; under the same conditions, amounts already paid may be refunded or credited."

And what applies to the tax authorities also serves as the framework for the church's financial bodies: Upon request, they may waive claims arising from the tax liability if their collection would be *unreasonable*.

Unreasonableness means that tax collection in accordance with the wording of the law would constitute a special hardship for the applicant that, given the circumstances of the individual case, would be unreasonable to expect.

After these discussions on tax law, let us now return to the "fullness of life." Here, there is a reduction in the church tax liability for "extraordinary income."[16]

In January 2004, the judge in the so-called Mannesmann trial did not let up. The main issue was whether the former CEO of Mannesmann AG, Klaus Esser, had been rightfully paid fees and a severance package totalling approximately 60 million DM in 2000. During the spectacular trial, it also came to light that Klaus Esser had had it checked whether he was even required to pay taxes on the money, since it was supposedly a severance payment for his future unemployment.[17] He was. Accordingly, Esser had then also negotiated a reduction in church tax with the Archdiocese of Cologne. During the trial, it was noted but not questioned what Esser meant when he said, "I am at peace with myself, the Church, and the good Lord."[18] He was likely referring to the fact that the Archdiocese had waived half of his church tax liability: approximately 500,000 euros.

This example shows that "unfair" rightly means "expensive." It is also absolutely correct from a biblical and theological perspective, as the Bible states: "For to everyone who has, more will be given, and he will have an abundance" (Matthew 13:12). What, moreover, would the alternative have been? Esser would have had the payment of his severance package postponed, would have left the Church, and the archdiocese would have received nothing at all. This way, both parties are satisfied. There is likely no need to fear a large number of similar cases.

Unless, of course, questionable reports appear in the press. For example, a daily newspaper wrote in November 2009 in the article "Tax Tips: Collecting Severance Pay in a Tax-Efficient Way":

> "Employees receive more of the extra payment [the severance pay, CF] if they apply to have the church tax on the severance pay reduced to 50 percent. Taxpayers simply need to write a letter to the church tax office of the diocese or regional church and enclose a copy of their most recent pay stub or tax assessment notice. In the letter, you request that the church tax be waived by 50 percent 'on grounds of fairness.' The churches must agree to this."

The church official at the regional church's church tax office, when asked if this were the case, seemed somewhat taken aback. "Well, we do have to

do that at all. We can, if we want to, and often we do want to." It is therefore a matter of discretion. According to Section 34(2) of the Income Tax Act (Extraordinary Income), income tax — and accordingly church tax as well — may be halved upon application if the taxpayer is over 55 years of age, is permanently unable to work under social security law, or if the income is used for retirement purposes. Furthermore: "The taxpayer may claim such a reduction only once in a lifetime." All of this appeared to apply to Esser.

Thus, everything falls back into place in accordance with the Roman principle: Quod licet Iovi, non licet bovi. (What is permitted to a god is by no means permitted to an ox.)

20. Church Tax and Church Leaves

Over the course of 2008 and 2009, the number of people leaving the church shot up again. The churches had an explanation ready immediately, and no further analysis was needed: the economic crisis was, of course, to blame. It was affecting the churches as well, since members felt compelled, against their will, to save on church tax and leave the church.

That the churches choose to turn a blind eye to reality with such views is their own decision. However, this does not change the fact that only those members leave the church for financial reasons whose connection to the church has become so weak that they no longer see any point in church membership.

Furthermore, younger people in particular, when they leave the church, are usually not yet paying church taxes, so there must be other reasons at play here.

21. Leaving the Church

As a church member, one can only avoid this tax obligation by leaving the church, by declaring this intention to the relevant state authority (local court or registry office).

The term "leaving the church," however, is factually incorrect, because how one becomes a member of a religious community and whether one can leave it again are matters decided by the religious communities within their own jurisdiction and are of no concern to the state. However, since the obligation to pay church tax in Germany is

currently linked to state collection, this also involves the state sphere. The termination of membership in the "Church Tax Association"—and thus the end of the state's collection of church tax—can and must be recognized by the state *in accordance with the principle of religious freedom*.

However, the German bishops link this withdrawal from the Church Tax Association with withdrawal from the Church as a religious community, thereby resulting in excommunication—that is, exclusion from the sacraments—as this is automatically treated by the Catholic Church in Germany as a church penalty. Upon leaving the Church, this declaration is entered into the baptismal register, thereby implicitly annulling the baptism. Since the summer of 2009, this excommunication has again been the subject of a legal dispute between the Archdiocese of Freiburg and Hartmut Zapp, a retired professor of Catholic canon law. He continues to consider himself a member of the religious community, even though he left the "public-law corporation" in 2007. He thus supports the view of Pope Benedict XVI, according to which a declaration made to state authorities is of no concern to the Church.

The German automatic consequence of excommunication and the irrelevant term leaving the church are in this regard a "deterrent provision" (E.G. Mahrenholz) designed to make this step more difficult for those wishing to leave.

This issue had already been the subject of intense debate in the early 1970s, when the number of people leaving the church began to rise sharply in West Germany for the first time. Church members who, for various reasons, no longer wished to pay church taxes felt compelled to submit a "modified declaration of withdrawal," in which they stated that they were leaving the church but would remain members of the religious community. After extensive controversy, such supplementary declarations were ultimately prohibited in all federal states, and—to put the churches' financial interests in a nutshell—the absence (!) of such supplementary declarations was regarded as a prerequisite for determining "withdrawal from the church." That is what is at stake again now, in the next legal round. It is a legal issue that, in this form and with these financial consequences, has such fundamental significance only in Germany—with its church tax and state collection system. A dispute that, ironically, was triggered by a German pope.

In early May 2010, the competent Administrative Court of Baden-Württemberg ruled in the appeal hearing against Prof. Zapp and upheld the Archdiocese of Freiburg's position that Zapp's declaration of withdrawal (with the addendum) was invalid and that he remained a member of the complete, undivided Catholic Church. Zapp, however, has both Catholic canon law and the "Pontifical Council for Legislative Texts" on his side and may now have to pursue legal recourse within the Church to ultimately prevail against the German bishops in Rome.

Catholic church members are traditionally threatened with ecclesiastical penalties—such as exclusion from the sacraments and, consequently, the fires of hell—if they leave the denominational tax association. In 2009, however, the Bishop of Regensburg, Gerhard Ludwig Müller, secularized this threat scenario in a contemporary way by arguing that a rise in church departures and losses in church tax revenue would endanger hundreds of thousands of jobs. Since this can only refer to jobs that are actually financed by church taxes, it can only concern a small portion of the jobs within the churches themselves—and even then, only if all church taxpayers were to suddenly leave the church tax association—a scenario that is more than unlikely.

A clear lie, then, likely intended to prevent members from turning their backs on the church tax association and to uphold the business principle of "nip it in the bud!" On the other hand, it is remarkable that a high-ranking official of the Catholic Church is apparently afraid that members will flee the church if the threat of exclusion from the sacraments and imaginary torments of hell no longer works.

22. Church Tax Revenue

Church tax revenue (see Figure 3 on the following page) for all Protestant regional churches remained consistently higher than that of all Catholic (arch)dioceses until 1988. From 1984 to 1997, revenues then remained roughly at the same level for several years.

Since 1998, Catholic church tax revenue has been significantly higher than Protestant revenue. This trend reflects changes within the churches in terms of membership: In the first phase (through 1988), the number of Catholic members gradually are similar —due to a higher number of

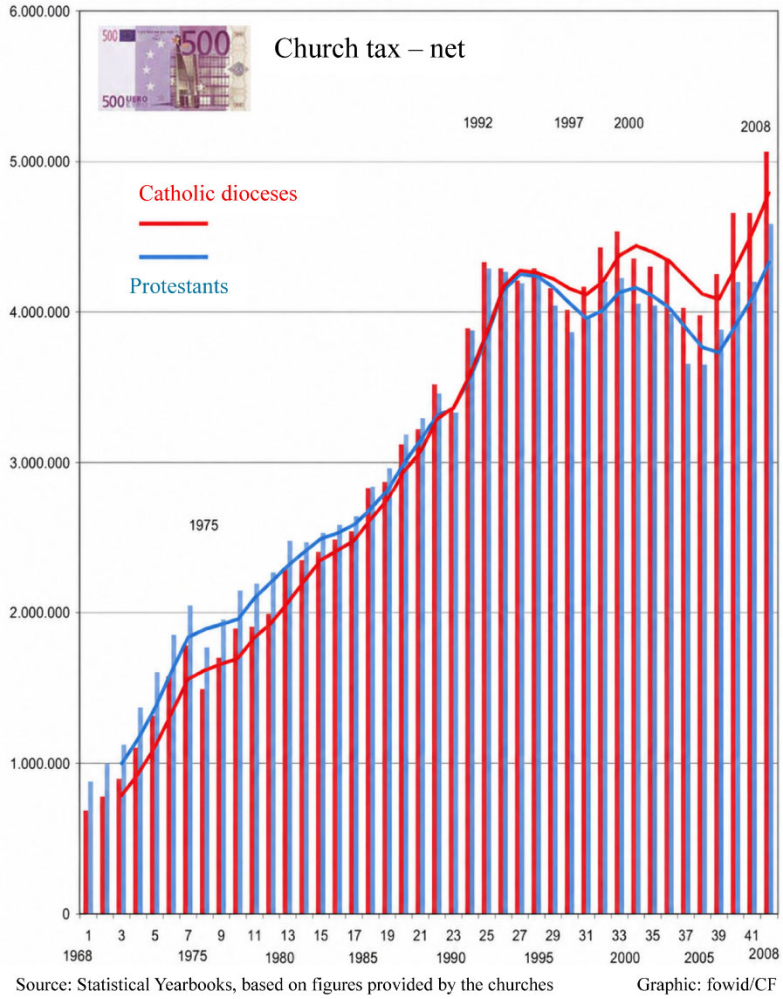


Figure 3: Church tax revenue of the Protestant (blue) and Catholic (red) churches in Germany, 1968–2008.

catholic births and baptisms—than the Protestant regional churches. In the second phase (since 1989), the resulting younger age structure of the Catholic population is gradually translating into a larger number of working-age church taxpayers. In the third phase (since 1998), this difference has become increasingly pronounced and has led to significant disparities in church tax revenue.

In 2009, the Catholic dioceses received approximately 500 million euros more in church taxes than the Protestant regional churches (4.9 billion euros versus 4.4 billion euros).

23. Systematic Search

Anyone who moves to Berlin, for example, can see firsthand just how much the church holds the state accountable for its financial interests. There, if you were baptized at some point, you will receive a request from the tax office/church tax department to prove your church membership or to document that you have left the church. It is not the Protestant Church that must prove that you are a member, but rather you yourself who must prove your withdrawal from the church. However, you can only do so by submitting your declaration of withdrawal from the church.

The legal situation is described in an excerpt from a letter from the church tax office in Berlin to a new resident:

"The burden of proof lies with those who have left the church to demonstrate their permanent exemption from all obligations based on personal membership in the religious community. We can only notify the Church Tax Office at the Spandau Tax Office that you have terminated your membership in the Protestant Church once we have received proof of your withdrawal from the church. Should we not receive such proof within the next 4 weeks, we must report you to the relevant authorities as a member of the Protestant Church based on your membership established by baptism."[19]

For several years now, the term "grid search" has been used to describe this approach. Horst Groschopp, then president of the *Humanist Association*, explains the principle:

"The term 'grid search' emerged in the 1970s. Due to the unsuccessful and fruitless search for RAF terrorists, the then-President of the Federal Criminal Police Office (BKA), Horst Herold, developed a procedure for the networked search of files. In this process, information on specific groups of people was filtered from public or private databases. The search focused on characteristics that were assumed to also apply to the person being sought. It was likely [the weekly newspaper] *Der Freitag* that applied this process to the method in 2003, describing how the Protestant Church in East Germany tracks down church tax evaders."

The search is on for [...] adults who meet two criteria: First, they must have been baptized in the Protestant faith [...]. Second, they must not pay church taxes.

Anyone looking for many of these people who have forgotten both will find at least a few! The best-known case is that of Matthias Platzeck, the current Minister-President of Brandenburg, in March 2004, who rejoined the church, whereupon the church announced that it 'would waive the requirement for back payment of church tax, as in other similar cases'."[20]

Initially, this blanket investigation primarily affected former GDR citizens who, due to the different regulations and procedures for leaving the church in the GDR, found themselves in need of an explanation after "reunification" or had not thought to keep their declarations of leaving the church. If they subsequently left the church again, some of them had to "pay back" several thousand euros in church tax.

This now affects anyone who moves to Berlin and thus falls into the net of this dragnet investigation. However, there has been a change. Whereas until the end of 2009 one would receive a letter, for example, from the "Berlin Mitte/Tiergarten Tax Office – Church Tax Office –," which clearly gave the impression of being a government agency, the wording has now been changed to read: "Church Tax Office at the Mitte/Tiergarten Tax Office." It still looks unmistakably like a government document and does not reveal in a single line that it is a branch office of the Protestant consistory, whose premises are, however, located within the tax office.

Misleading labelling, but in the opposite direction: Whereas it used to say "Church" on the outside when state tax money was inside, it now says "State" on the outside when the Church is inside.

Church tax as a special deduction

Because church tax payments are deductible as special expenses — which reduces taxable income and, in turn, the income tax owed — the state foregone 3.1 billion euros in tax revenue (in 2008).

Just how much the German state imperceptibly but generously supports the churches as business partners is also and particularly evident in the case of church tax.

Section 10 of the Income Tax Act (EStG) lists, over several pages, a wide range of expenses that can be deducted from taxable income as special deductions when calculating payroll and income tax. While numerous specifications are provided for most expenses—e.g., up to what amount of

expenses for vocational training can be claimed, point 4 contains only two words: “church tax paid.”

The fact that church tax is deductible in full as a special expense is a unique feature (which, until 2006, applied only to private tax advisory costs), since all other special expenses are subject to limits or tied to specific benchmarks. The associated tax waiver and the resulting loss of tax revenue for the state constitute a significant tax benefit for church members and, consequently, for the church as well.

In 1994, the magazine *Der Spiegel* asked in a survey[21] whether people would be willing to pay church tax if the churches collected it themselves and if, at the same time, the state benefit in the form of tax savings were to be eliminated. 50 percent of those surveyed answered with a clear “No.”

24. Loss of tax revenue

Detailed information on the deductibility of church tax as a special expense—including the specific amounts involved and the rationale behind them—can be found in the Federal Government’s “Subsidy Report,”[(22)] which also lists the resulting loss of tax revenue.

In 2007, this state tax break amounted to nearly 33 percent of church tax revenue: With church tax revenue in Germany totalling around 9 billion euros, 5.95 billion euros (67%) are paid by church members; however, due to the reduction in income tax, 2.96 billion euros (33%) are covered by general tax revenues. In 2008, with church tax revenue of 9.8 billion euros, the figure was 3.1 billion euros (32% of church tax).

Since income tax is split between the federal government and the states, the federal government bears 1.3 billion euros of this measure (in 2008), while the equally indebted states are so collegial as to forgo 1.8 billion euros in tax revenue.

This measure is justified with a succinct sentence: “Favouring recognized religious societies and religious communities treated as equivalent to them based on ecclesiastical and socio-political considerations.”

The first part of the reasoning is surprising, since religious communities are not *recognized* in Germany.

If this means the granting of corporate status, this is not made clear. However, that would imply a two-tier system of quasi-recognized and non-recognized religious communities.

The second part of the reasoning brings us back to the circular argument that "the remaining state subsidies and tax benefits must be regarded as partial cost compensation for the services provided to the general public by the major churches and their institutions with financial co-participation."

For according to this logic of "partial cost compensation," the churches would have to contribute a correspondingly higher multiple for their institutions, which is by no means the case. The German state forgoes three billion euros in tax revenue, yet the churches pay only 800 million euros for Caritas and Diakonie from their own coffers.

Church tax as an ancillary tax

Church tax is levied as a surcharge (annex tax) on income tax and is directly dependent on income tax revenue. To illustrate this with an analogy: If state income tax is the locomotive, then church tax is the trailer, which must follow every movement, every acceleration, and every braking action of the locomotive. This fiscal dependence of church tax was a recipe for success as long as total income tax revenue was on the rise. The churches didn't have to worry about a thing; the hard-working economy and the government ensured a steady stream of revenue.

However, the overall trend in income tax — illustrated by the annual changes (see Figure 4 on the opposite page) — has been such in recent years that growth rates have been steadily declining.

The general trend at the European level is moving away from direct income taxes toward indirect taxes (value-added tax and other consumption taxes). In other words: Policy is "voter-friendly" by reducing direct income taxes and thereby also reducing revenue from the income tax surcharge. To put it simply, with the church tax serving as a surcharge,

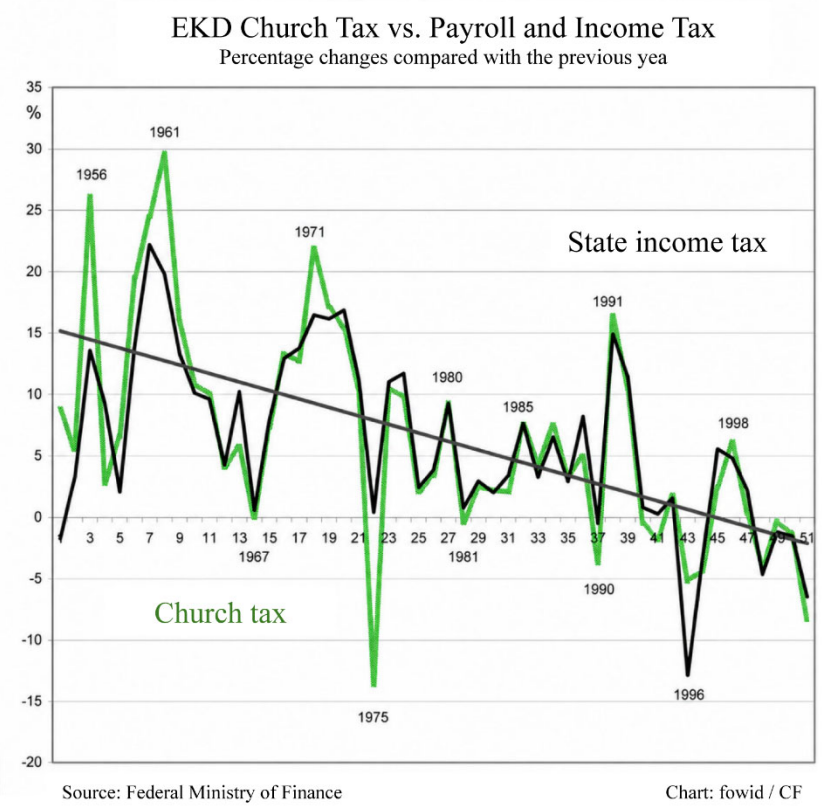


Figure 4: Church tax as a supplementary tax to income tax Church tax revenue/income tax 1968–2004, percentage changes compared to the previous year. Linear trend

the churches are in a tight spot, because the state can collect its taxes through other channels, but the churches cannot.

Thus, as is always advisable when considering any possible connections to statements made by the Church, one must examine whether financial issues or financial implications for the churches are involved. Even if this may not seem to be the case at first glance, this self-interest of the Church is always present in matters of state income tax.

During the 2009 federal election campaign, when the liberal Free Democratic Party (FDP) in particular had promised tax cuts, the chairman of the Catholic Bishops' Conference immediately spoke out and criticized

the tax cuts promised during the campaign: "I'm asking how they're supposed to be financed," he said on *Deutschlandfunk*.

His real concern was something else: if tax breaks reduce the state's income tax revenue, church tax revenue will decline in parallel. That was his legitimate concern, stemming from fiscal constraints, but apparently, he didn't dare to say so publicly. The accusation that the church cares only about its members' money, while they otherwise feel largely left to their own devices, would likely have been confirmed.

26. Fiscal Captivity

Religious freedom as "freedom from the state" could (and should) begin fiscally beginning precisely here.

In the interplay between the partners, the Church and the State ("Be silent, and you shall receive"), the Church frequently avoids, for tactical—that is, opportunistic—reasons, clear and open criticism of state decisions that, according to its professed ecclesiastical self-understanding, would be very appropriate (regarding Hartz IV, subsidies, tax policy, etc.), so as not to irritate those sympathetic to it in political bodies.

In this respect, the church finds itself in a kind of fiscal captivity—dependent on political rules that are, in principle, subject to change and can be altered to the detriment of the churches. However, this is a self-imposed captivity from which the churches could very well free themselves—if only they wanted to.

It is always refreshing when church officials return to Germany from a trip to the U.S. and, with shining eyes, report on the diverse and active parish life and worship services in American church congregations. The price to be paid for this, however, is always too high for them: No state funding, active fundraising, and being out and about to win over people and parishioners. Better to remain in the comfortable — because well-padded — imprisonment of predictable, state-collected church taxes and enjoy the benefits of various regulations for the financial gain of the churches and church officials.

27. Other options for church financing?

Another tax model that is sometimes discussed in Germany is a culture tax (also known as a mandate tax), as found in Italy and Spain. In Italy, all taxpayers pay 0.8% (OPM = otto-per-mille) and in Spain 0.52% of their income tax liability as a culture tax. They can decide for themselves who receives the money. The state thus forgoes this percentage of tax revenue. The selection list provided for this purpose includes not only the churches (Catholics, Lutherans, Waldensians) but also non-church groups. About half of the citizens do not specify where their share should go. These amounts are distributed proportionally among the recipients they have selected. Since the churches do not know who is donating to them, they cannot link church membership to payments made in their favour.

In Germany, the *Dietrich Bonhoeffer Society* advocates a similar variant of a "citizen's credit".

However, all of this is merely wishful thinking, as the reality was described by Nikolaus Schneider, the current Council Chair of *the Evangelical Church in Germany*. At the 2nd Ecumenical Church Congress (Munich, 2010), he expressly praised the church tax system in Germany. He said it was fair, predictable, and cost-effective. In the U.S., where there is no church tax, churches would have to base their budget calculations "on hope." "Do not underestimate the church tax," Schneider warned. As long as there are enough people who agree with the system, "we would be out of our minds to abolish it."[23]

State Collection of Church Taxes

Through the state collection of (payroll) church taxes in Germany, the churches avoid costs for their own church tax offices in the range of 1.6 to 2 billion euros, or approximately 1.8 billion euros.

Under Article 137, paragraph 6, of the Weimar Constitution—which was incorporated into the Basic Law as Article 140—the state is required to provide the churches and religious societies entitled to collect taxes with the "tax lists." These lists specify the taxes paid by the respective church members. Nothing more is permitted. Article 137, paragraph 6, of the Weimar Constitution reads:

"Religious societies that are public-law corporations are entitled to levy taxes on the basis of civil tax lists in accordance with the provisions of state law."

After the Weimar Constitution came into force, the Reich Tax Code of 1919 and the Income Tax Act of 1920 (and subsequently the corresponding state laws) allowed churches, upon application, to have the "administration of church tax" collected by the state tax authorities in exchange for a fee.

However, these regulations (in the absence of an expressly deviating provision) violate the fundamental principle of the separation of church and state. This principle does not provide for institutional interaction—that is, cooperation between the state and the church—beyond the provision of civil tax lists. The wording chosen today in many church statements, namely that the church tax is levied "with the help of the state," obscures the exclusive role of the state and employers and implies a form of partnership that was not originally intended and is not intended today.

28. Commissioning by the State

It goes without saying that the churches have an interest in internal church regulations, as this allows them to avoid the costly bureaucracy of administering their own church tax system. This church perspective is also reflected in how the Federal Ministry of the Interior described in 2010 the rights derived, among other things, from corporate status:

"It grants the communities that possess it certain privileges, such as e.g., the right to levy church taxes on their members and to instruct the state to collect these from their members and then forward them to the churches."[24]

The church instructs the state? Since when has the state been the churches' agent? Isn't the self-confidence of the state church lobbyists getting a bit out of hand here?

Not at all. What began as an offer allowing churches to request this service from state authorities has since become a contractual obligation of the federal states under the State-Church Agreements. Article 15 of the Evangelical Church's agreement with Brandenburg regarding church tax administration states: "Upon the church's request, the administration (assessment and collection) of church tax shall be transferred to the tax offices." In other words: If the church so desires, the state must comply.

There is a financial reason for this. However, we can only estimate how expensive it would be for the church to collect its own "membership dues." Experience from Austria, where the church has its own tax offices, suggests that this could amount to as much as 20 to 25 percent of church tax revenue. Applied to Germany, with 9.3 billion euros in church tax revenue, this would mean an amount in the range of 1.9 to 2.3 billion euros. In contrast, the approximately 280 million euros that the German tax authorities charge the churches as a lump sum represents a further benefit to the churches in the range of 1.6 to 2 billion euros, or an average of 1.8 billion euros.

29. European Data Protection

This convenient and smooth functioning of the state's church tax collection via the tax offices was threatened with extinction some time ago (1995) from an unexpected quarter. The draft provisions on the collection of data regarding religious affiliation in the EC Data Protection Directive[25] in fact provided for an unrestricted ban on the collection of data revealing religious beliefs. A restriction that makes sense for religious freedom, since religion is none of the state's business. However:

"It was only following massive intervention by the major German churches that the prohibition on the collection and processing of data concerning religious beliefs—which remains in Article 8(1) of the Directive—was limited by the exception provided for in Article 8(2)(2) of the Directive. Accordingly, the general prohibition does not apply if the collection and processing is carried out 'on the basis of appropriate safeguards by a foundation, association, or other organization with a political, philosophical, religious, or trade union orientation that is not profit-oriented.'"[26]

30. Free service provided by employers

By calculating and remitting church tax free of charge, employers save the churches approximately 280 million euros in additional costs.

The payroll tax withholding procedure introduced in 1921 by employers did not yet require a declaration of religious affiliation.

On January 1, 1935, the National Socialists introduced a system whereby employers calculated church tax for their employees free of charge based on the "Religion" entry on the income tax card. In 1977, despite the controversial debates at the time, the Federal Constitutional Court[27]considered this regulation so unproblematic that it did not even accept a constitutional complaint. The reasoning: The church payroll tax procedure is constitutional (a thesis never reviewed by the Federal Constitutional Court or prevailing opinion). Employers are merely agents of the tax authorities.

This statement also shows that the churches' claims that church taxes are a kind of "membership fee" for the German church financing system are not accurate. In terms of practical function, it is indeed a membership fee (the payment of which can be avoided by leaving the church), but it is levied in the form of a tax linked to state coercive power.

Even if the churches have been granted this already highly dubious right to delegate tax administration to the state, they surely do not have the right to indirectly compel employers to perform unpaid work. Nevertheless, the Federal Constitutional Court states that the employer thereby "simultaneously supports its employees in the simplified fulfilment of their church tax obligation within the framework of its duty of care required by the social welfare state." A rather strange conception of the duty of care. Furthermore, the entry is unobjectionable, as it represents only a minor burden on the employee but is indispensable for the implementation of orderly taxation through the payroll tax withholding procedure.[28] The idea that this state coercion could conflict with a non-religious employer's fundamental right to negative freedom of religion seems foreign to the competent authorities.

Two other aspects also seem to be overlooked. First, the fact that the constitutional principle of the separation of church and state, in place since 1919, was violated by the Nazi regime; and second, the fact that the unambiguous provision of Article 136, Paragraph 3 of the Weimar Constitution was violated under the rule of law. (Article 136, Paragraph 3 reads: "No one is obliged to disclose their religious beliefs. The authorities have the right to inquire about religious affiliation only to the extent that rights and duties depend upon it or that a statistically mandated survey requires it.")

In addition, membership dues are collected for religious communities, which have free disposal of the funds. This means that while it may be possible under certain circumstances to enlist private individuals (employers) to perform public functions, But not if, in carrying them out, an important constitutional principle (the institutional separation of church and state) is disregarded, and even an employer of a different faith or no faith is forced to work for a religious community he rejects, which is "justified" solely by the fact that the work is for the state.

Such a regulation may have been at least pragmatic at a time (1935 to 1970) when more than 95 percent of the population were members of one of the two major churches. However, in an era when only 60 percent of the population (with steadily declining numbers) are church members, the fundamental right not to have to disclose one's religious affiliation is being compromised for an increasing number of people.

When looking for a job, a process that requires applicants to present their income tax card, employers receive information about applicants that they are not constitutionally entitled to. This information regarding religious affiliation is directly accessible to employers, at least in smaller businesses.

However, when one considers the financial benefits for the churches, it becomes understandable why the "third branch" of constitutional jurisdiction appears to turn a blind eye to financial matters in favour of the churches. In countless businesses, employees' church taxes are calculated monthly and transferred to the tax office—an effort that only seems so routine because it is spread across millions of accounting transactions.

Employers are obligated to subsidize the churches by calculating church tax at no cost. If one assumes, with regard to the amount, that the work performed by the tax offices—which "merely" group these transfers by denomination and forward them—is somewhat less than that of the employers, then at least the same amount should be applied as the tax offices receive for their work. On average, this amounts to three percent of church tax revenue, which, with 9.3 billion euros in church taxes, amounts to approximately 280 million euros.

31. National Socialists and the Church Tax Collection

After World War II, a review was conducted to determine which Nazi laws and regulations should be repealed and which should be retained.

Among the regulations introduced under the Nazis and now retained was not only the fact that the "Funkenmariechen" has since been danced by a young woman during Carnival (and not, as before the "Third Reich" — how "un-German" — by a slender young man). May 1 also remained a holiday and "Labour Day." Likewise, something that is largely unknown is the entry of religious affiliation on the income tax card, which has only existed since 1935. It is only this entry that enables the employer to learn of their employees' religious affiliation and to calculate and remit their church tax. A description of this from 1981 still applies today:

"Under Section 19(2) of the new Reich Tax Code and other laws of 1920, church authorities were authorized to request that the administration of church taxes be transferred to Reich authorities. [...] The payroll tax withholding procedure introduced in 1921 did not involve employers in this process. This did not occur until after the conclusion of the Reich Concordat on July 20, 1933, between the Vatican and the Hitler government. Until the decree of the Reich Minister of Finance dated June 9, 1933 (Reich Tax Gazette, p. 565), the model wage tax card did not yet include a field for religious affiliation; but a decree dated September 4, 1933 (Reich Tax Gazette, p. 898ff.) introduced a "Religion" section on the wage tax card for the first time in 1934. [...] This was implemented in parts of the Reich, such as Hamburg and Bremen, in 1934."[29]

Why would it be any different? After all, it had worked out so well for the churches that the religious affiliations of employees were known throughout the company and the accounting department. Who would dare to leave the church so easily? Word would spread throughout the entire company in no time.

From this perspective, the claim that the Nazis were "enemies of the church" and that the churches were part of the resistance against the "godless regime" seems strangely ahistorical. Nor has the fact that this inclusion of religious affiliation on the income tax card—which revealed the religious affiliation of employees or job applicants to every employer, including whether they were Christian or non-Christian—took place in the run-up to the so-called Nuremberg Laws of 1935–1936 been addressed to date.

At the very least, the timely withholding of church income tax has made it far easier for churches to plan their revenues and has established the church tax as a current tax. And, as one vicar general once put it, why

should the church rely on contracts and legal regulations that simply exist? After all, these practices are so little known that the credibility of the churches does not suffer as a result.

According to surveys, around 40 percent of church payroll taxpayers do not even know how much church tax is deducted from their wages or salary each month. People have grown accustomed to it, and amid the list of other deductions, it is a small amount compared to income tax or health insurance contributions.

32. Conclusion: More than 50 percent of church tax benefits

Church tax revenue in Germany amounts to approximately 9.3 billion euros (2009). Of this amount, the government provides a tax benefit of around 3 billion euros by allowing church tax to be deducted as a special expense (a forgoing of revenue by the state). In addition, the churches benefit from the state's collection of the tax, as the state's processing fees are significantly lower than the costs the churches would incur if they were to administer the church tax entirely on their own. As a result, the churches save between 1.6 and 2 billion euros in their own costs, or an average of 1.8 billion euros. Likewise, the churches benefit from the free calculation and remittance of church tax by employers, resulting in annual savings of approximately 280 million euros.

In this respect, in addition to their church tax revenues, the churches are supported by related tax benefits and subsidies amounting to more than 50 percent of church tax revenues: 30 percent as foregone revenue (special expenditure) and a further 20 percent in cost savings due to the state's collection of church tax and its calculation by employers.

Other Church Tax

The churches collected a total of 2.3 million euros in "other church taxes" in 2006 and 2.25 million euros in 2007. The amount collected in "special church contributions" was 31.5 million euros in 2006 and 27.3 million euros in 2007.

In addition to church taxes, the churches collect a "church contribution" from members who do not pay church tax; this contribution is not calculated based on income or payroll tax. There are various forms of this contribution, with the local church contribution being requested as a voluntary donation.

The more notable variant is the "Special Church Contribution in Interfaith Marriages," as here the financial interests of the (predominantly) Protestant regional churches are on a direct collision course with their religious principles. As one might expect, financial interests have prevailed.

33. Special Church Tax in Interfaith Marriages

This idea arose from the situation in which there were an increasing number of marriages where, according to a conservative, clerical worldview, the husband is the sole breadwinner and "head of the family," but—naturally, only to avoid paying church taxes—he leaves the church or was never a member, while the wife (who has no income of her own) and the children are members of the church. In practice, the children, through their mother, are thus entitled to a spot in a denominational daycare centre without Dad paying church taxes.

This example apparently gives the churches at least a moral justification for still taking money out of the pockets of these "social parasites." But anyone who thinks this way overlooks the fact that the churches finance "their" daycare centres only to a very minimal extent, if at all. They would therefore have no justification whatsoever for such a moral judgment with financial consequences.

The Special Church Tax is also a specific type of church tax. Like the church tax itself, it is collected by the government on behalf of the church as part of the income tax collection process. To calculate the Special Church Tax, the so-called "living expenses" of the church member. If the joint income is less than 30,000 euros per year, this church tax is not levied.

In the mid-1960s, the Federal Constitutional Court had set the course for the churches. At that time, the churches also required legal entities (i.e., companies) to pay a church building tax, for example, which the Federal Constitutional Court declared unconstitutional in its ruling of December 14, 1965. The state may not grant the churches sovereign powers over persons who do not belong to them.[30] The obligation to pay church tax is not a "civic duty," as such duties must be "formally and substantively." Similarly, it is unconstitutional for a spouse who does not belong to the church to be required to pay for the partner, as this obligation is a strictly personal one.

In another decision issued on the same day, the Federal Constitutional Court stated: In a marriage between spouses of different faiths, there is no joint and unlimited tax liability to the same tax authority. However, a permissible approach is to assess the spouse who belongs to the church based on their standard of living. The church tax would then "have to be proportionate to the actual lifestyle of the tax-liable spouse." Which is supposedly what happened.

The supposed outcome is that, on the one hand, to simplify the calculation of the church member's living expenses, half of the spouses' combined income is again used as the basis, and on the other hand, the non-church member must pay the special church tax to the church. The fact that the tax assessment notice is sent to the church-member spouse does not change this.

34. Conflicts

The conflict in religious policy lies in the fact that, on the one hand, the churches proclaim the special protection of marriage and family, but on the other hand, they can only rely on those married partners whom they protect. And even then, only if they file a joint tax return (spousal income splitting).

But as every proper and experienced shepherd knows: One can only shear one's own sheep.

The legal conflict is evident in the fact that the churches can access—or have access granted to them—the personal data of citizens who are definitely not members of their religious community. The fact that they do not do this themselves, but rather have this work carried out by state tax offices, does not change the fact that the churches are the financial beneficiaries of this encroachment—a constitutional violation that they themselves orchestrated, even after being warned by the Federal Constitutional Court. But just as in the Middle Ages during church trials, the offenders are handed over to the state for the enforcement of the penalty, i.e., this special church tax is collected through the tax authorities.

Since 1965, there have been no further court decisions that would cast doubt on the legitimacy and logic of these regulations. How could there be, when the Constitutional Court itself seems to have approved this

approach. The special church tax has since been upheld in further lower court rulings in various federal states.

In justifying the introduction of this controversial church tax, the Catholic Diocese of Vechta writes: "Poverty in Germany is on the rise, and with it grows our responsibility to act and to help even more. At the same time, the Church's financial leeway is becoming increasingly limited."[31] Is this a justification, or would a 'downsizing' of the churches be a more credible conclusion?

35. Interdenominational Marriages

In addition to interfaith marriages, there are also "inter-denominational marriages," in which both spouses belong to an ideological association under public law. Spouses of members of ideological associations are exempt from these access rules to the extent that these associations are entities under public law. The Bavarian *Association for Freedom* of Thought, several state associations of *the Humanist Association of Germany*, and others are (pursuant to Art. 140 GG / 137.7 WRV) treated as ideological communities on par with religious societies, so to speak as non-religious "denominations." The regulations governing "interdenominational marriages" — in which the spouses belong to different denominations, and one is not subject to the other's denominational obligations — apply to them. The membership dues of these ideological communities can be viewed, in a sense, as analogous to church taxes and are, with near certainty, likely to be lower than the monthly church tax deduction.

Withholding tax

Through the flat-rate church tax on capital gains, the churches currently collect around 100 million euros in church taxes.

Effective January 1, 2009, the taxation of capital gains was reorganized by law. From that date on, a flat-rate withholding tax of 25 percent is levied on all capital income received by a taxpayer and is remitted "anonymously" by the banks to the tax authorities.

This tax deduction generally settles the income tax on capital gains. The deduction system also includes the solidarity surcharge and, to the extent that taxpayers belong to a religious community, the withholding of church tax.

The tax-reducing effect of the special deduction for church tax remains intact and is considered. As a result, the withholding tax is reduced to 24.51 percent when the church tax rate is 8 percent, and to 24.45 percent when it is 9 percent.[32]

Apart from the unconstitutionality of the fact that, as a citizen, one must disclose one's religious affiliation (or lack thereof) to a financial institution if one chooses the direct route, this regulation once again highlights the partnership between church and state: On the one hand, the state acts as the church's henchman, and on the other, it forgoes its own tax revenue. After all, because church tax is deductible from the flat-rate withholding tax, this also results in an income tax reduced by the amount of church tax.

It must also be asked whether the federal government is unconstitutionally assuming legislative authority to which it is not entitled, since the regulation of church tax falls exclusively within the jurisdiction of the federal states.

Furthermore, the central database planned for 2012 containing the religious affiliation data of all citizens—to which banks are then supposed to have direct access—once again violates the constitutional principle that no one is required to disclose what they believe or do not believe, or where they are a member. The state, which may request this information as necessary for its duties, is not authorized to pass it on to third parties, whether employers or banks.

Furthermore, the flat-rate withholding tax of 25 percent—which particularly benefits those who pay more than 25 percent in income tax (and who are therefore inclined to move their capital abroad)—is a travesty of the church's claim that the amount of church tax is based on the individual's ability to pay.

Finally, another violation of the principle of separation of church and state is the state's requirement that private commercial banks provide this church service free of charge, just as employers do with the payroll church tax.[33]

Rarely has a law been passed that disregards so many constitutional principles as the regulation governing the payment of the flat-rate withholding tax.

The reason likely lies in the fact that the churches are expected to collect around 750 million euros through this church tax on capital gains—a substantial amount.

In Bundestag printed paper 17/2865 (dated September 3, 2010), the "Report on the Effects of the Provisional Procedure for Levying Church Tax on Capital Gains Tax [...]" with which the Federal Government informs the Bundestag, it is expressly stated that a reliable data basis for 2009 will not be available until 2011.

"Nevertheless, there is currently a significant disparity between revenue from capital gains tax and revenue from church capital gains tax. Revenue from the flat-rate withholding tax on interest and capital gains for 2009 amounted to 12,442,160,000 euros. In contrast, revenue from church capital gains tax for 2009 amounted to 113,785,606.55 euros (0.91 percent of the flat-rate withholding tax). Church tax revenue is thus indisputably too low. For example, the literature assumes a share of 6 percent of the flat-rate withholding tax [...]."

Instead of the 113 million euros in church capital gains tax revenue collected for the church in 2009, the original expectations were thus 6 percent of 12.4 billion euros in withholding tax, which would amount to 747 million euros in church capital gains tax. That is, after all, €634 million less revenue than expected and is presumably due to the fact that taxpayers are showing a certain "reluctance toward the new procedure." So, what needs to be done to "take into account the constitutional aspect of avoiding an enforcement deficit"? After all, the state is obligated to collect church taxes as well.

There are currently various options for this, such as establishing the capital gains tax due, the taxpayer's religious affiliation, their place of residence, and their church tax rate in a detailed "church tax creditor-specific religious code" at the Federal Central Tax Office (BZSt), which banks can access automatically. Linking the "religious code" to the taxpayer identification number is also being considered. We will see what is implemented. The basis for all regulations is: "This will permanently secure church tax revenue for the churches."

Flat-Rate Tax and Lump-Sum Tax

Through flat-rate and lump-sum taxes, the two major Christian churches collect church taxes amounting to approximately 18 million euros—including from non-denominational individuals and Muslims.

36. Flat-rate tax

Tax law also recognizes "benefits in kind" that are subject to taxation, such as non-monetary benefits provided to employees or gifts in kind given to business associates. These benefits in kind are covered by Section 37b of the Income Tax Act and are explained by a tax advisor as follows:

"It should be noted that the entrepreneur must also collect and remit the solidarity surcharge and flat-rate church tax on the flat-rate tax under Section 37b of the Income Tax Act. This applies not only to benefits in kind provided to employees but also to the flat-rate tax applicable to gifts, etc., given to business associates. If the entrepreneur is unable or unwilling—which is likely to be the case—to determine the religious affiliation of business partners, he must calculate the church tax for all recipients at a *reduced* rate. For business associates for whom the entrepreneur making the gift can *prove* that they do not belong to a tax-collecting religious community, no flat-rate church tax needs to be remitted in this respect; in this case, however, the general church tax rate must be applied to the remaining recipients."[34]

From an ideological standpoint, it might be simpler to decline gifts from business associates or, when accepting them, to immediately inform them of your religious affiliation. Otherwise, you should always carry your declaration of withdrawal from the church with you, present it when accepting the gift, and give a copy to the business associate for their tax records.

37. Lump Sum Tax

To reduce undeclared work and simultaneously provide social security coverage for part-time workers, the so-called 400-euro jobs or mini-jobs were created. By the end of 2009, there were approximately 6.8 million such employment relationships.

To simplify the administrative process, a uniform flat-rate tax of 2% of earned income was established. Of this flat-rate tax, 5% is in turn deducted as a flat-rate church tax.

The Mini-Job Centre at the "Knappschaft-Bahn-See Occupational Safety and Health Association" administers these employment relationships and collects not only contributions to pension and health insurance but also the uniform flat-rate tax on earned income. In 2009, this amounted to 352.6 million euros in flat-rate taxes. Of this, 5% in church taxes amounts to 17.6 million euros.

Since one-third of these employees are presumably non-denominational — as is the case in the general population — and a disproportionately high share of these employees are likely to be Muslim women (cleaning jobs), the two major Christian churches are in this case effectively and unconstitutionally enriching themselves with the funds of workers who are not members of either church. Very few employers are likely to make use of the option to report religious non-affiliation or non-Christian religious affiliation individually to the tax office.

II. Government benefits

The following sections describe a wide range of areas in which the state finances or subsidize church institutions and organizations. In this regard, it is appropriate to begin the chapters on the individual financial contributions with a general overview of the relationship between church and state.

Church and State

The shared understanding among some church representatives and politicians regarding the relationship between church and state occasionally comes to light in public. A particularly striking example occurred in the summer of 2009: Jörg Schönbohm, the conservative former general and CDU Interior Minister of Brandenburg, had called for a revival of Christianity in East Germany to prevent further "neglect and de-civilization."

The Catholic Church responded with restraint, stating that one cannot impose faith on people. Schönbohm, however, received support from Protestants. "We are glad that he has taken up the issue," said Volker Jastrzembski, spokesperson for the Evangelical Church of Berlin-Brandenburg. For decades, the state has promoted secularization. This has also had negative effects on democracy. However, the mission is the task of the churches, not the state. "The state must create the framework conditions for church life." This also includes religious education in schools.[35]

This demanding stance—that the state has a duty to do something for the church—can certainly be regarded as typical. It is rooted in long traditions in postwar Western Germany, including the ever-an-ever cited

statement by former Catholic Constitutional Court Justice Ernst-Wolfgang Böckenförde, which was cited again and which, in this context, seems to be an inevitable position on the part of the Church ("The liberal state thrives on foundations that it cannot guarantee itself without sacrificing its own liberalism" [36]). For this, as one would expect from church lobbyists, the church is necessary, for it is the organized presence of the "God the Creator," in whom everything (!) has its origin.

Which of the world's religions is the most suitable for this remains open. If one limits the search to Christianity, the choices are: Orthodox — Russian or Greek? — Catholic! — Roman Catholic or Old Catholic or the Pius Brothers? Or Protestant! — Lutheran or Reformed, or one of the many free churches? The only certainty is that apparently each of these worldviews believes itself to be in possession of divine truth and upholds what it considers to be the only correct values.

In particular, Protestant West German experts on state church law recall, in their views, the understanding of a Protestant state church in Prussia. Back then, state power and majestic "Piefkes" — as the sociologist Max Weber always called Emperor Wilhelm II — still required, as "We by the Grace of God," ecclesiastical consecration and religious exaltation.

Many of the wide-ranging ecclesiastical privileges date from this period and the contemporary notions of a "Christian state," which, however, were already unequivocally rejected in the Weimar Constitution of 1919 (Art. 137,1 WRV via Art. 140 in the Basic Law):
"There shall be no state church." But it must be added, the problematic continuation of a time-tested business partnership certainly does exist.

Thus, even with regard to the aforementioned inevitable—albeit grossly distorted—quotation from Böckenförde in the conclusion, it is sometimes deliberately overlooked that he himself clarified this statement a few years later (in 1978) within a liberal and pluralistic context. He wrote that it was misguided "to seek the spiritual foundation of the state in a common mindset." Rather, "it must be remembered that it is part of the spiritual and moral substance of the modern state that it has refrained from making a uniform political mindset, a uniform faith, or a uniform worldview binding as its foundation."[37]

38. A Home for All Citizens or Pastoral Democracy?

The Federal Constitutional Court had already ruled unequivocally on this question in 1965:

"The Basic Law imposes [...] ideological and religious neutrality on the state as the home of all citizens without regard to person. It prohibits the introduction of state church legal forms and also forbids the privileging of certain denominations."[38]

Yet legal practice frequently reverses this principle. Constitutional law expert and former Federal Constitutional Court Justice Hans H. Rupp described this distortion of the Constitution as early as 1969 as follows:

"The provisions on the state church in the Weimar Constitution, which were incorporated in their entirety into the Basic Law, were imbued with new meaning using methods that were highly questionable and previously unknown in legal scholarship, and were made to serve a new understanding of the state church. This reinterpretation gained widespread acceptance and found its way into case law with breathtaking speed. Concerned or critical voices [...] either went unheard or were drowned out by scathing criticism [...]. Thus, on the soil of the Federal Republic, a peculiar authoritarian, church-friendly state structure emerged, which is today occasionally characterized by the buzzword 'pastoral democracy'."[39]

Pastoral democracy? An apt term for this German business model of church and state plus jurisprudence. Despite significant changes in the legal and social details, this term still seems quite fitting today.

However, perspectives are shifting here as well. In his inaugural lecture in May 2008, the new director of the EKD's Institute for Canon Law, Prof. Hans Michael Heinig, stated:

"The structural changes in religion outlined above have left their mark on German state church law. While the body of norms at the level of constitutional law has remained unchanged, the understanding of these norms has shifted. Until now, the idea of equal freedom for and support of religious communities—expressed through mutual, cooperative engagement—served as the guiding framework for the interpretation and application of the constitution. Yet in the meantime, many perspectives on religious freedom, on the principle of religious equality, and on the institutional guarantees of the Constitution—which were once taken for granted—have shifted, though admittedly without a new central perspective having emerged in the meantime. Thus, the loss of what was once taken for granted in state church law has become a hallmark of our time across all circles interested in the subject."[40]

Although his conclusions remain conventional, the issue has been acknowledged.

39. Church Autonomy

One of the distinctive features of the relationship between the state and the churches in Germany is that the churches have the constitutional right to organize and administer their affairs independently and without state interference.

However, the churches interpret this guarantee of freedom in a very one-sided manner. On the one hand, it serves as a shield allowing the churches, for example, to sharply reject any political criticism of their conduct as impermissible "interference in their internal affairs," yet on the other hand, they do not impose the same self-restraint on themselves. This principle of fairness does not apply to them, for they constantly take the liberty of criticizing political or state actions. Of course, this is their right, just as it is the right of every organization and every person, but those who dish it out must also be able to take it.

During the transition from monarchy (and the state church that served to legitimize it) to democracy, the bourgeois centre of the Weimar National Assembly formulated the principle of "Free Church in a Free State" in 1919. The churches readily accepted the principle of the "Free Church"—that is, a church that had become autonomous and was no longer subject to state supervision. However, recognizing the principle that the "Free State" no longer needs churches for its legitimacy is not only difficult for the church lobby, but it fundamentally disputes this. The churches must dispute this, however, because otherwise they would lose their claimed entitlement to extensive state funding.

40. The "right to self-determination" of the churches

Article 137 of the Weimar Constitution (WRV), which was incorporated into the Basic Law via Article 140 of the Basic Law, reads as follows in its first three paragraphs:

(1) There is no state church.
(2) Freedom of association into religious communities is guaranteed. The association of religious communities within the territory of the Reich is not subject to any restrictions.

(3) Each religious community organizes and administers its affairs independently within the limits of the law applicable to all. It appoints its officials without the involvement of the state or the civil municipality.

Paragraph 3, in particular, has become a kind of free pass for the churches in Germany. In short, this paragraph is referred to as the churches' right to self-determination.[41]

However, this small linguistic shift from the "right to self-administration" to the "right to self-determination" changes the meaning of the constitutional text. This also has consequences for the limited right of religious communities to organize and administer their (own) affairs independently. What this means is stated in the second sentence: without the involvement of the state or the civil community. But what has this small linguistic shift actually achieved?

Under established case law, the Federal Constitutional Court grants churches—based on the "right to self-determination" enshrined in Article 137,3 of the Weimar Constitution—the right to determine for themselves, according to their own understanding (!), what constitutes their (own) affairs, which they then organize and administer independently—without state supervision or other interference.

This has created a situation in which, under the case law "sanctioned" by the Federal Constitutional Court, the churches arbitrarily determine, as they see fit and according to their own needs, what constitutes their own institutions subject solely to their own "administration," such as the Diakonisches Werk or the Caritasverband. This is difficult to reconcile with the principles of the rule of law.

This view—which diverges from prevailing case law—that the churches do not possess a "right to self-determination" is supported by Art. 138, para. 2 of the Weimar Constitution, which mentions "institutions" and reads:

"The property and other rights of religious societies and religious associations to their institutions, foundations, and other assets intended for cultural, educational, and charitable purposes are guaranteed."

Here, the formal property rights of religious societies are specified very clearly and exclusively, since Article 138(1) also provides for the cessation (i.e., termination) of state payments to the churches that are based on law, contract, or special legal titles.

41. Their own affairs?

The key question is what "their affairs" means in relation to religious communities.

To clarify what this means, the phrase "their (own) affairs" has already been indicated above in parentheses.

Their (own) affairs, which religious communities may regulate and administer independently, are subject to two conditions:

(1.) Matters that belong to the core essence of the churches, such as internal administrative order, organizational units, the conferral of ecclesiastical/liturgical offices, provisions regarding liturgy and theological education, etc.

(2.) Those institutions, agencies, organizations, etc., that fall within the scope of "internal affairs"—and for which religious communities are granted the right to self-administration—must be under the legal and economic ownership of the religious communities, i.e., they must be financed exclusively by the communities themselves.

If either of these two conditions, or even both, do not apply, these institutions, works, and organizations are therefore not subject to the right granted by the Basic Law to organize and administer their own affairs. Only what the churches finance themselves (for example, a seminary or another church-funded educational institution) accordingly belongs to their (own) affairs. It should go without saying that general laws apply there as well. There is no legal space for self-governance. The principle constituting democracy—the equality of all citizens, regardless of religion and worldview—also applies within church institutions. Or does it not?

42. "...within the bounds of the law applicable to all "

Article 137, paragraph 3, of the WRV begins as follows:

(3) Every religious community shall organize and administer its affairs independently within the limits of the law applicable to all.

Anyone who now believes that general labour law (e.g., the Works Constitution Act and collective bargaining autonomy) applies to Caritas and Diakonie as "laws applicable to all" is mistaken. Likewise, the Framework

Act on Higher Education or academic autonomy does not apply to the theological faculties at universities, and so on and so forth.

According to the prevailing case law, in accordance with the "everyman formula," a law applicable to all is only one that affects the religious community "just like everyone else."

What sounds complicated is, in turn, simple, and follows a similar linguistic logic of interpretation as the aforementioned alleged right to self-determination.

For a law to apply to everyone, it must apply to everyone. Therefore, if a law (or a contract) specifies exceptions—namely, for whom this law does not apply—then it consequently does not apply to everyone.

It's that simple in this case: Since Section 9 of the General Equal Treatment Act (AGG) provides for exceptions for religious organizations, the Act does not apply to churches and their self-determined internal affairs (and therefore does not apply to Caritas and Diakonie either). Nor is university autonomy a law that applies to everyone, since the right of churches to participate was formulated in the State-Church Agreements, among other places. The Places of Assembly Act is also not a law that applies to all event organizers, because § 2 exempts, among other things, spaces intended primarily for religious services, etc. A perfect circular argument that defines the results as prerequisites and therefore yields the corresponding results.

In this respect, one should not always find fault with the church, but rather sincerely thank church officials for selflessly relieving the notoriously overwhelmed politicians and lawyers of difficult work by clarifying and defining what constitutes church affairs. After all, those affected know this best themselves based on their "own self-understanding."

However, this principle should only be left to institutions of such moral integrity as the churches, for otherwise, following the same logic, criminals would be allowed to determine, according to their own self-understanding, what is not a criminal offense.

43. The Catholic Church's Ultimatum

In this respect, it was—especially for the Catholic Church—a rude awakening when Federal Minister of Justice Sabine Leutheusser-Schnarrenberger (FDP) criticized in the spring of 2010 that the Catholic Church was not particularly committed to investigating cases of abuse within Catholic institutions.

From a Catholic perspective, this was an act of presumption, and in a complete misjudgement of the moral and legal situation, the chairman of the Catholic Bishops' Conference issued a 24-hour ultimatum to the Federal Minister of Justice, demanding that she retract this statement. After all, it had been accepted for decades that abuse in church institutions was the Church's "internal matter," and it had been left to the Church to determine how it would handle this issue autonomously within its own "jurisdiction." Cases of abuse that had already become known and been proven were rarely referred to the state judiciary. The fact that criminal laws in Germany also apply directly to church employees and priests was now a bitterly new realization for the Catholic Church. It could only be made clear to her—at least on this specific issue—through public outrage and media coverage.

44. Concordats: A Minister-President Recalls

A key difference between the two major established churches lies in their respective classification as legal entities and in the nature of the treaties concluded between them and the state.

The Catholic Church holds the view that the treaties concluded between it and states (concordats) are state treaties binding under international law. The background to this is the State of Vatican City, an enclave and microstate within the city limits of Rome with approximately 550 citizens. The "Holy See," a non-state, independent subject of international law distinct from the State of Vatican City, holds a corresponding status internationally. At the UN, however, the Vatican has only observer status.

However, the legal nature of all these treaties is disputed, including those concluded not with the so-called Holy See but with the dioceses. It is undisputed that all treaties must be in accordance with German constitutional law and that, regardless of this, the parliaments that adopt the treaties as state law may effectively amend them at any time—even without the consent of the churches—if they dare to do so.

According to traditional opinion, however, the Protestant Church (regional churches or the EKD) concludes only simple state treaties, apart from mere administrative agreements.

What this difference means for the conduct of the envoys of the so-called Holy See is evident in political practice.

Anyone can read about the outcome of the negotiations between the Church and the state in the published Church-State treaties and concordats. What goes on behind the scenes—if it was recorded at all—is kept in the archives and is subject to a historical embargo lasting decade. It is rare for those involved in the negotiations to speak out in a timely and publicly quotable manner. However, their few accounts can be generalized with a high degree of certainty.

Bernhard Vogel (Catholic, CDU) served as Minister-President of Thuringia from February 1992 to June 2003. Vogel described his Minister of Culture (who succeeded him as Minister-President), Dieter Althaus, as—just like himself — "a Minister-President and Minister of Culture closely connected to the Christian churches." Just two months after taking office, they offered the two religious communities the conclusion of "state-church agreements."

In a lecture before the Bavarian Academy of Sciences in 2008, Bernhard Vogel outlined the negotiations with the Catholic Church in broad strokes.[42] As a former Minister of Culture and Minister-President of Rhineland-Palatinate, he already had experience in negotiations with the Catholic Church.

"So I suspected that difficult and protracted negotiations were in store for Thuringia as well. I did not, however, anticipate that they would be so difficult and so protracted. In any case, my experience was once again confirmed: the state and the political sphere tend to think in terms of decades—often merely in terms of legislative terms—while the Catholic Church occasionally thinks in terms of centuries."

The negotiations dragged on for a total of eleven years—five years for the Concordat, six years for the state treaty on the establishment of a Catholic theology faculty at the University of Erfurt. A period that certainly led the Catholic Minister-President to fear he could no longer guarantee the conclusion of favourable arrangements for "his" Church. It was also repeatedly cumbersome that all questions had to be submitted to Rome and decided there, but progress was made.

"One difficulty, however, was that the churches based their financial claims on old legal titles—which is entirely understandable given their dire financial situation, but fulfilling these claims would have completely the amount of 52 million DM

calculated by the churches was contrasted with a figure of 20 million DM calculated by the Minister of Finance."

As compensation for older titles and for building encumbrances, 19.3 million DM was then paid to the Protestant Church and 6.1 million DM to the Catholic Church.

Looking back, the former Minister-President, who had pushed through everything that was politically and financially possible in favour of the Catholic Church, reflected:

"It was not the first time I had to learn that my church does not treat its own politicians any more prudently than those outside its ranks. After the conclusion of the concordat negotiations in Rhineland-Palatinate and Lower Saxony, the Lower Saxon Prime Minister and Minister of Culture [both in the SPD] were awarded Vatican orders, but not their Rhineland-Palatinate counterparts."

The question Bernhard Vogel did not ask himself is: Why should compliant servants be rewarded?

45. Church Agreement: A Minister-President Praises the Churches

Roland Koch (Catholic, CDU), who served as Minister-President of Hesse until the summer of 2010, paid tribute to the Protestant Church's contribution to the common good in June 2010 on the 50th anniversary of the State-Church Agreement between Hesse and the Protestant regional churches. This applies both to pastoral care and to numerous social responsibilities, Koch explained.

"From the education and integration of children, through the many social services, to the assistance and support of the elderly—the churches provide a service we cannot do without."

The outgoing head of government also expressed gratitude for the good cooperation during his eleven years in office. He pointed out that during his time in office, no cabinet member had been sworn in without a religious formula, adding: "In a time when many things have been thrown into question, this is a political statement." And: With the State Treaty, the state of Hesse has fulfilled the mandate of Article 50 of the Hessian Constitution to clearly demarcate the state and church spheres. That is the government's official account. But in the Hessian Article 50 of the Constitution states:

> "It is the task of law or agreement to clearly demarcate the state and church spheres. The churches, religious and ideological communities must, like the state, refrain from any interference in the affairs of the other party."

The Church Agreement, on the other hand, comprehensively regulates the cooperation between church and state (appointment of officials, theological faculties, church taxes, etc., etc.).

Koch reversed the constitutional mandate with the same audacity as state church law experts who speak of a "positive separation" with regard to the actual cooperation between churches and the state. In any case, positive for the churches.

State subsidies (in the narrower sense of the term)

The term "state subsidies" is used in a broader sense to encompass all payments made by the state to the churches based on laws or contracts (approximately 19 billion euros per year). In a narrower sense, it refers only to payment obligations derived from purportedly historical legal titles that were incorporated into the Basic Law via Article 140 (a total of approximately 550 million euros). To help clarify the potential confusion surrounding the term, state subsidies (in the narrower sense), which consist of two parts, should be more precisely defined: Subsidies for the salaries of clergy are hereinafter referred to as state grants, while the obligation to maintain church buildings is referred to as church building maintenance obligations.

State subsidies

In 2009, the German federal states (excluding Bremen and Hamburg) paid 442 million euros to the two major churches for personnel subsidies and "church administration."

46. Origins and Characteristics

The historical derivation and, consequently, the rationale for these state endowments is a story in itself.

Until relatively recently, I, too, accepted what is widely presented in many scholarly and ecclesiastical accounts. In terms of state church law, this can be summarized in a single sentence:

"State subsidies constitute a 'compensation for secularization' (Isensee), particularly in light of the events surrounding the Reformation and 'the' secularization at the beginning of the 19th century."[43]

Unfortunately, this account has the flaw that it does not correspond to historical facts. It is, however, a remarkable example of the success of the Church's lobbying efforts and the imagination of those who specialize in state church law.

The notion that the bishops were expropriated is already a myth. The areas in question did not belong to the Catholic Church at all; rather, they were largely imperial fiefs. In this respect, there can be no question of compensation — for what, anyway?

To speak of a secularization *of* the Catholic Church is, moreover, grossly exaggerated and factually incorrect. All Catholic institutions serving pastoral care and welfare remained in the Church's possession and were in some cases (such as the United Foundation in Trier) even better funded.

There is no mention of exactly what was allegedly secularized during the Reformation in a manner that would require compensation. Furthermore, as a Protestant regional bishop, the secular ruler was also part of the state church. Can one expropriate oneself if something still belongs to one?

47. -Reformation

The religious situation in Germany is unique in Europe in that there is no dominant religious denomination in Germany. While Protestant Lutherans dominate in Northern Europe, Catholics dominate in Central and Southern Europe, alongside which there are only religious minorities. With two equally strong denominations (currently about 29.9 percent Catholic and 29.7 percent Protestant), Germany is a special case. This situation arose in the 16th century.

In the Peace of Augsburg (1555), the Catholic and Protestant territorial princes sought to find a compromise for the situation of confessional division that had arisen in the Holy Roman Empire, one that established a constitutional order and balance of power acceptable to both sides. The most important principle here was "cuius regio, eius religio" ("Whose realm, his religion"), whereby the sovereign imposed his own religion on his subjects.

However, by order of the (Catholic) Emperor, the so-called ecclesiastical territories were exempt from this principle. This meant for all ecclesiastical territories: If a Catholic bishop or abbot converted to Protestantism, he had to relinquish all secular claims to sovereignty, as this secular

claim would otherwise have fallen to the (Protestant) sovereigns and regional bishops.

48. Greater separation of church and state

The modern idea of a separation of state and church authority, which was theologically legitimized by the biblical saying, "Render to Caesar the things that are Caesar's, and to God the things that are God's" (Matthew 22:21; Mark 12:17; Luke 20:25), remained, however, incomplete. The archaic "Caesaropapism" (secular and spiritual rule in one person) continued to exist in parts of Germany, namely in the Catholic territories of the (arch)bishops in Cologne, Trier, Mainz, Münster, Paderborn, etc. This corresponded to a medieval form of rule that exists today only in the Vatican.

The Reformation and the growing Catholic Counter-Reformation led to the confessionalization of Germany, i.e., to a conflict between Catholic and Protestant princes that could no longer be balanced by imperial authority or the emperor. Now, three hundred years later, the time had come to reform the outdated territorial remnants in a further step, to reorganize the German patchwork of small states, and to remove the Catholic Church's claims to power from secular rule.

The French Revolution, which served as the starting point for a fundamental modernization of the French conception of the state and led to the formulation of civil rights (Code Civil), brought about the end of these diverse facets of the Middle Ages in Germany as well.

In August 1789, the French National Assembly had abolished all existing feudal systems, and Napoleon was able to extend this modernization to the Holy Roman Empire of the German Nation by having the two dominant German territorial powers—Austria (Catholic) and Prussia (Protestant)—adopt the French measures. Thus, alongside other reforms, such as the abolition of the Imperial Knighthood
and others, the existence of ecclesiastical territories in Germany was finally brought to an end in 1803. From a constitutional standpoint, this was correct in all cases, provided that these ecclesiastical territories were imperial fiefs, which the Emperor could also reclaim and grant to others.

49. Imperial fiefs

How these ecclesiastical territories came into being as imperial fiefs can be illustrated by a summary of the founding history of the Diocese of Bamberg (here as presented by the diocese itself):

"The Diocese of Bamberg was founded at the initiative of King Henry II at the Imperial Synod in Frankfurt [1007]. Henry sought, on the one hand, to continue the tradition of his predecessors regarding the establishment of dioceses and, on the other hand, to evangelize the Slavs along the Upper Main from Bamberg and to create a political counterweight to the Margraves of Schweinfurt. The dioceses of Würzburg and Eichstätt were required to cede land to the newly founded diocese. The royal estates in the Rangau, Volkfeld, and Radenzgau regions—including the towns of Langenzenn, Herzogenaurach, Büchenbach, Fürth, Forchheim, and Hallstadt—formed the foundation of the Bamberg diocese's lands. In addition, the former fiefs of the Margraves of Schweinfurt—Amberg, Hersbruck, Rötz-Schwarzfeld, Beilngries, and Schlopp—were added in the north."[44]

Even if the Diocese of Bamberg was able to expand its territory through its own activities in the eastward colonization, it would in any case be necessary to examine to what extent the granting of fiefs under the suzerainty of the Empire and the Emperor served as the basis and legal foundation for this.

At the very least, it is already clear from the official founding history that the territory of the Bishop of Bamberg was primarily a conglomerate of fiefs and was thus in the possession but not the ownership of the Catholic Church — and therefore could not be expropriated.

50. Secularization of the Bishopric

With the secularization of the monarchy, the Electorates of Cologne, Mainz, and Trier ceased to exist, thereby ending the Church's direct influence over the election of the emperor. Until then, bishoprics had been reserved exclusively for members of the nobility. It was, therefore, a political struggle within the German nobility; the people merely changed rulers.

There was no compensation, except that the secular princes granted their equally noble colleagues in the bishoprics and their immediate court an "ad personam" appanage. It would have been beneath their dignity to cast the noble bishops out as beggars, where they would have been reduced to the same status as the non-noble monks and nuns of the secularized monasteries who had been sent out onto the streets as destitute beggars.

The "Imperial Deputation Main Resolution" states the following on this matter:

"§ 48. All retiring regents retain their personal dignity with the rank dependent thereon and the continued enjoyment of their personal immediacy."
"§ 50. All retiring ecclesiastical rulers are to be provided, according to their various ranks, with a free residence for life, furnished and equipped with tableware, commensurate with their rank and status; the prince-bishops and prince-abbots of the first rank are also to be assigned a summer residence; whereby it goes without saying that the furniture belonging specifically to them shall remain entirely in their possession, but that which belongs to the state shall revert to it upon their death."

The arbitrary nature of the decisions at the time is also evident in the different treatment of imperial knights and the higher clergy.

The Imperial Knighthood was a community of free nobles (comprising some 350 families of the lower nobility with approximately 450,000 subjects). They were directly subject to the emperor but had no seat in the Imperial Diet. Their territories were mediatized—that is, incorporated into larger territories—without their receiving any compensation for this.

These examples indicate that historical contexts must be taken into account. Based on contemporary notions and regulations of legitimate state authority, it may make us shudder today to see how individually and arbitrarily princes and princesses at the time enforced their rights, haggled, annexed, plundered, and entered into agreements as they saw fit in terms of power politics, leaving the defeated party at a disadvantage. Nevertheless, the question arises as to whether legal continuity can be established from the legal concepts of that time to our current regulations. For the mere continuation of existing treaties in favor of deposed feudal lords through the various German forms of government can hardly be a legal basis that remains binding today.

In 1918–19, Germany achieved the political transition from monarchy to parliamentary democracy, i.e., the replacement of the nobility as rulers. However, the parallel transition from a state church to a church separated from the state was not fully realized. And the fact that rights still exist in today's democracy that can only be explained by the feudal privileges of the feudal structures of a bygone era speaks for itself regarding the clergy's success in defending these feudal rights.

51. "Protestant" State endowments

Since there were no "ecclesiastical" territories governed by Protestant pastors, the Protestant Church of "1803" was not affected. However, even if that had been the case, it would also have raised a legally tricky question: whether a Protestant sovereign (as in Brandenburg), who was also the head of the church as regional bishop, could have treated his own regional church unfavourably at all.

In Germany, a peculiar parity applies. If one church receives something, the other is also entitled to it. This is an expression of the religious mix of the territorial states that emerged in the 19th century—Protestant Prussia acquired Catholic territories as part of its state territory after 1803 and 1815. The kings and princes, intent on maintaining a balance, felt compelled to treat both denominations "equally."

However, today's state subsidies to the Protestant regional churches are derived from the entitlements of officials of the former Protestant state church (even after the revolution of 1918–19 and the abolition of the state church by the Weimar Constitution). As a result of these claims—which were not rejected or were at least limited to a transitional phase—the "earmarked subsidies for church personnel costs and for the general needs of church administration (pastoral salaries and church governance purposes)" must continue to be paid by the state—as was previously the case for state church officials—even though there is no longer a Protestant state church.

52. Personnel Subsidies and Adjustment Clauses

Since these are largely personnel subsidies, these agreements—now all enshrined (in violation of the Basic Law, as they should be repealed) in state-church treaties and concordats—are linked to the salaries of state civil servants. The state treaties with the churches all contain a so-called "adjustment clause," which states (using Mecklenburg-Western Pomerania as an example):

> "If the salaries of civil servants in state service change, the total subsidy changes accordingly. The starting position for the higher general administrative service (salary grade A 13 of the Federal Salary Act, 7th seniority level) serves as the basis for calculation."

What this means in practice is specified in detail in the 2009/2010 budget of Schleswig-Holstein. Section 03 03, Title 684 01:

"The North Elbian Evangelical Lutheran Church receives a base amount of 1,483,000 euros pursuant to the State Church Agreement of April 23, 1957. In line with current civil servant pay scales, this amount has since (2009) been increased by 9,821,600 euros or (2010) 10,315,400 euros; that is, the amount to be paid out (2009) is 11,304,600 euros and (2010) 11,798,400 euros."

From 1.5 million to 11.8 million in just over fifty years. Impressive. However, the State Court of Auditors in Schleswig-Holstein felt this went far too far. In a situation where the heavily indebted state is forced to make significant budget cuts, the state auditors had already criticized in their 2007 remarks[45] that while the membership of the North Elbian Church was steadily declining, state subsidies were constantly increasing. At the very least, according to the State Court of Auditors, the adjustment clause should be suspended. In the State Court of Auditors' 2010 report[46], it was then noted that the state government and the state parliament had failed to address the issue:

"The Schleswig-Holstein Church Agreement has remained unchanged since 1957. State subsidies to the North Elbe Church have not been reduced. The basis for calculating state subsidies must be changed."

In doing so, the State Court of Auditors of Schleswig-Holstein identified an issue that has not been regulated in any other state-church treaty or concordat: the linking of personnel subsidies to the churches with the number of church members to be served. If membership numbers decline, the subsidies must decrease in parallel.

53. Salaries of bishops and high-clergy

The core component of these state subsidies was originally the maintenance of the high clergy—referred to even today as the "Most Reverend Lords"—who were necessary for political legitimacy.

If you ask ordinary believers, for example in Cologne, who pays the archbishop's salary, almost all of them will say, "From church taxes!" But that is not the case—or is it? Has the separation of church and state already been implemented there, and no one has noticed? So, once again: Who pays the Archbishop of Cologne?

The incumbent himself, Cardinal Julius Meisner, said the following in an interview in December 2008:

"High-ranking Catholic and Protestant clergy are not paid from church tax funds, nor—as in Bavaria—directly by the state. The churches receive a lumpsum

'endowment' from the state of North Rhine-Westphalia. This is based on a compensation obligation for the complete expropriation of church property during secularization. For the Archdiocese of Cologne, this amounts to around 1.4 million euros per year—which corresponds to 0.3 percent of church tax revenue. The calculation is based on a staffing formula according to which the Archbishop of Cologne would be entitled to a salary comparable to that of a State Secretary in pay grade B 11 (base salary €10,653.81)."[47]

Apart from the factual, persistent misrepresentation of the "complete expropriation," the facts are clear for Bavaria: Archbishop Marx is classified at pay grade B 11 (entry level, unmarried, no children, local allowance 2), as listed below ("Payments in Bavaria"). And in the Archdiocese of Cologne? It is clear that, according to his own statements, Cardinal Meisner receives 127,845.72 euros per year—but from whom? When he looks at his bank statement, does it list the state treasury as the payer who transferred the money — as is the case with Archbishop Marx in Munich — or does it list the archdiocese's treasury instead? Wrong? Correct! So, it is quite clear that he is not paid by the state, because then the state would have to be listed as the payer on his bank statement. But it isn't.

Now, of course, one might shake one's head and smile at this camouflage—if it didn't express a fundamentally hypocritical principle. The cardinal seriously believes that he is not being paid "directly by the state" if, technically speaking, a church transfer agency is still involved in the process.

However, the fact that this narrative is common among Catholic leadership was also evident when, on the ARD program Hart aber fair (March 17, 2004), Green Party politician and then-Deputy Minister-President Michael Vesper (a professing Catholic; his brother is secretary-general of the Central Committee of German Catholics) also emphasized that the archbishop is not paid by the state. When host Frank Plasberg smiled as he reached into the two outer pockets of his jacket and remarked, "Yes, I know: right pocket and left pocket!" he had the audience in stitches.

However, this peculiar view—in which one apparently denies to oneself that one receives one's salary from the state via tax dollars—is not unique to the Catholic archbishop. The then-Protestant regional bishop in Bavaria, Hermann Dietzfelbiger, who was also chairman of the EKD Council at the time, was asked about his salary in a 1969 interview with Der Spiegel and replied candidly:

"Dietzfelbinger: The salary of a regional bishop is a state benefit stipulated in the state treaty and paid as a lump sum to the regional church. So I don't receive my money directly from the state...
Spiegel: ... not directly from the state ...
Dietzfelbinger: ... but from the regional church. The salary of a regional bishop corresponds to that of a civil servant in pay grade B 9, which used to be a Bavarian State Councilor. The base salary is [DM] 52,734.60 [per year] ..."[48]

According to Article 4a of the updated Bavarian "Law on the Remuneration of Archbishops, Bishops, and Members of Cathedral Chapters, as well as on Subsidies for Personnel Expenses" (ErzbischofBezG BY), the Protestant regional bishop receives the remuneration of a civil servant in pay grade B 10. (In 2010, this amounts to a base salary of €10,614.88 per month.)

54. Payments from the federal states

These state subsidies are listed in the budgets of the federal states, usually (only) as a total amount per major church. They are summarized here. The figures in millions of euros for 2009: Baden-Württemberg: 98.9 / Bavaria: 86.6 / Berlin: 10.6 / Brandenburg: 11.2 / Hesse: 41.8 / Mecklenburg-Western Pomerania: 9.8 / Lower Saxony: 38.2 / North Rhine-Westphalia: 20.7 / Rhineland-Palatinate: 47.8 / Saarland: 0.7 / Saxony: 19.4 / Saxony-Anhalt: 25.4 / Schleswig-Holstein: 12.0 / Thuringia: 19.1. The total amount is 442 million euros. (Exact figures in the appendix, Overview 1.)

To answer the question of which federal state is the most generous in providing these direct personnel subsidies to the two major Christian churches, one can calculate the total amount of these state subsidies per capita. The frontrunner (at €11.88 per resident) is not, as some might have assumed, the Free State of Bavaria, but rather the state of Rhineland-Palatinate. Well, one might think, that's old Catholic territory. But that's misleading, because the state in second place is the predominantly atheist Saxony-Anhalt (€10.67), followed by Baden-Württemberg in third (€9.21), Thuringia in fourth (€8.42), and only then, in fifth place, comes Bavaria (€6.92). The national average in Germany is 5.40 euros per resident.

On the one hand, these sums don't seem like much when you consider the total government funding provided to the churches, their institutions, and their members. On the other hand: Just take a walk through the streets

and have every German citizen hand you five euros, and you'll have the 442 million.

In keeping with Hanseatic tradition, the states of Hamburg and Bremen (so far) pay no state subsidies. When the Archdiocese of Hamburg was reestablished in 1994 and the Catholic Church informally inquired about the possibility of state funding or subsidies, the then-mayor of Hamburg, Henning Voscherau, is said to have remarked: "In the last 800 years, we have never voluntarily provided financial support to third parties."

55. Payments in the Free State of Bavaria

Only in the Free State of Bavaria are the recipients of the approximately 87 million euros in Bavarian state subsidies listed in detail in the budget. The estimates for 2010[49]:

Catholic Church: Annual pensions for the 7 archbishops and bishops: €788,500 / Salary supplements for 12 auxiliary bishops: €114,500 / Annual pensions for the 14 dignitaries
€1,018,500 / Annual pensions of the 60 canons €4,215,000 / Annual pensions of the 42 cathedral vicars €2,277,500 / Service allowance for the 7 vicars general €29,500 / Service allowance for the 2 full-time and 5 part-time episcopal secretaries €50,500 / Supplement to the income of the 7 Ordinariate officials €182,000 / Supplement to the income of 7 sacristans at the cathedral churches € 172,500 / Contributions to supplement the income of the 15 directors and 33 educators at the episcopal seminaries for priests and boys € 688,500 / Benefits for parish priests, preachers, beneficiates, and chaplains €570,000 / Benefits for sacristans and other church servants €16,000 / Subsidies to hermitages €10,369,000 / Pensions and support for clergy without entitlement to benefits from the hermitage € 3,370,000 / Subsidy for the salaries of pastoral clergy € 39,660,000 / Contributions toward the material needs of the ordinariates € 332,300 / Contributions toward the material needs of the cathedrals € 1,500,00 / Contributions toward the maintenance of diocesan seminaries for priests and boys € 163,600 / Mandatory contributions to church foundations € 1,600 / Contributions toward the material needs of churches € 14,700 / Extraordinary needs of individual church foundations and parishes (organs, bells, clocks, etc.) € 130,000. Total: € 65,664,200.

Protestant Church: Personnel expenses – lump sum – of the Regional Church Council €1,695,000 / Pension plan for church officials of the Regional Church Council €339,000 / Benefits for pastors, preachers, and vicars €112,200 / Benefits for church servants €900 / Subsidy for the salaries of pastoral ministers €14,835,000 / Subsidy for retirement and survivor benefits for pastoral ministers €4,385,000 / Subsidy for the costs of the Regional Synod and the Regional Synod Committee €10,300 / Material needs – lump sum – of the Regional Church Council € 112,500 /

Extraordinary needs of individual church foundations and parishes (organs, bells, clocks, etc.) € 76,000. Total: € 21,565,900.

In total, the State of Bavaria paid approximately 87 million euros (87,230,100) in state subsidies to the Roman Catholic and Evangelical Lutheran Churches in Bavaria in 2010.

In 2010, Bavaria will spend an additional 32,464,100 euros on the upkeep, management, and preservation of church buildings owned by the state and by the churches. (For details, see the following chapter on church building expenses.)

In total, the Free State of Bavaria will provide approximately 120 million euros (119,694,200) to religious and ideological communities in the state in 2010, of which the two major official churches will receive the lion's share of 119.7 million euros (99.6%). (A further total of 505,500 euros.)

In other federal states, such as Hesse under CDU Minister-President Roland Koch, the Ministry of Culture's budget has not published any breakdowns by religious community since 2006. Only a total sum is now listed. Who really wants to know the individual amounts in such detail?

56. Consolidation Between the State and the Church

In early October 2009, a report in the *Süddeutsche Zeitung* caught people's attention: The headline and summary read: "Settlement between the state and the Church. Bavaria will no longer have to pay for apartments and official residences for bishops and members of the cathedral chapters."[50] And the text continued:

"The Bavarian state and the Catholic Church intend to disentangle part of their historically developed relationship. Following three years of negotiations, a package of agreements and a draft bill has been prepared to this end, set to take effect at the turn of the year. The issue was brought before the state parliament on Tuesday. [...] According to church sources, the Vatican had already approved the voluntary agreement."

But anyone who thinks this means that the relationship between church and state has been severed—that is, ended—is completely mistaken, because the text goes on to state, in accordance with reality:

"Because the state is permanently relinquishing its obligation to provide housing, it will no longer deduct costs for official residences from the salaries of senior clergy. State expenditures for the salaries of bishops and members of cathedral chapters, currently amounting to approximately 8.4 million euros per year, will thus increase by a good half a million euros. To offset these additional costs, the Church is contributing a one-time payment of 14.5 million euros to the overall plan. However, this will be offset by compensation payments from the state. Negotiators on both sides described it as a balanced solution."

So — with all these words, who can still figure out what this is all about? Here's a simplified recap: The churches are being given the houses and apartments previously paid for by the state, and instead of calculating and deducting the monetary value of the housing provided, the state is now paying an additional 500,000 euros in rent to senior clergy. Only the churches know what's fair about that.

57. Administrative burden

These payments don't just come from "nowhere." They have to be calculated and verified; negotiations take place with the recipients, and discussions are held. In other words, this requires an organized administrative system on the part of the state.

In its budget, the State of Berlin has published a "product description for services provided to churches, religious communities, and communities based on other worldviews." This includes state subsidies, grants for cultural activities, state payments for religious and worldview education, and—this is the new element—the administrative costs for this "product area." The costs for this area amounted (in 2008) to a total of 71 million euros (71,702,162), which also includes administrative costs of 950,881 euros. In other words: these administrative costs must be added to the reported state payments in Berlin.

In Hesse, which has also switched to this new method of accounting for the state budget ("double-entry accounting"), the administrative costs incurred by religious communities' amount to 235,000 euros.

These costs vary from state to state, but the total is likely to be around 8 million euros. This makes it clear that these government payments do not come for free and that administrative costs are incurred, which the state would have to bear in the event of a complete separation of church and

state. By 2013, all federal states are expected to have switched to this double-entry accounting system. Then we will see more details.

Church Building Costs

Based on an incomplete overview, at least around 100 million euros are spent annually on this portion of state funding by the federal states. However, not all properties are included in the data, and maintenance costs also vary from year to year.

58. "Cura religionis"

One might argue that with the advent of parliamentary democracy in Germany in 1918–19, and with the end of the state church, the "cura religionis" (state-mandated care) of the sovereigns for the churches also came to an end, since it stems from a feudal, pre-democratic understanding. However, this view is currently quite isolated, as the prevailing opinion among scholars of state church law holds the opposite. Thus, the mandate to replace state subsidies has been transformed into a guarantee of continued existence, for one can ultimately only abolish what actually exists.

In addition to the personnel subsidies described above, state endowments based on historical legal titles—for which the state is currently said to have a payment obligation—also include so-called building obligations, i.e., costs that the state must pay for the maintenance, renovation, and preservation of church buildings. (Voluntary payments are described in the chapter on historic preservation (page 194 ff.) and construction grants (page 198 ff.).)

The legal bases for these vary greatly. Some actually date back to the Secularization of 1803 (the state's obligation to maintain cathedral churches), some were agreed upon in later state-church treaties, and some represent the continuation of "fiscal patronage" by the ruling princes of the time. The Bavarian Supreme Court of Auditors writes the following in its 2005 Annual Report:

"Fundamentals of the State's Obligation to Maintain Buildings: As a result of secularization in 1803, the state assumed responsibility for the maintenance of churches and other church buildings (parish buildings, etc.). The relevant provisions date in part back to the Council of Trent (1545 to 1563), the Ansbach Consistorial Ordinance of 1594, Bavarian state law, or the Prussian General Land Law.

In some cases, local customary law (observances), judicial settlements/decisions, or special regulations of former sovereigns must be observed."[51]

This also explains why it is said that the Church thinks in terms of centuries and evidently keeps the documents in its archives that have since been presented anew to those in charge in every political system as obligations: "Hello there, contracts must be honoured."

In the historical patronage system—where the ruler was the patron of the church—the patron (today the state governments) also ensured the maintenance of church buildings, i.e., he bore the construction costs.

The State Church Agreements contain two contradictory provisions: On the one hand, it is agreed that the state must now pay a fixed annual sum "in lieu of all monetary and in-kind contributions arising from the state's obligations to maintain church-owned buildings." At the same time, it is agreed that "existing patronage rights are abolished."

59. Payments by the federal states

Bavaria lists the subsidies for church building obligations in a structured manner. On the one hand, by church buildings owned by the state, and on the other hand, by church buildings (owned by the church) "for which, due to special legal titles, the state bears the primary or subsidiary building obligation." "Primary" means that the state pays for everything; "subsidiary" means that the state pays only if the church cannot finance it itself. In 2009, a total of 38.5 million euros was spent on this.

This includes 163,000 euros for the payment of the "Property taxes; street cleaning fees; fire insurance policies; chimney sweeping fees; water charges; expenses for electricity, etc." as well as an additional 5.9 million euros in agreed lump-sum payments and 3.6 million euros in estimated costs for repair work on the cathedrals in Augsburg (460,000), Bamberg (650,000), Eichstätt (100,000), Munich (500,000), Passau (495,000), Regensburg (1.2 million), Würzburg (25,000), and for the cathedral in Freising (160,000).

Bavaria is paying 9.7 million euros for building construction work on state-owned church buildings and 7.6 million euros in grants for construction obligations on individual church buildings. This includes the complete renovation of the monastery church in Altomünster, the restoration of the Catholic parish church in Attel, and the complete restoration of the

Catholic parish church in Berndried. A total of 43 churches, including the complete renovations of the Evangelical Lutheran city church in Bayreuth and the Evangelical Lutheran church in Kulmbach.

And outside of Bavaria? Are you familiar with Fulda Cathedral? A magnificent structure, home to the tomb of "Boniface, Bishop of the Germans," among other things. Who owns the church? The cathedral is a separate legal entity, represented by the cathedral chapter, so it belongs "to itself." Does it have the money to pay for maintenance and upkeep? No, it doesn't, and it doesn't need to. The responsibility for the building lies primarily with the state.

"In the year 2000, we reached a project total of 15.6 million DM for our property, which for a long time was borne in equal thirds by the Federal Republic of Germany, the State of Hesse, and the Catholic Church."[52]

This example can be applied to many other large churches in Germany. It is not an exception that the restoration and maintenance of churches are paid for exclusively by the state.

Other examples include Limburg Cathedral, the Theatinerkirche and the Salvatorkirche in Munich, the church at Andechs Abbey, and the tower of St. Nicholas' Church in Hamburg. This also applies to former churches that, to the casual observer from the outside, still appear to be active places of worship: The "German Cathedral" on Gendarmenmarkt and St. Nicholas Church in Berlin's Nikolaiviertel are now both state-owned and serve as exhibition spaces and museums, respectively.

Other federal states also continue to pay based on contractual obligations. Baden-Württemberg pays €11.1 million, including an annual installment of €1.8 million for the restoration of the Catholic cathedral in Konstanz, whose total costs are estimated at €31.8 million. Brandenburg pays €2.9 million, Mecklenburg-Western Pomerania €3.3 million, Lower Saxony €22,000, and Rhineland-Palatinate €460,200 (as an annual installment for the €4.2 million renovation and restoration of the Cathedral in Speyer). This is a snapshot of €53.7 million for 2009, a figure that varies from year to year.

60. Churches and Rectories

This does not only concern church buildings. Pastoral care also includes the pastor, and so the patron at the time also had to take care of the maintenance of the parsonages.

Baden-Württemberg

In Baden-Württemberg, there are (as of 2008) construction obligations for approximately 1,100 "Church-owned buildings subject to encumbrances," 533 of which are occupied parsonages subject to a state-mandated obligation to maintain the buildings. The legal basis for this includes the Baden Building Edict of 1808 and the Complex Encumbrances Redemption Act of 1865. Many of these redemptions and disputes from the mid-19th century are documented in the Baden-Württemberg State Archives.[53] The state spends approximately four million euros annually on the building obligations for the parsonages. This covers the parsonage buildings "as-is" and the five most frequently used rooms. However, the regional church must finance all modernizations itself.

To reduce this financial burden, the state government has begun, where it meets with approval, to redeem these construction obligations, i.e., to terminate them. It allocates 300,000 euros annually in the state budget for this purpose. The regional church, however, is reportedly not all too inclined to agree to this. Why should it give up a "perpetual claim" in exchange for a one-time payment?

Bavaria

The situation in Bavaria is not much different. The Bavarian Supreme Court of Auditors tallied the total volume involved in its 2005 annual report:

"A total of 1,783 church-owned and 126 state-owned buildings are subject to state building regulations. These include 649 churches, 648 parsonages, and other church buildings such as sacristies, deanery buildings, outbuildings, and garages, including fences. The buildings comprise a usable floor area of approximately 600,000 m² and a total enclosed volume of approximately 7,000,000 m³."

According to the State Court of Auditors, the bureaucratic burden on the Free State is immense because the matter is legally complex. It recommended that the state government assume responsibility for the construction costs. In Bavaria, this process is handled in a straightforward manner, and an agreement was reached after several years of negotiations. The Catholic Church has received (since 2007) an annual lump sum of 2 million euros and a buyout payment of 100,000 euros per parish house. The Protestant Regional Church has received (since 2010) an annual lump sum of 1.5 million euros, and the buyout amount per parish building is 85,000 euros. In addition, the Free State pays one million euros (in four annual instalments) for the remediation of environmental contamination and improvements to the building's thermal insulation.

This buyout option is being utilized, and in 2009 a total of 6 million euros was allocated to terminate the building obligations for 53 buildings.

61. -State Personnel Expenses

The material financial costs are already included in the budgets of the federal states, but not the state's personnel costs. In its thorough investigation, the Bavarian State Court of Auditors determined the personnel costs required to process these numerous transactions:

"State personnel costs: In 2001, state building authority duties were handled by 358 employees at the building authorities, 35 at the state governments, and (excluding staff at church-run offices). The total workload corresponds to 78 full-time employees and is significantly higher than for other state construction projects. One full-time employee oversees an average of 380,000 euros in construction expenditures, compared to 500,000 euros in other state sectors."[54]

In other words: This government personnel expenditure must be added to the material construction obligations as a government service. For Bavaria, with 78 full-time positions (at 60,000 euros each), this would amount to an additional 4.7 million euros per year. A similar order of magnitude can be assumed for Baden-Württemberg.

62. Municipal Church construction obligations

By the end of 2003, some people had the surprising impression that Roland Koch, the Christian Democratic Minister-President of Hesse, was looking to pick a fight with the churches. The state of Hesse had announced that municipal church building obligations were to be settled and thus terminated. These obligations involved state-funded construction costs for 1,200 churches and parsonages in Hesse. Yet such actions should always set off alarm bells for sceptics, prompting the question of what the actual purpose is.

The mandate to settle church building obligations as part of historical state payments clearly applies, under constitutional law regarding religion, only to the states that pay them and to the federal government, which is to formulate the principles for the settlement. There is no mention of the municipalities, and thus there are only state treaties with the federal states regarding historical state payments. There is no automatic mechanism for municipal building obligations.

Following various territorial reforms in the old federal states, in which larger "joint municipalities" were formed, there were repeated disputes between churches and municipalities over the question of whether the new local authority was required to assume the old obligations and contracts.

In Hesse, too, municipal church building obligations and the issue of "reliance" on local governments and funding by cities and municipalities had become increasingly contentious. Consequently, a framework agreement was reached in December 2003 [55]to avoid further legal disputes "and to resolve the question of who bears the costs for the maintenance of the approximately 1,200 churches and parsonages in a mutually agreed and binding manner."

The churches had calculated the encumbrances on these buildings to total 315.1 million euros and were prepared to waive 75 percent of the capitalized values for parsonages and 50 percent for other church buildings. That alone was surprising and indicates that they had no clear legal claim. Half of the buyout payment of up to 150 million euros to the churches resulting from the new agreement will be supported by 56.3 million euros in financial assistance from the Municipal Financial Equalization Fund and 18.7 million euros from Hessian state funds. This compensation is to be paid out over a period of ten years, which means an average annual cost to the state of around 15 million euros. The whole purpose of this is to ensure that the churches will receive nothing in the future.

63. Examples of case law from the Federal Constitutional Court

This issue has also already been addressed by the highest court for the new federal states. According to a decision by the Federal Administrative Court in Leipzig (in December 2008), for example, the contractually established church building obligations of the former municipalities in the former GDR were not transferred to the municipalities established after reunification but rather expired upon the entry into force of the Unification Treaty. The ruling had very clearly outlined the prerequisites:

"Whatever the reasons may have been for the original establishment of municipal church building obligations, they all share a common background: The residents of the municipality were, for the most part, entirely or largely identical to the members of the church congregation. There were generally none or only very few

residents of other denominations. Under these circumstances, the fact that they had to contribute indirectly to the financing of places of worship belonging to other denominations—from their perspective—through their share of the parish's financial burden could be disregarded. In this respect, conditions in the Federal Republic of Germany and in the GDR developed in completely different ways. In the Federal Republic, although initially due to flight and expulsion from the East and later due to general mobility, denominational cohesion in the parishes has given way to a greater mix of denominations. However, this cannot be compared to the development in the GDR. As the parties involved unanimously stated regarding Thuringia, the number of members of a church there is significantly less than one-third of the total population. In other federal states within the territory of the former GDR, the decline is even more pronounced. This raises the question of whether contractually agreed church building obligations have not lapsed due to a substantial change in circumstances at the time the contracts were concluded, because adherence to the contracts has become unreasonable for the obligated party."[56]

The representative of the Council of the Evangelical Church in Germany to the Federal Republic of Germany and the European Union, Prelate Dr. Bernhard Felmberg, has no sympathy for this argument, because:

"This puts the preservation of many historic churches at risk, and not just in Thuringia. Leaving the maintenance of church buildings solely to the parishes will undoubtedly overwhelm them. The irony of the situation is that, despite its anti-church policies, the GDR generally complied with the municipal building maintenance obligations that have been in effect since the 19th century.
The ruling of the Federal Administrative Court has, of all things, used the peaceful revolution of 1989 and the transition of the new federal states to democracy, the rule of law, and the protection of freedom and property as an opportunity to inflict a deep rift in the relationship between state and church regarding the status of church property. It is incomprehensible that the building obligations should have lapsed precisely as a result of the transition to the scope of the Basic Law. [...] I consider it unacceptable that the state should be completely relieved of its obligations in this matter."[57]

This view could serve as a prime example of the entire issue of the relationship between church and state. It demonstrates with striking clarity the Church's sense of entitlement, its ignorance of historical changes, its unwavering demand for state benefits funded by general tax revenues, and its alienation from any notion that the Church, too, is responsible for its own affairs—along with its members—and should come up with its own solutions in a self-determined manner.

It doesn't take much imagination to picture the mindset with which this man, as the EKD's chief lobbyist, conducts himself in the political circles of Berlin and Brussels.

There are numerous legal disputes surrounding municipal church construction obligations. The legal basis is very complicated, because in 2009 the Federal Administrative Court ruled, on the one hand, that the church building obligations agreed upon before the founding of the GDR had not been transferred to the newly established local authorities—thereby exempting all municipalities in the new federal states from this legal obligation to assume church building obligations. However, the same court ruled two months later that in Baden-Württemberg, the municipal obligation to fund church buildings remains in effect. The city of Brühl had refused to cover one million euros for a church renovation, arguing that social and political conditions had changed so drastically since 1868 that these obligations could no longer be reasonably expected today.

Just how thoroughly and in detail these issues were examined from a legal perspective is illustrated by several additional examples over the decades. In 1957, the Higher Regional Court of Celle ruled:

"If, following secularization, the state has assumed responsibility for the ongoing maintenance and operational costs of a cathedral, this constitutes an obligation to ensure that the bishop always has a church suitable for worship at his disposal. In the event of the cathedral's total destruction, this means that the state must bear the costs of reconstruction. The Tridentine building obligation and corresponding regulations also cover destruction caused by World War II."[58]

In 1967, the Higher Administrative Court of Münster ruled on the scope of the obligation to maintain the parsonage:

"Under the church's obligation to provide housing as stipulated in the Prussian General Land Law, the patron is not required to bear the costs of providing alternative housing for the pastor during the necessary renovation of the parsonage."

And in 1973, the Bavarian Administrative Court ruled on the continued validity of the patron's building obligation:

"The provisions of the Prussian General Land Law regarding the patron's subsidiary obligation to provide church housing are applicable law in the former Prussian territories of Ansbach-Bayreuth to the extent that the laws of the Principality of Ansbach-Bayreuth, in particular the Ansbach Consistorial Ordinance of January 21, 1594, do not apply."

However, in 1991, the Würzburg Administrative Court provided a clear and concise ruling on chimney sweeping fees:

"The entity responsible for the construction of the parsonage is not obligated to cover the chimney sweeping fees."

It is precisely these small details that reveal underlying attitudes. Another such noteworthy detail is when the Bavarian Supreme Court of Auditors writes:

"Labor and transportation services: According to building obligation guidelines, church legal entities are required to provide certain labor and transportation services. To fulfill this obligation, the churches cover 5% of the construction costs themselves. In some cases, the state is unaware of which properties are subject to this obligation. This results in unnecessary expenditures for the state."[59]

The multitude of construction obligations paid at the municipal level would constitute a field of research in its own right. To illustrate this, the figures for Frankfurt am Main are listed here. Between 2008 and 2011, the city paid for "Church Affairs" [60] 3 million euros for exterior repairs and 6.5 million euros for interior renovation of St. Leonhard's Church; 780,000 euros for the construction of a new organ at Liebfrauen Church; and 1.6 million euros as a grant for the conversion of St. Peter's Church into a youth cultural center. The roof and facade renovation of Dreikönigskirche will cost 2.2 million euros, and the roof renovation of St. Bartholomäus Cathedral (in the second construction phase) will cost 300,000 euros. That amounts to a total of 14.4 million euros over four years, or an average of 3.6 million euros per year. Additional funding is required for 2008: 114,500 euros for half of the operating costs of the Cathedral Treasury and 84,500 euros for further endowment obligations. Added to this is an annual expense of 1.6 million euros for insurance, grounds maintenance, and electricity and heating costs for the Dominican monastery, the Cathedral rectory, the Bonames rectory, and St. Leonhard's Church. For the year 2008, this amounts to a total of 5.4 million euros for the City of Frankfurt, based on endowment deeds from the years 1830 and 1854.

64. Conclusion: Responsibility for church construction

The reported payments made by the federal states and municipalities to the churches amount to 94.1 million euros. However, since only a few federal states and municipalities were included in the survey, this figure can be rounded up to approximately 100 million euros per year.

Replacement of State Subsidies

The imbalance in the relationship between the state and the churches is particularly well illustrated by the question of the replacement of state subsidies, for at the same time as the state church was abolished, the Weimar National Assembly formulated the constitutional mandate in 1919: These state subsidies are to be replaced. The relevant constitutional text reads (WRV Art. 138 1):

"State subsidies to religious communities based on law, contract, or special legal titles shall be replaced by state legislation. The principles governing this shall be established by the Reich."

This mandate is clear, comprehensive, and unambiguous. Any interpretations suggesting that it should be understood differently in the interest of the churches distort its content and intent.

65. Replacement Order

More recent scholars of state church law, such as Michael Droege, even speak of an unambiguous "order to replace" and regard the failure to implement it thus far as an "annoying oversight."[61]

During the revolutionary transition from monarchy to democracy (1918/19), parliamentarians truly had other problems and formulated a provisional transitional solution. The issue was postponed until calmer times, since the churches would also need a few years to adjust to being financed by church taxes. To protect the churches from revolutionary changes in the imperial states, the Empire was to establish the principles for the separation of these claims.

Years later, lobbyists for the Catholic Church were still concerned with clarifying a somewhat vague term in the Redemption Directive—that of the "special legal title"—by replacing it with an even vaguer but legally enforceable one. Thus, Article 18 of the Reich Concordat of 1933 expressly stipulated: "Legal custom is also included among the special legal titles." In standard German, this is called "customary law" and has a specific meaning: Everything, and I mean absolutely everything, that has been paid so far will continue to be paid—regardless of whether the legal claim is lawful, correct, valid, or not verifiable at all.

66. Free Church in a Free State

To understand the meaning of a legal norm, it is often advisable to look at the minutes of the negotiations during the drafting of this formulation. The purpose of this sole constitutional provision, in which the question of the financial separation of state and churches is directly addressed (WRV Art. 138, para. 1), was commented on by the liberal deputy Friedrich Naumann in 1919 in the Constitutional Committee of the National Assembly as follows:

"Now to the financial question. The consequence of Gröber's Motion No. 91 is that, once an inventory has been taken and the transfer of assets has been completed, the state will no longer have to allocate any funds to the churches. This outcome is what we all desire."[62]

That is unambiguous. But 2010 marked the 91st anniversary of this constitutional mandate from 1919, which has yet to be implemented. 2019 will mark the 100th anniversary. However, as SPD Member of the Bundestag Dieter Wiefelspütz put it in 2008, it is a "constitutional mandate that does not, however, contain a penalty for inaction, so that the decision to abolish state subsidies is ultimately subject to political expediency." This is how a politician might assess a constitutional mandate. Consequently, nothing has happened so far, except for the assertion by church lawyers that, if these payments were terminated, immense severance payments would be due to the churches.[63] Vague estimates are thrown around—never concretely assessed or specified—and then it is asserted "that, given the sums involved, a total abolition will never be achievable, and that therefore, in fact, only the transition to a 'perpetual annuity' could be implemented."[64]

This claim of an immense redemption sum, which is by no means mentioned in the text of the Constitution, was also used after 1989 in the New Federal States of the Federal Republic of Germany to renegotiate state-church agreements and concordats with state subsidies that were actually supposed to be terminated.

Such misguided representations are also part of the repertoire of official government policy. In the 17th legislative period of the Bundestag, in December 2009, Member of the Bundestag Raju Sharma submitted the following question:

"How and when does the Federal Government intend to fulfil the constitutional mandate set forth in Article 140 of the Basic Law (GG), in conjunction with Article 138, paragraph 1, sentence 2 of the Weimar Constitution (WRV), which has been in effect since 1919 and 1949, respectively?"

The response from the Parliamentary State Secretary at the Federal Ministry of the Interior, Dr. Ole Schröder, is initially very interesting:

"According to the prevailing view in the literature, repeal by the states first requires a basic regulation under federal law within the meaning of Article 138, paragraph 1, sentence 2 of the Weimar Constitution. However, according to the likewise prevailing view, in lieu of such a state-level regulation, replacement by agreement between the state and the religious community is also permissible."

This means that the federal government no longer needs to establish these principles at all, but that the federal states can handle this themselves if they so choose. What is then explained in conclusion, however, leaves one shaking one's head in disbelief:

"To date, the federal government has not enacted any principles pursuant to Article 138(1) of the Weimar Constitution. The following considerations were particularly decisive in this regard: In the more recent church agreements of the states, state subsidies have been newly regulated by mutual agreement and in a simplified form. In this respect, no need for action on the part of the federal legislature is seen. The financial and economic difficulties of a buyout should not be underestimated. In fulfilling their obligation to return secularized real property, the states have consistently preferred to provide a monetary annuity."[65]

Unfortunately, there is no mention of where this "obligation to return secularized real estate" might be derived. From a certain perspective, this is wise, since such an obligation has not been agreed upon anywhere and represents a figment of the imagination.

67. Redemption sums and the Imperial Deputation Main Resolution

Regarding the question of the redemption sum — assuming one holds the view that anything is still owed at all — the legal arguments are highly complex. The literature is filled with claims about figures that are sometimes inflated or not further specified, which the financial capacity of the federal states would not allow.

A close reading of the original text of this Imperial Deputation Main Resolution [66], however, leaves room for a different interpretation, which certainly requires further historical and legal examination.

The text is detailed, and its extensive provisions describe which prince is to receive which "ecclesiastical territories" to date. Right in § 1, paragraph 1, it is stipulated what

"His Majesty the Emperor, King of Hungary and Bohemia, Archduke of Austria" is entitled to the dioceses of Trento and Brixen, "with all their estates, revenues, specific possessions, rights, and privileges, without any exception." As compensation, it is stipulated: "[...] subject, however, to the obligation to provide for both the lifelong maintenance of the two currently living prince-bishops and the members of the two cathedral chapters, in accordance with an agreement to be reached with them, as well as for the subsequent endowment of the clergy to be appointed to these two dioceses, in accordance with the practice existing in the other provinces of the Austrian Monarchy."

In short: The two former prince-bishops, the members of the cathedral chapter, and the clergy employed by the dioceses received a pension to be agreed upon for the rest of their lives. Nothing more. With the death of the last recipient, these pension obligations ceased. No successors or heirs are named, nor are they provided for financially.

During their lifetimes, everything was to remain as it was for the secularized noble bishops, including a summer residence befitting their status and tableware—though the latter was reserved exclusively for prince-bishops and prince-abbots. Upon their death, this arrangement came to an end, and the furniture and tableware left to them by the state, which had been state property, were returned to the state. No successors were mentioned who, for example, would have been allowed to keep the furniture on permanent loan.

The only long-term obligation, according to Article 35 of the Imperial Deputation Main Resolution, was the permanent and lasting furnishing of the cathedral churches. This involves the assumption of specific building obligations, such as those still paid for today by the Free State of Bavaria.

In this regard, based on the Imperial Deputation Main Resolution, there is absolutely no justification for compensation or even personnel subsidies, such as the continued payment of bishops' salaries and pensions.

68. Historical Continuity

The Imperial Deputation Main Resolution should be regarded as a kind of protocol in which all territorial changes and regulations were precisely recorded. It says nothing about the legal foundations of these changes that were relevant at the time. Six comments can be made on this, all of which

boil down to the fact that no long-term right to compensation can be derived from this either.

First. The Main Conclusion is the last major law of the Holy Roman Empire of the German Nation, which was passed by the Imperial Diet in March 1803 and signed by the Emperor in April 1803. It is therefore a law that was properly enacted within the constitutional order in force at the time.

Second. The secularized ecclesiastical territories were for the most part imperial fiefs, which were granted and revoked by the emperor at his institutional discretion. They were therefore not Catholic property, but rather imperial property entrusted to the respective owners for their use, which was now being redistributed.

Thirdly. The secularizations in Germany took place under French influence. They were, so to speak, a continuation of the complete secularization already carried out in France—in the Holy Roman Empire of the German Nations, however, ownership of the parishes and welfare institutions was retained. In this respect, treaties agreed upon in France can certainly be applied to the Holy Roman Empire as well; thus, it would be significant that in the so-called "Napoleon Concordat" of 1801, in Article 13[67] renounced his property rights to the church estates secularized in France, guaranteed the new owners undisturbed possession, and thereby sanctioned this policy.

Fourth: Article 7 of the Treaty of Lunéville (1801)[68] set forth the principles governing how the German princes were to be compensated for the territories on the left bank of the Rhine that had been lost to France, principles that formed the basis of the Imperial Deputation's Main Resolution. A literal German translation of Article 7 reads:

"Art. 7. As a result of the cessions made by the (German) Empire to the French Republic, numerous princes and states of the Empire were wholly or partially expropriated; however, it should be the collective responsibility of the German Empire to bear the losses arising from the present treaty agreement. It was thus agreed between His Majesty the Emperor and King, in whose name as well as in the name of the German Empire and the French Republic, that in accordance with the principles formally established at the Congress of Rastatt, the German Empire is required to provide compensation to the expropriated hereditary princes on the left bank of the Rhine, which, originating from the treasury of the said Empire, shall be derived from the following arrangements to be made at a later date."

This refers to the compensation paid to secular rulers, not to that of the clerical prince-bishops. And by "compensation coming from the bosom of the empire," the text means the imperial fiefs, which are to be reclaimed by the emperor (the "bosom of the empire") and redistributed.

Fifth. From a democratic and enlightened perspective, as published in the B*rockhaus Encyclopedia* of 1824, it states:

"From a legal standpoint, secularization contains absolutely nothing unjust, since the ecclesiastical rulers had attained their dominion not through the will of the peoples they governed, but through mere presumption, and thus had no rightfully acquired right [...]."[69]

And *Meyers Conversations-Lexikon*, which is unlikely to be suspected of any revolutionary ideas, states in 1851 that the

"ecclesiastical rulers have generally attained their dominion and wealth against the will of the peoples they govern, through arrogance, scheming, cunning, and deceit, and the like," and therefore "no justification for the rule of the clergy can be cited, whether based on natural law or positive law."[70]

Here, the (prince) bishops are even denied any moral justification to compensation is denied.

Sixth. Under the rationalist rule of Emperor Joseph II (1741–1790), various reforms were implemented. These included the abolition of torture, serfdom, compulsory guild membership, and press censorship. He focused on promoting science, technology, and education. The dissolution of monasteries carried out on his orders beginning in 1782 was based on the premise that they were simply useless and contributed nothing to the welfare of society. This led to the dissolution in the Habsburg hereditary lands of all those monasteries that "neither ran schools, cared for the sick, preached, nor manned the confessional, nor excelled in the schools." It thus affected exclusively those monasteries in which the monks or nuns led a sort of "dissolute life." Accordingly, around 700 monasteries were dissolved in Austria in several waves.

These monastic dissolutions beginning in 1782 are regarded, following (1) the Reformation and the Peace of Augsburg and (2) the Peace of Westphalia, as a further (3) phase of secularization in Germany. The Imperial Deputation Main Resolution then represents the record of the (4.) final phase of a centuries-long effort by secular powers to free themselves from ecclesiastical and religious control and interference, thereby shedding unnecessary baggage.

69. Modernization and the Traditional Assets

The example of Karl Theodor von Dalberg, Elector and Archbishop of Mainz, illustrates how aspects of modernization and tradition intertwined in the historical context of 1803. He had lost most of his ecclesiastical territory on the left bank of the Rhine and, like his colleagues, would now have had to relinquish his secular rule over the remaining territory on the right bank as well. However, this did not happen; on the contrary, he was even granted a new "ecclesiastical territory" in the form of his own "state." This consisted primarily of the Electorate of Mainz's Principality of Aschaffenburg, the County of Wetzlar, and the Principality of Regensburg.

The explanation for this is simple: this archbishop was also the Imperial Archchancellor of the Holy Roman Empire of the German Nation and responsible for the coronation and anointing of the emperor. He was needed as long as the (first) Empire existed. After the abdication of Emperor Francis II and the end of the Empire in 1806, this last ecclesiastical territory did not last much longer. It was no longer needed after 1806 and fell to the Kingdom of Bavaria in 1814.

70. Utilitarianism and the Bavarian Concordat of 1817

In accordance with the provisions of the Imperial Deputation Main Resolution, pensions were correctly continued to be paid to the former ecclesiastical rulers until their deaths, at which point they ceased.

The (arch)bishops' sees were left vacant after the death of their incumbents, as there were no provisions whatsoever regarding how they were to be financially supported. Of the 20 "deposed" bishops, only three were still alive in 1817. The Holy Roman Empire was a thing of the past; the territorial states had established themselves and secured their positions: Bavaria, Saxony, Prussia, and Hanover had become kingdoms "by the grace of God," while other political entities became grand duchies, etc.

For these new kings, however, it was once again necessary — a reversal of the previous trend — to seek religious consecration and a "partnership" with the clergy. In Bavaria, for example, the Concordat of 1817[71]stipulated that the higher clergy would be supported by the state. The absolutist, aristocratic state needed the churches, for apart from this divine/ecclesiastical blessing, the aristocratic rulers had no other legitimation for their claim to possess more rights than other people. Of course, such a thing does not come for free, and according to the old principle

"Do ut des" (I give so that you may give) led to financial support in exchange for legitimacy, ostensibly out of "benevolence." Thus, state subsidies were agreed upon — which are still paid today. It is unclear what these are for, if only because a modern-day prime minister — as far as is publicly known—is neither anointed nor crowned.

The alignment of the bishops in Bavaria with political requirements is evident, among other things, in the bishops' oath of allegiance to the king in Article XV of the Concordat:

"The archbishops and bishops shall take the oath of allegiance to His Royal Majesty in the following words: 'I swear and promise, upon God's holy Gospels, obedience and loyalty to His Majesty the King. Likewise, I promise not to engage in any communication, take part in any counsel, or maintain any suspicious connection, either within the country or abroad, that might be harmful to public peace; and if I should receive knowledge of any plot to the detriment of the state, whether in my diocese or elsewhere, I shall report it to His Majesty.'"

That these considerations of expediency played a primary role was also evident in the treatment of another religious group affected by the situation: the monks and nuns. A Catholic study states the following on this matter:

"In accordance with §§ 55 ff. of the RDHS [Imperial Deputation Main Resolution], the Electorate of Bavaria also granted only meagre pensions to members of dissolved convents, provided they could not find support through pastoral work. The nuns, as well as the Capuchins and Franciscans, were brought together in 'central monasteries'; an electoral commissioner called such institutions 'death camps for the stubborn individuals loyal to the monastery,' thereby drastically expressing the actual intent."[72]

Those who were not needed could therefore starve to death. Only those who were useful received sustenance. In accordance with Article VII of the Bavarian Concordat of 1817 ...

"[...] King Maximilian agreed, 'in view of the benefits that religious orders have brought to the Church and the State, and may continue to bring in the future, [...] to have a number of monasteries of the religious orders of both sexes established, either for the instruction of youth in religion and the sciences, or to assist in pastoral care, or for nursing the sick, in consultation with the Holy See and with an appropriate endowment."(73)

In parallel to the parish priests at the beginning of the 19th century, who derived their income from ecclesiastical benefices, their remuneration corresponded to "the upper average of income levels among the population."[74]

No further concordats were concluded in the 19th century. In two cases—in Baden and Württemberg—concordats that had been concluded were not ratified by the assemblies of the estates.[75] In Hanover, too, the king and the pope were unable to reach an agreement.

This means, however, that the historical justification for state endowments becomes even weaker. Outside of Bavaria, the Church and legal doctrine cannot even invoke legal titles under state ecclesiastical law.

The legal validity of the unilateral papal bull *De salute animarum* would need to be examined. Regarding the facts:

"Prussia, too, initially sought a concordat 'to facilitate the integration of the newly acquired, considerable Catholic territories in the east and west … into the monarchy, especially since the new Catholic subjects, comprising about two-fifths of the population, often met Prussian rule with … resistance.' The negotiations dragged on until 1820. Finally, due to a decisive intervention by State Chancellor Hardenberg, (only) a circumscriptive bull, De salute animarum, was issued, which was published as state law on August 23, 1821. Nevertheless, disputes over 'bishop elections' arose time and again."[76]

71. The End of the State Church, Democracy, and the Bavarian Concordat of 1924

This legitimizing role of the clergy for the monarchies came to an end with the democratic changes in Germany (1918/19). From then on, there were no longer any grounds for continuing to support the clergy: popular sovereignty is the fundamental principle of the legitimacy of democratic political rule. As stated in Article 20, Paragraph 2 of the Basic Law: "All state authority emanates from the people. It is exercised by the people in elections and referendums and through special organs of the legislature, the executive, and the judiciary."

With the end of the monarchies in Germany, however, the opportunity to democratize the relationship between the state and the churches was missed.

The result: While the churches were happy to accept the right to self-governance and their own financial base through church taxes, they have successfully blocked—to this day—the simultaneous abolition of state subsidies, i.e., the termination of the state funding that had been continued as a transitional measure.

This should be illustrated once again for Bavaria, as the Bavarian Concordat of 1924 was the first state concordat following the democratization of Germany and served as a model for the concordats in Prussia (1929), Baden (1932), and also for the Reich Concordat (1933).

The Catholic *Tagespost* describes what happened in the democratic Republic of Bavaria when the Concordat was being negotiated as follows:

"Negotiations with successive Bavarian governments dragged on for years. As early as 1917, Pope Benedict XV had sent his most talented diplomat, the then 41-year-old Pacelli [later Pope Pius XII], to Bavaria. A skilled negotiator but unyielding in principle, he faced his counterparts in the Bavarian cabinet, who were clearly no match for him. With the Concordat, the Church in Bavaria gained significant influence over the state school and education system, while the state refrained from any interference in church affairs."[77]

On June 22, 1920, the Confessional School in Bavaria was once again declared a public school. At the same time, the Catholic Church of the Archdiocese of Munich was opposed to democratic changes. In 1917, Michael von Faulhaber had become Archbishop of Munich, and in 1921 he was elevated to cardinal (he served as Archbishop of Munich and Freising until 1952). He was in no way inferior to Eugenio Pacelli in his stance as an anti-modernist, anti-democrat, and uncompromising defender of Catholic interests. Thus, he once remarked after the end of the monarchy:

"Kings by the grace of the people are no grace to the people, and where the people are their own king, they will sooner or later also be their own gravedigger."[78]

After the conclusion of the Reich Concordat in 1933, he — despite his reservations about National Socialism — remained focused on the goal of independence for church institutions and sent a telegram congratulating Hitler:

"What the old parliaments and parties failed to accomplish in 60 years, your statesmanlike foresight has achieved in 6 months, making history. […] It comes from the bottom of our hearts: May God preserve our Reich Chancellor for our people."

The Catholic Church thus seemed to have been waiting for an Imperial Concordat in 1870/71.

But back to Bavaria, and thus to denominational schools, religious instruction in church schools, Catholic theological faculties, the Catholic University of Eichstätt, state funding for the higher clergy and monastic institutions, the appointment of bishops exclusively by the Vatican, and so on. There was hardly anything that Faulhaber and Pacelli could not have secured for the Church in the "Concordat between His Holiness Pope Pius XI and the State of Bavaria of March 29, 1924." They thus set the standard for further agreements.

1924 in Bavaria—one must bear in mind what, from the perspective of many people, had begun to falter in Bavaria during those years: The

monarchy had been overthrown and was a thing of the past, the Council Republic was in power, the Freikorps were waging counter-terrorism, the Kapp Putsch, the Nazis' march on the Feldherrenhalle, inflation, war veterans, unemployment. In this context, the Catholic Church appeared as the sole remaining guarantor of tradition and stability. What could one possibly deny such an institution?

Aware of the shifting willingness of governments to accommodate the Church's financial interests, Papal Nuncio Pacelli agreed in the 1924 Concordat —that is, five years after the "order to abolish" in the Weimar Constitution—following detailed codifications and confirmations of precisely those endowments that were actually to be abolished, a general clause at the end of the relevant Article 10 that reduced the Weimar Constitution's order to abolish to absurdity:

"In the event of the abolition or reorganization of state payments to the Church based on law, contract, or other legal title, the Bavarian State guarantees the protection of the Church's interests through compensatory payments that, in accordance with the content and scope of the legal relationship and taking into account monetary value ratios, provide full compensation for the lost right."

To describe this double constitutional breach—on the one hand, the continuation of endowments, and on the other, the codification of subsidies in the event of termination—as law and a valid contract requires a great deal of shamelessness or audacity. Knowing that an agreement violates a higher legal norm — "Reich law/federal law supersedes state law" — they were nevertheless formulated explicitly and in detail despite a deliberate breach of law. This requires a conception of one's own legal position that is neither willing nor mentally capable of acknowledging, let alone respecting, other legal views. The agreements reached in this regard are therefore merely an expression of a rhetorical wishful thinking or sense of entitlement, the wording of which was already unlawful and thus void at the very stage of their creation.

The 1924 Bavarian Concordat also introduced, for the first time, the phrase "full compensation for the lost right" in the event of redemption, which, although it remained controversial, is constantly repeated by circles close to the Church.

72. Mythmaking

With the first concordat in Germany to be agreed upon with a democratically elected government, the creation of a narrative surrounding historical obligations and references also begins: The reference to these very alleged obligations is presumably intended to immunize against democratic discussion of this topic.

The texts of the Bavarian concordats contain not a single formulation of claims that were declared as compensation for expropriations or the like.

However, this Bavarian Concordat of 1924 mentions for the first time "property-related obligations" that were allegedly established in the Concordat of 1817. And if these factually incorrect references, which stretch far back to the Holy Roman Empire, were not enough, reference is made to the decrees of the Bavarian King from 1817, which stemmed from his gracious "benevolence" and the church's usefulness to the monarchy—and which constitute the simplest counterargument against such state payments by a democratic community. What benefits a king need not concern a democrat.

Since that time has been transferred to under the abbreviation "1803", and this historical "debt obligation" of the state is claimed to have been transferred into new contracts, and further payments are cheerfully agreed upon and made.

73. Assets and funds

The claim that "the agreed state subsidies are consistent with Articles IV and V of the 1817 Concordat" turns out, upon closer reading, to be a complete misrepresentation. Right at the beginning of Article IV, the 1817 Concordat states:

"The income for the maintenance of the archbishops and bishops shall be based on estates and permanent funds, which shall be entrusted to the free administration of the archbishops and bishops. In the same manner, the archiepiscopal and episcopal chapters, and the vicars and prebendaries employed by them, shall retain their endowments with the right of self-administration."

And following the detailed financial list specifying who is entitled to what, it is finally stated explicitly: These estates and funds "shall neither be sold nor converted into monetary stipends."

However, neither estates nor permanent funds have been established, but the conversion into "monetary remuneration" has been permitted

under and since the Concordat 1924 and thus does not follow the feudal regulations of 1817. The church lobbyists, however, claim the opposite, undeterred and unconcerned.

74. "Guarantee of continuity"?

The clear constitutional mandate to end these payments is even reinterpreted by church lobbyists as a guarantee to the contrary: Since nothing has happened so far, they argue, it is part of the churches' customary law (1933 Reich Concordat: "legally established tradition") that these funds must continue to be paid indefinitely as a "perpetual annuity." In terms of state church law, this is referred to as the "dialectical intertwining of the directive to terminate and the guarantee of continued existence."[79]

A contrary view points out that compensation payments—which these state endowments purportedly are—are always limited politically or legally, either in the amount of the payments or in the period over which the compensation is to be paid. The clever idea of a "perpetual annuity" stands in direct contradiction to this. The jurist Johann-Albrecht Haupt is also precise on this issue:

"The historical rationale for state subsidies seems anachronistic nearly two hundred years after secularization. Wars and expulsions have repeatedly robbed hundreds of thousands of people and many institutions of their means of subsistence, particularly over the last two hundred years, without the state having provided comparable long-term support to those affected in the form of 'state subsidies.' The churches, which are already among the wealthiest institutions in Germany due to their still extensive land holdings, are the ones least in need of state subsidies. In any case, however, the payments made by the states to the churches since 1919 should constitute more than sufficient compensation for the expropriation that took place at the beginning of the 19th century. Therefore, there can be no justification today for the payment of a one-time "settlement sum," even if the churches were to demand it."[80]

And the jurist Gerhard Czermak emphasizes: "[…] strangely enough, the question that inevitably arises in such ongoing contractual relationships—namely, the interim termination of state subsidies (keywords: significant changes in circumstances, cessation of state religious support, issues of parity resulting from major local shifts, termination for cause, settlement through services rendered)—[81] has not even been discussed politically.

But even among scholars of state church law, there are viewpoints that call into question the existing regulations. Michael Droege writes:

"The termination provision of Article 138(1) of the Weimar Constitution applies to the legally established payments made by the Reich and the states to religious communities as of August 11, 1919, which are rooted in the pre-secular unity of state and church. With regard to these payments, the provision aims at separation. To this end, the drafters of the Weimar Constitution reactivated the procedure for the termination of rights. [...] This form of terminating legal relationships—which no longer correspond to the social realities of the time and is otherwise established in Article 15 of the Basic Law—has two main consequences: On the one hand, [... appropriate compensation ...]. On the other hand, the abolition program of Article 138(1) of the Weimar Constitution specifically excludes pension payments as a means of abolition that would permanently maintain a property-law relationship. The interim transfer of state subsidy obligations into a dynamic, recurring lump-sum payment under the State-Church Agreement can, in this respect, be nothing more than a transitional solution."[82]

75. Draft Bill to Abolish State Benefits

In early 2010, the Lawyer Johann-Albrecht Haupt submitted a draft federal to replace these state payments:

"Act on the Principles Governing the Abolition of State Subsidies to the Churches

§ 1 The following principles apply to the redemption of state subsidies pursuant to Article 140 of the Basic Law in conjunction with Article 138(1) of the German Constitution of August 11, 1919:

1. Claims against the states for state subsidies based on law, contract, or special legal titles shall be deemed to have been redeemed by payments made from 1919 until the entry into force of this Act.

2. Provisions in agreements between the states and the churches that establish, renew, confirm, or further specify state subsidies shall be repealed.

3. New general state subsidies to religious and ideological communities are prohibited.

§ 2 This Act shall enter into force on …

In the individual justifications for the sections, Haupt writes:

1. Regarding § 1 No. 1

The continued payment of state subsidies is inconsistent with the fundamental separation of church and state. State tasks must be performed by the state, and church tasks by the respective religious community on its own responsibility. The general financing of church tasks does not fall within the scope of state tasks. The state is not permitted, under

Granting advantages to certain religious communities constitutes a violation of the principle of religious and ideological neutrality. The constitutional justification for continuing to provide state subsidies for a transitional period has lapsed with the passage of time, at least since this transitional period has now lasted more than 90 years. The phase-out does not disproportionately burden the religious communities concerned, as the churches' general financial needs are predominantly covered by church tax revenues and other income from church assets (interest income, rentals, leases), as well as donations. The contribution of state subsidies to meeting the churches' needs is well below 5% of total revenue.

The continued granting of a "transition period" is not necessary, as the previous recipients have long had the opportunity to prepare for the termination of payments. The payment of a special final compensation amount is out of the question, as the compensation potentially associated with the concept of termination is already reflected in the payments made by the states over the course of decades.

The ban on state subsidies does not affect the state's practice of providing grants (grants, subsidies) to churches and their institutions for the fulfilment of a public purpose, such as for social, cultural, development aid, and educational measures or corresponding institutions under church sponsorship, in accordance with applicable laws and in compliance with the principle of equal treatment, provided that the state (federal government, states, and municipalities) has a substantial interest in the fulfilment of such purposes by these entities.

2. Regarding Paragraph 1, No. 2

The fact that general state subsidies to religious communities are unconstitutional under federal law means that conflicting provisions in state law contained in church agreements or concordats violate the Basic Law; this violation must be remedied by repealing the relevant provisions in the agreements. Should an amicable amendment to the agreement not be achievable, termination of the agreement is possible on the grounds of a change in the contractual basis, even in the absence of a termination clause in the agreement.

3. Regarding Paragraph 1, No. 3

The prohibition on establishing new general state subsidies stems from the constitutional principle of the separation of state and religious communities. For further details on the permissibility of state grants (federal, state, and municipal) pursuant to Sections 23 and 44 of the Federal Budget Code or the corresponding provisions of state budget codes for the fulfilment of specific purposes, see above under No. 1 at the end.

4. Regarding § 2

> "A further transitional period could, by way of derogation from the above (explanatory memorandum to § 1 No. 1, second paragraph), effectively be granted by providing for a postponement of the entry into force."[83]

Since this proposal affects the federal states—for which the federal government merely establishes the principles—the federal political level has so far shown little interest in such issues. As became clear in a 2009 conversation with the church affairs representative of a parliamentary group in the Bundestag, he was not even aware that state subsidies are paid to the churches in Germany.

76. State Church Law

Among the chorus of church lobbyists, those legal experts in public law who represent the field of so-called state church law in teaching, research, publications, and expert opinions play a decisive role. These legal experts form the chorus of prevailing opinion, which plays a role in all court decisions in favour of church interests. The fact that the abolition of the state church in 1918–19 (Weimar Constitution, Art. 137, para. 1: "There shall be no state church") did not also declare an end to state church law was to prove an effective boomerang in favour of church interests. In any case, there is a wide gap between constitutional law and constitutional reality in the area of constitutional religious law (the term most commonly used today), a fact that many simply refuse to acknowledge.[84] Church lobbyists for state church law, funded by taxpayer money, use their inventive interpretations to turn the original political intentions of the framers of the constitution into their exact opposite.

If the prevailing view among legal experts differs from this, one might wonder whether lawyers who still refer to their field as "state church law" are even capable of setting aside their 19th-century church lobbying and adopting a neutral perspective. If one were to affirm this, as legal practice has predominantly done so far, it would be almost as if, in a court hearing, one was to leave the decision-making to the defence attorneys of the perpetrators.

In discussions with Protestant state church law experts, which I have personally attended, it has also become apparent that anyone who criticizes the current regulations of state church law is frequently and quite aggressively labelled an "enemy of the church." This label applies that is

not the case — and even if it were, what difference would it make? One must certainly be prepared for such attempts at defamation in discussions with certain experts in state church law and theologians. These hostile attacks are purely the work of church lobbyists, for legally speaking, the experts in state church law do not necessarily adhere to the Constitution. Rulings by the Federal Constitutional Court state:

"Under the Basic Law, freedom of religion guarantees the individual a legal sphere free from state influence, within which he or she may adopt a way of life that corresponds to his or her convictions; whether this involves a religious creed or a non-religious—anti-religious or non-religious—worldview" (BVerfGE 12, 1/3; 33, 23/28; 44).

Some scholars of state church law, however, are true masters of imaginative interpretations and reversals of facts and concepts. They speak of a "positive separation" when they mean the state's support of the churches. The relationship between state and church prescribed by the Basic Law, however, consists of a fundamental separation. Thus, only a few exceptions arise from the Basic Law. Exceptions to a statutory provision, however, must be interpreted restrictively rather than expansively. Moreover, the Federal Constitutional Court has repeatedly stated that, in the face of a constitutional reorganization, "appeal to tradition, indeed even to a centuries-old tradition, fails"[85]. Therefore, historical venerability is not decisive in the realm of state-church law either.

77. Unconstitutionality in the Absence of a Secular Justification

In state church law, however, there are also views that reject the common reference to historical, pre-secular identities ("1803") and demand a contemporary justification:

"In summary, it can thus be concluded that the requirement of separation set forth in Article 138(1) of the Weimar Constitution, in conjunction with Article 140 of the Basic Law, abolishes the legal institution of state subsidies, which is based on the pre-secular identity of state and religious community purposes. Article 138(1) of the WRV thus makes the reestablishment of state subsidies subject to the condition that they be legitimized by secular objectives of the modern constitutional state derived from the Constitution. If this requirement is not met, newly established obligations of the state to provide benefits are incompatible with Art. 138(1) WRV in conjunction with Art. 140 GG and are therefore unconstitutional."[86]

In this respect, one could dispense with the following descriptions of redemption options, since for all agreements concluded in the Federal Republic of Germany the existing state-church treaties and concordats do not

provide a corresponding justification based on current objectives. However, these alternatives should be briefly outlined, as they are frequently cited in current state church law and in political discourse.

78. Replacement under the Imperial Concordat

If, despite the churches' claims dating back to "1803" that lack historical basis, one looks for the maximum that could potentially be asserted by the churches under state church law based on state-church treaties that are unconstitutional in their financial provisions, the agreements dating from 1919 ("Redemption Order") come into focus. These include, for example, the particularly church-friendly Reich Concordat of 1933, which contained precise provisions regarding the redemption of state subsidies. Article 18 states:

"Legal tradition is also considered a special legal title. The compensation must grant those entitled to it adequate compensation for the discontinuation of previous state benefits."[87]

If we take "previous government payments" as our starting point, then in 2009 this amounts to the 442 million euros that the federal states paid to the two churches. The "reasonable compensation"—calculated very generously in favour of the churches—would be the capital stock of the sum required to pay interest on a "perpetual annuity" equal to the previous state payments: that would be around 6.3 billion euros.

The calculation of this sum is straightforward. For years, most church-affiliated banks in Germany have paid seven percent interest on shareholder deposits. This means that if the 6.3 billion euros were deposited as such in a church bank and earned seven percent interest, this would yield 442 million euros per year.

For the federal states, this would mean that after about 20 years, they would have recouped the cost of this one-time payment (including interest on the advance expenditure) and would then be permanently exempt from it. For selected federal states, this would mean the following one-time payments: Baden-Württemberg €1.4 billion, Bavaria €1.2 billion, Berlin €152 million, etc. However, it would be necessary to take into account that the states have already paid billions of Reichsmarks, Deutschmarks, and euros over the past 91 years, and how much of that would need to be accounted for or offset.

Church representatives will likely then argue that this sum is too small, because something crucial would be missing: the adjustment clause, i.e.,

the virtually annual percentage increase in line with civil servant salaries in the public sector.

Anyone who objects that the churches are not so greedy fails to recognize the realities as well as the financial entitlement mentality of denominational title holders.

79. Compensation under the -Prussia Concordat

Unless one wishes to refer to the Reich Concordat of 1933 — since it was not established democratically and the terms of the "Hitler Concordat" in the agreement between the Catholic Church and the National Socialists are extremely favourable for both sides, one can, for example, refer to the Prussian Concordat of 1929. Here, too, one encounters further limitations on the amount of the compensation payment.

In this Prussian Concordat (1929), state subsidies are renegotiated in Art. 4, para. 1; they are doubled. But the third paragraph correctly states: "For the redemption of state subsidies pursuant to Article 138, para. 1 of the Constitution of the German Reich, the previous legal situation regarding diocesan endowments remains decisive."[88]

What is correct here is that the redemption of these payments refers exclusively to legal titles that may have still been in effect in 1918/1919, i.e., to no later agreements. This means that all payments agreed upon later may not be included in the redemption sums. A portion of today's state payments would thus be eliminated entirely (e.g., for Schleswig-Holstein, for all the new federal states). All claims for formerly Prussian territories would likely have to be reduced by at least half. Furthermore, any claims that did not exist in 1919 and were agreed upon only through parity arrangements, for example, play no role whatsoever in a settlement. Thus, the anticipated amount would certainly be considerably lower than the 442 million euros for 2009. It would likely be well under 100 million euros per year and a one-time lump-sum payment totalling correspondingly less than 1.5 billion euros.

80. Why not replace the state subsidies for the Church?

This detailed explanation that it would be politically and financially feasible for the state (federal and state governments) to end the payment of these state subsidies raises the question of why this is not happening.

Looking back at how these payment obligations came to be enshrined in the constitution in the first place, the positions taken in the Weimar National Assembly point to something entirely different that is usually overlooked in discussions. These provisions represent a compromise between the views of the KPD/USPD and SPD, which at the time regarded religion and religious communities as a private matter, and the center-right parties, which rejected this view.

The influential liberal Friedrich Naumann ("Free Church in a Free State"), as chairman of the Constitutional Committee, articulated two cornerstones: first, no state church (and thus the self-governance of the churches as well as the equal treatment of religious and ideological communities); and second, the separation of church and state. This was to be based on corporate law relationships, i.e., no displacement of the churches from the "public sphere" into private law as a "private matter."

The little magic word, whose full significance is apparent only to the lawyer, is the term "corporate law." Those religious societies that were "public-law corporations" (KdöR) should remain so.

81. Religious and ideological communities as "public-law corporations"

With this special corporate status, church and state are placed *side by side* as corporations from the perspective of state church law; religious communities as a "private matter" would be subordinate to state law as registered associations. In other words, the former "state church," in which the (Protestant) church was subject to the "ecclesiastical rule" of the respective sovereign, is freed from this ("Free Church," which governs itself). However, under "corporate law," it retains a parallel structure to the state as a "corporation under public law," with, for example, its own church officials, its own civil ecclesiastical jurisdiction, etc. The church treaties stipulate, almost like a mantra: "Church service is public service."

Accordingly, the definitions in the Statistical Yearbook regarding who is counted as a civil servant and who is not state:

"Federal civil servants (including those in partial retirement), [...] as well as judges, clergy, and civil servants of the Evangelical Church and the Roman Catholic Church. Clergy as well as spokespeople of other religious denominations are classified as employees."[89]

One might now regard this as legal-political sophistry and brush it aside with the question, "Who cares?" But one should get into the habit of always considering all questions of canon law from a financial perspective as well and asking about the financial advantages or disadvantages for the Church in the event of a different regulation.

For the fact that the question of whether religion should be public or private is of financial significance is evident not only in the fact that church officials receive the same salary increases as state officials via the "adjustment clause," but also in other regulations.

For example, the churches and the state (in this case, the federal states and municipalities) have established "supplementary pension funds" through which employees receive a financial supplement to their retirement benefits based on their length of service. All church pension funds are members of *the Working Group for Municipal and Church Pension Provision (Arbeitsgemeinschaft kommunale und kirchliche Altersversorgung e.V.).* Under its umbrella, 45 pension institutions with over 5.5 million compulsorily insured and non-contributory insured persons in municipal and church service, as well as more than one million retirees and pensioners in public and church service, were brought together.[90]

Another purpose of the association is to facilitate the transfer of pension entitlements. All municipal and church-affiliated entities are "permeable" in both directions, allowing employees of the church service to transfer to the public service—and vice versa—through "transition agreements" without any detriment to their retirement benefits. More than 20,000 employees take advantage of this each year.[91] This "portability of supplementary pension entitlements" is just one example of the perfect intertwining of two corporations.

That could—and likely would—be lost if a discussion were to begin on the principles of phasing out state subsidies. After all, these regulations are only part of the unfinished constitutional mandate of decoupling, i.e., the separation of church and state.

Church officials have no interest in such a discussion. And government officials? Probably not either.

82. Reestablishment of the State Grants

At its core, the issue of the amount of state subsidies is not about the financial scale. The core of the criticism regarding the failure to date to end these state subsidies is that these payments make one thing clear: "The revolutionary transformation of a Christian state [the Empire, 1918/19] into a democratic state of religious freedom with a fundamental separation of church and state"[92] is still not complete.

And: If this abolition is already being foregone for reasons of political expediency—who would voluntarily pick a fight with the churches?—then the reintroduction of state subsidies in the state-church treaties and concordats after 1919 and the state-church treaties in the old Federal Republic as well as in the new federal states after 1989 must be regarded as clearly unconstitutional.

By mandating the abolition of these state subsidies, the framers of the Constitution made clear their unequivocal intention that these payments must *be terminated*. Given this stipulation, any new commitment to such payments stands in clear contradiction to the Constitution, both in form and substance.

In addition, these agreements replaced the churches' complex, formal legal rights to payments in kind with lumpsum, recurring monetary payments. For example, the State Treaty with the Evangelical Church in Mecklenburg-Western Pomerania (1994) states: "The state [pays] the churches a lump-sum subsidy in lieu of all previously granted endowments for church leadership, pastors' salaries, and pastors' pensions, as well as in lieu of all other payments based on specific legal titles."

This monetary "pensioning" also contradicts Article 140 of the Basic Law in conjunction with Article 138(1) of the Weimar Constitution, which unequivocally mandates the termination of these payments.

83. Churches are not squeamish

The fact that the churches are generally not squeamish was also demonstrated by the fact that even in the "anti-church" GDR, state subsidies amounting to 12 million marks were accepted by the Protestant Church.[93]

State Benefits (in a broader sense)

State waiver of revenue

This waiver of revenue also includes the state's collection of church taxes, as previously described. In collecting church taxes, the state does not share the costs saved for the churches on a fifty-fifty basis—that is, ten to twelve percent of church tax revenue—but instead settles for an average of three percent of the revenue. Similarly, by classifying church taxes as tax-deductible special expenses, the state forgoes approximately 3 billion euros.

One of the distinctive features of the church-state relationship in Germany is that the churches, as legal entities, are also directly exempt from taxes and fees.

84. Tax Exemptions

Through various tax exemptions, the churches receive approximately €2.3 billion in revenue and are not required to pay taxes or fees.

All citizens and all businesses are obligated to pay taxes—unless they are in such dire financial straits that it would be unreasonable to expect them to do so. The churches and their institutions are exempt from this "exempt." Does this mean the churches place themselves outside the state? Yes. Even according to their own self-conception, the established churches stand alongside the state—equal to it as a "state within a state." And after all, the state does not pay taxes or fees to itself.

On the other hand, this is a "legally founding tradition," since, following Emperor Constantine's Edict of Toleration (311 CE), tax exemption for the clergy was decreed as early as 313 A.D.

The magic formula is: "charitable, benevolent, or ecclesiastical purposes." This three-part formula is interesting because if—as is constantly claimed—the churches were "by nature" charitable or benevolent, they would automatically be eligible for tax benefits under the first two categories. But since this is apparently not clear-cut—which corresponds to life experience—"ecclesiastical purposes" must be mentioned separately.

85. Tax Exemption: Corporate Income Tax

Section 5, Subsection 1 (The following are exempt from corporate income tax...) of the Corporate Income Tax Act states in point 9:

"Corporations, associations of persons, and estates that, according to their articles of incorporation, foundation deed, or other constitution, and according to their actual management, serve exclusively and directly charitable, benevolent, or ecclesiastical purposes (Sections 51 through 68 of the Tax Code). If an economic business operation is maintained, the tax exemption is excluded to that extent. Sentence 2 does not apply to self-managed forestry operations."

The exemption from corporate income tax thus explains, among other things, why churches must use one of the tax-privileged terms "non-profit," "charitable," or "ecclesiastical" *for each of their activities*.

What is this corporate income tax exemption actually worth in monetary terms? Nothing, because the churches do not generate any reported profit. The cash deposits at church banks are permitted reserves. The other reserves and special funds are not publicly known.

86. Tax Exemption: Withholding Tax

To date, the churches have received approximately 100 million euros in revenue through their share of the withholding tax on investment income. As non-profit, charitable, or religious organizations, they themselves do not pay Sections 43–44a of the Income Tax Act (EStG), they do not pay capital gains tax or are reimbursed for it.

With estimated capital assets in the triple-digit billion range—that is, a minimum capital asset base of 100 billion euros and a five percent interest rate—the churches receive income from capital assets in the order of 5 billion euros, on which they would have to pay a 25% capital gains tax if they did not enjoy state tax privileges. However, they retain these 1.25 billion euros.

87. Tax Exemption: Property Tax

Property Tax Act § 3 I: "The following are exempt from property tax: [...] 4. Real property used by a religious community that is a public-law corporation, one of its orders, one of its religious cooperatives, or one of its associations for the purposes of religious instruction, teaching, education, or for the purposes of its own administration."

§ 3 I 5: “The following are exempt from property tax: official premises and official residences of clergy and church officials of religious societies that are public-law corporations.” [...]
§ 4 Other Tax Exemptions: Unless an exemption already applies under § 3, the following are exempt from property tax: 1. Real property dedicated to the worship of a religious denomination that is a public-law corporation or a Jewish religious community.”

The two churches now own a considerable amount of real estate.[94] According to a survey (for the year 2000), the total area is 8,251,000,000 square meters. Of this, 544,566,000 square meters consisted of developed land, 5,767,449,000 square meters of agricultural land, 1,501,682,000 square meters of forest, 181,522,000 square meters of roads, wasteland, and water bodies, and 255,781,000 square meters of cemeteries. Accordingly, 7,450,653,000 square meters are to be calculated for property tax A (agricultural), and 800,347,000 square meters for property tax B (building).

In a detailed report[(95),] the Munich City Treasury presented comparative figures on the property tax assessment rate to the Finance Committee (2004). This results in an average assessment rate of 463 percent. An overview by *the Taxpayers' Association* from 2008 [96]indicates an average rate in Hesse of 270 percent.

Property ownership was calculated on a differentiated basis (in 2000)[97] and (to simplify the complicated detailed calculations) one can roughly estimate the magnitude of the revenue foregone by the municipalities to which the property tax is allocated.

With the total value of agricultural and forestry land amounting to approximately 6.27 billion euros, the assessed value (10%) comes to 627 million euros. With a tax rate of 0.06 percent of the unit value (0.06 × €627 million), the property tax base amounts to approximately €37.6 million. Multiplied by the assessment rate (270%), the annual property tax amounts to (€37.6 million × 2.7 =) €101.5 million. This amount increases with higher assessment rates: based on the national average rate of the Munich City Treasury, it would be (€37.6 million × 4.63 =) 174 million euros.

For Property Tax B on building lots or developed land (value: €83.5 billion), the calculation is similar. With a unit value of 8.35 billion euros and a tax base of 0.03 percent, the property tax base (0.03 x 8.35 billion euros) amounts to 251 million euros, and with an assessment rate of 270 percent, the annual property tax would be (251 million euros x 2.7 =) 678 million euros. (With a higher assessment rate of 463 percent, the figure would then be 1.2 billion euros.)

In this regard, it can be assumed that the loss of property tax revenue for municipalities resulting solely from the exemption of churches from property tax amounts to at least 850 million euros. A calculation of the land and properties owned by Caritas and Diakonie institutions would yield a figure many times higher; however, this will not be considered here, as the focus is primarily on the established church.

88. Further Tax Exemptions

The complex web of numerous tax exemptions cannot be comprehensively presented here. However, the following should be mentioned regarding the state's loss of revenue due to:

- inheritance tax-exempt gifts in the form of an inheritance or donation to a church-affiliated public-law corporation (Inheritance Tax Act § 13(1)(16)).
- Exemption of religious corporations, as public-law entities, from real estate transfer tax (3%) (GrEstG § 4, 1).
- Tax exemption for income from part-time activities as Instructors, trainers, [...] working for or on behalf of an organization promoting charitable, benevolent, and religious purposes, up to 2,000 euros annually. (EStG § 3 No. 6).
- Tax exemption for insurance policies held by associations of public-law entities to offset the costs of retirement and survivor benefits (VerStG § 4 No. 2).
- Tax exemption for lotteries and raffles held exclusively for charitable, benevolent, and religious purposes (RennwLottG § 8).
- Reduced revenue due to the reduced tax rate for services by non-profit, charitable, and church institutions (UStG § 12, para. 2 No. 8).

89. Tax deductibility of donations and school fees

Through the tax deductibility of donations and school tuition, the state forgoes approximately €600 million in tax revenue in favour of the churches and their members.

In addition to the church tax, other denominational expenses are tax-deductible for citizens. This, in turn, means that the government forgoes income tax revenue by offering taxpayers incentives to support the churches.

90. Tax Deductibility of Donations

Germany's income tax statistics precisely track how much of the donations made by German citizens is claimed as a tax deduction. This amounts (in the most recent analysis for 2006) to a remarkable total of 4,660,524,000 euros—that is, 4.7 billion euros—donated and claimed as tax deductions by 10,663,572 taxpayers.[98] These are donations made for scientific, cultural, charitable, religious, and non-profit purposes, to foundations, and to political parties.

The portion of donations related to churches amounts to 2.6 billion euros. These include donations for charitable, ecclesiastical, religious, and non-profit purposes, as well as donations to foundations for ecclesiastical, religious, and non-profit purposes.

Since these are not exclusively for religious and church purposes, two-thirds of this sum should be assumed to benefit the churches, as the churches and their religious associations will certainly be significantly represented among the "charitable and non-profit purposes."

What revenue does the state forgo when 1.7 billion euros are claimed as tax-deductible donations to the churches?

The church tax, its tax deductibility as a special expense, and the figures reported by the Federal Ministry of Finance regarding the resulting loss of revenue provide some insight into this. For the special expenses related to church taxes (2008) totalling 9.424 billion euros, the 22nd Subsidy Report shows a loss of tax revenue of 3.15 billion euros, or 33.4 percent. Applied to the 1.7 billion euros in donations to the churches, this corresponds to 568 million euros in reduced tax revenue.

91. Tax deductibility of school tuition

30 percent of the tuition fees for a state-recognized alternative school, as verified by a certificate from the school, are tax-deductible. However, additional costs for textbooks, sportswear, etc., are not.

With an average tuition fee for religious schools of around 50 euros per month, i.e., 600 euros per year, 200 euros are tax-deductible. According to the federal government's 22nd Subsidy Report, the federal and state governments forgo 55 million euros in tax revenue due to the limited "special expense deduction for school tuition payments to private schools." With private schools accounting for 57 percent of the total, denominational schools are indirectly subsidized by 31 million euros.

92. Exemption from Fees

In a constitutional state, fees must be paid to state authorities: for certifications, official acts, and so on. Religious bodies do not pay any of these fees. This is the standard provision in state-church treaties and concordats:

"Upon the entry into force of this treaty, the state shall extend the fee exemptions based on state law to the churches, their parishes and branches, as well as their public-law institutions, foundations, and associations."

Anyone who just thought, "Well, it's just a few euros for certifications or notarizations," should be suspicious that such supposedly 'trivial matters' are mentioned in state treaties—there must be something bigger at stake.

93. Building permit fees

In fact, the amounts involved are quite substantial. When someone builds a house, they must apply for a state building permit, and obtaining one incurs fees. In Baden-Württemberg, this amounted to approximately 0.4 percent of the construction cost until 2005; since then, fee setting has been decentralized. County offices, municipalities, and administrative communities are authorized to set different percentages, ranging from 0.3 to 0.8 percent of the construction cost, depending on the amount of review work required for the permit.

"Based on average construction costs [in Baden-Württemberg in 2006, C.F.] of 212,297 euros for a residential building with 1 to 2 apartments and a building permit fee of 5‰ or 6‰ of the construction cost, the building permit fee per building amounts to 1,061 euros or 1,274 euros."[99]

In other words: For every million euros in construction costs, there is actually a permit fee averaging 5.5 per mille of the total cost—that is, 5,500 euros—which the Church and its institutions do not have to pay. So if the Bishop of Limburg is currently having a new residence built, with a construction cost estimated at around four million euros, he is already saving 22,000 euros in building permit fees compared to a typical builder, and that is roughly the purchase price of a car for, say, the housekeeper

(e.g., Volkswagen Polo 1.6 TDI, DPF, DSG 66 kW, 5-door, special metallic paint, Driving Comfort Package, and navigation system = €19,640).

It is pointless to try to calculate the total amount of building permit fees that Germany's districts and cities are foregoing. To do so, one would need to know the total financial volume of construction projects undertaken by churches and their institutions. However, if we take the Archdiocese of Cologne as an example, which states in its 2009 budget: "Approximately €17 million has been earmarked for investments in church buildings," this would represent a savings of approximately €93,000 in building permit fees in the Archdiocese of Cologne alone.

94. Notary fees

Particularly in real estate transactions, which sometimes involve large sums, it is significant that churches are treated the same as political entities with regard to notary fees: Section 144(1)(3) of the Act on Costs in Matters of Voluntary Jurisdiction (Costs Regulation—KostO) states the following regarding fee reductions:

"[...] a church, other religious or ideological community, insofar as it has the legal status of a legal entity under public law, [...] the fees are reduced by 30% for a transaction value of more than
€26,000 up to a value in dispute of €100,000 by 30%, up to €260,000 by
40%, up to one million euros by 50%, and above one million euros by 60%."

95. Court fees

State courts charge fees in legal proceedings, and churches, as public-law corporations, are subject to the regulations regarding exemption from fees.

However, the regulations vary by federal state, and one should always seek information in advance before entering into a legal dispute with the church.

A case described by the Regional Church illustrates the claims that churches assert, even before the courts, as noted by the State of Hesse (1998):

"As is well known, the Hessian Judicial Costs Act of May 15, 1958, which was applicable to the judicial sector until December 31, 1997, contained a provision in § 7(1)(1) through (5) granting personal exemption from fees to a number of parties. Specifically for religious communities, Section 7(1)(1) of the Hessian Judicial Costs Act contained the following provision: Exemption from payment

of the fees levied by the ordinary courts and judicial administrative authorities are exempt:
1. Churches, other religious communities, and ideological associations that have the legal status of a public-law corporation and that raise the funds necessary to meet their needs, in whole or in part, through contributions from their members.
This provision was repealed by the 1998/1999 Budget Accompanying Act with effect from January 1, 1998, as were some of the other fee exemptions."[100]

However, according to the regional church, the state of Hesse is bound by state treaties to the Catholic and Protestant churches and the Jewish communities. An agreement was reached with them to waive fees. But they are not concerned by a new and ordinary supplementary budget law, because the legal framework in effect at the time the state-church treaties were concluded remains applicable. So a friendly proposal was made:

"I [i.e., the church administration of the Protestant Church in Hesse-Nassau, C.F.] have informed the President of the Higher Regional Court of Frankfurt am Main of this legal opinion by decree dated today, with a request for its publication within the jurisdiction."

Result: The church agreement supersedes state law, and churches in Hesse remain exempt from court fees.

Training of the next generation

A distinctive feature of the theological faculties at universities, theological-philosophical colleges, and church-affiliated universities of applied sciences for social work is that, for the most part, it is exclusively the churches and church-affiliated institutions that employ their graduates after they complete their studies. In return, state agencies (federal states, research funding bodies, etc.) spend approximately 500 million euros annually.

96. Denominationally Affiliated Positions

No other social group and no other business association have the exclusive right of the churches to operate educational institutions financed by general tax revenues for exclusively in-house, church-related purposes. The training regulations and all 'theological instructors' at state and state-recognized higher church approval is required. These are consistently

"Denominationally affiliated" positions. This is an absurdity in a secular state and amounts to an acceptance of the violation of academic autonomy and the fundamental right (Art. 3, 3 of the Basic Law) that no one may be favoured or disadvantaged on the basis of their religious affiliation.

A professorship is a public office (requiring an oath of office upon assumption of the post), and thus the "confessional office" [101]of theology professors also violates Article 33 of the Basic Law, the first three paragraphs of which read:

(1) Every German has the same civil rights and duties in every state.
(2) Every German has equal access to every public office in accordance with his or her aptitude, qualifications, and professional performance.
(3) The enjoyment of civil and civic rights, admission to public office, and the rights acquired in the public service are independent of religious creed. No one may be disadvantaged because of his or her affiliation with or lack of affiliation to a religious denomination or a worldview.

The churches do not follow the civic norm of financing such self-serving educational programs themselves or through student tuition fees, as industrial companies do in private universities, but instead pass the costs on to taxpayers as a whole.

When one reads the Church's statements on this successful strategy of shifting costs, they sometimes border on the absurd and are downright amusing. For example, it is argued that if the training of the next generation of clergy were left entirely to the churches themselves—that is, if this training were

, there would be a risk of fundamentalism or obscurantism, which has so far been prevented by the fact that the training is "publicly controlled," at least within the university system. This has the logic of an aggressive attack dog that is only docile and peaceful as long as it is fed and thus kept in good spirits.

However, one must take into account that a university degree for theologians in the 19th century did not merely signify social advancement and better pay. The German state, which had previously needed the churches for legitimacy, remained interested well into the 20th century in keeping priestly/pastoral training under state control in order to prevent clerical insubordination—especially on the Catholic side – to prevent (keywords:

Kulturkampf, pulpit clause). Current government efforts to "domesticate" Islam in Germany by training imams and Muslim religious educators at universities must also be viewed in this light.

97. Theological Faculties and Universities

Whether theology is a science at all can, as with other humanities, be questioned, but this will not be explored in depth here. As a discipline, it belongs to the "classical canon of subjects" at German universities, including at Bundeswehr universities (as "Theology and Ethics") and at technical universities, such as Darmstadt. They are often ranked number one among faculties, and the "old" universities still frequently feature university seals with ecclesiastical elements.

From a market economy perspective, however, theology faces a serious problem: while the supply remains constant, demand is declining, meaning that student numbers are decreasing year after year.

In a memorandum [102] the Baden-Württemberg State Court of Auditors (2005) provided a very detailed calculation and justification for why the low enrolment rates at the state's four theological faculties could no longer be tolerated. At the Protestant theological faculties, the decline in student numbers from 1993 to 2003—that is, over a ten-year period—amounted to 63 percent (Heidelberg) and 60 percent (Tübingen); at the Catholic theological faculties, the decline was 42 percent (Freiburg) and 41 percent (Tübingen). Particularly serious is the decline in "traditional full-time theological studies," which saw a 64 percent drop statewide over the ten-year period. Corresponding changes must be made to the faculties' staffing and material resources.

As expected, the four faculties were outraged[103] and, in their statement, pulled out all the stops in terms of the kind of disparagement professors are capable of: They argued that theology is indispensable to civilization, that the review did not meet the standards of a proper evaluation, was based in part on outdated data, applied the Capacity Ordinance without objective justification, ignored essential new regulations, failed to take into account the enormous research achievements as well as the quality of teaching, reduced theology to mere training institutions of the Church, and "finally fails to recognize the social, cultural, civilization-stabilizing, and value-orienting function of theology."

Regarding the State Treaty between the State of Berlin and the Protestant Regional Church (2008), which was also primarily intended to safeguard Protestant theology, the *Humanist Union* commented as follows:

"The agreement on 'adequate representation of the five core theological disciplines, as well as the development of additional areas of focus and specialization' with 'at least 11 professorships' constitutes institutional and financial life insurance for a discipline whose student numbers are declining and whose codification imposes permanent burdens on the state, leaving no room for manoeuvre on the part of the universities or the state. Furthermore, this violates the autonomy of universities in Berlin and privileges one religious community over other religious and ideological communities."[104]

However, the legal basis for the preservation and funding of the Catholic faculties is not, as is sometimes assumed, the Reich Concordat of 1933. The Reich Concordat is irrelevant to these issues, since cultural sovereignty in Germany no longer lies with the Reich (now the federal government) as it did in the past, but with the federal states.

Under the Basic Law of the Federal Republic of Germany, theological faculties are legally protected only to the extent that they train religious education teachers. Article 149, Paragraph 3 of the Weimar Constitution, which states: "Theological faculties at universities shall be maintained," was not, unlike other "church articles" of the Weimar Constitution, was not incorporated into the Basic Law. Instead, concordats were concluded with the states.

However, these agreements are legally highly questionable, if not unconstitutional, as they violate several constitutional principles. Among other things, they violate the principle of the separation of church and state and, above all, the concept of science as defined in Article 5, Section 1 of the Basic Law, since the autonomy of the scholar is not guaranteed.[105]

However, in order to ensure that Protestant theologians enjoy the same contractual security as their Catholic colleagues, all state-church agreements with the Protestant Church following World War II have included the same provisions as those in the concordats, with the aim of securing the continued existence of theology professorships. The most recent state-church agreements in Hamburg (2007) and Berlin (2008) were primarily concerned with this very issue: the preservation of theology professorships, and moreover at the highest salary level.

This "preservation of existing positions" has a very current reason: fewer and fewer students in Germany are studying theology, and the churches, in agreement with the politicians sympathetic to them, have

decided that the university autonomy had to be "undermined" at this point. Otherwise, professorships could simply be eliminated due to a lack of need. A political ally — or, God forbid!

While there were still 22,014 students of (Catholic and Protestant) theology/religious studies in the winter semester of 1997/98, ten years later (winter semester 2007/08) there were only 16,783, representing a decline of 24 percent. Although the number of theology professors also decreased over the same ten-year period (from 827 to 719), this represents a decline of only 13 percent. A student remains at the university only until graduation (i.e., about four to five years), while a professor stays until retirement.

98. "Paradisiacal" Conditions

In the 2006–2007 winter semester, a total of 1,979,043 students were enrolled at German universities. The education of these nearly two million students was the responsibility of 169,223 full-time staff members, 37,694 of whom were professors. If we use the student-to-professor ratio as an indicator of the potential for academic supervision, the average ratio is 53:1, meaning one professor supervises 53 students.

A closer look at the individual disciplines reveals that the ratios are even less favourable for the twenty most popular subjects: 70:1 in economics, 76:1 in law, and 63:1 in computer science. When compared to "smaller" subjects, the ratios are 93:1 in political science and 74:1 in pharmacy. In contrast, the ratio is only 24:1 for Protestant theology and 23:1 for Catholic theology.

99. Overcapacity

In Bavaria, the Supreme Court of Auditors' remarks regarding overcapacity in the Catholic theological faculties were implemented in early 2007—following several months of complex negotiations between the Church and the state—in such a way that the theological faculties in Bamberg and Passau were "suspended" for an initial period of 15 years. For this period, they will be converted into theological institutes for teacher training in Catholic religious education for all types of schools.

In Hesse, however, the issue was resolved differently. Based on state-church agreements and a guarantee of continued existence from the Hessian state government (letter from the Minister President dated October 30, 2003), it was decreed:

"Pursuant to the state-church agreements of 1960 and 1974, as well as the guarantee of continued existence from the Hessian state government, the University of Giessen is obligated to maintain educational capacity in the form of additional professorships that exceeds the current and foreseeable future demand for student places.
The unfilled student places resulting from the difference between the required and guaranteed number of professorships cannot be reflected in the performance figures for teaching and research. Maintaining teaching and research capacity beyond the level justified by the demand for student places constitutes a service required of the university by the state, which requires separate funding."[106]

The same applies to the universities of Marburg, Kassel, and the Technical University of Darmstadt as it does to the University of Giessen. Costs of the additional expenditure for "unclaimed course offerings": €745,600 (Giessen), €1,491,000 (Marburg), €328,000 (Kassel), and €205,700 (Darmstadt). The regulation also applies to the University of Frankfurt, since there, for example, eight professors and one senior lecturer are responsible for 79 students of Catholic theology, meaning nine students per faculty member. The University of Frankfurt's budget states the following:

"To ensure theological education in Hesse, it has been agreed that Frankfurt will maintain eight permanent professorships in Catholic Theology, even though the department does not have faculty status; four professorships are sufficient to meet the minimum curricular requirements for teacher training. The retention of four additional professorships therefore constitutes a special circumstance. [...] Maintaining teaching and research capacity beyond the level justified by student demand constitutes a service required of the university by the state, which requires separate funding. This includes the underutilized areas of Protestant theology as well as the Martin Buber professorship."[107]

The cost of this "special circumstance"—a "service" required of the university by the state—amounts to 1,092,000 euros per year.

In total, across the five universities in the state of Hesse, that amounts to 3,862,300 euros spent on something for which there is no demand. Heavenly!

100. Personnel Costs

In the 2007/2008 winter semester, there were a total of 16,783 students of Protestant and Catholic theology. The academic staff consisted of 1,663 men and women, including 719 professors and 944 research assistants.

The Federal Statistical Office has calculated monetary indicators based on the respective "base funding."

"Recurrent base funding for teaching and research refers to the portion of university expenditures that the university's governing body provides to the universities from its own funds for ongoing purposes. They are calculated by subtracting administrative revenues and third-party funding revenues from the universities' expenditures for current purposes (e.g., personnel expenses, maintenance of land and buildings, and administrative expenses for supplies). Current basic funding does not include capital expenditures."[108]

The base funding per student in the humanities and cultural studies at universities amounts to 2,800 euros; thus, approximately 47 million euros were spent on theology program slots. Research assistants (€65,600 per position) accounted for an expenditure of €62 million, and €154 million was paid for the 719 professors (base funding per position: €213,800). In total, therefore, approximately €263 million was allocated to cover students, staff, and the operating costs of theology.

Professors also retire and receive a pension. After some discussion about the ratio of retired professors to active faculty members, a figure of around 20 percent can be taken as a plausible estimate, which would amount to approximately 144 professors. Assuming a W2 salary (€4,176) and a pension of about 70 percent of that, the annual amount of pension payments for emeritus professors of theology comes to around five million euros.

A distinctive feature of university professors in theological faculties is their "hybrid status." They are state-certified university professors who, at the same time, require a teaching license from the churches as "denominationally affiliated positions." If they lose this teaching license ("missio canonica"), they nevertheless remain tenured university professors, typically at another faculty. However, the state must then finance an additional professorship for the replacement in the vacated position. According to hearsay, this currently applies to about ten professors, representing an additional financial burden of approximately 2 million euros (€213,800 in base funding × 10). These figures should be considered only as a minimum estimate since theology professors (as chairs) are largely classified at the highest salary level (W 3).

Within the university libraries, there are branch libraries, including one for theology. At Humboldt University in Berlin, this theology branch library has a collection of around 320,000 volumes; in Leipzig, the figure is approximately 100,000 volumes. The operating costs would still need to be added to the cost of theological education. However, it would be incorrect to assume that this already covers all costs. The costs for construction projects and other expenses are still missing, as can be seen, for example, in Bavaria's 2009/2010 budget.

The "core funding" mentioned above does not include capital expenditures, as these occur too irregularly. For example, the University of Munich is constructing a "Theologicum" that will bring together the two theological faculties and the training institutions for Orthodox theology under one roof. The goal of this initiative is to improve collaboration and achieve more cost-effective management of the previously separate institutions. The total cost of 5.4 million euros is being financed through the "Future Bavaria 2020" program. At the University of Regensburg, the Philosophy and Theology building complex is being renovated at a cost of 3.4 million euros. At the University of Würzburg, external space had to be leased for five chairs in the Faculty of Catholic Theology: a total of 1,346 square meters (269 square meters per chair) for an annual rent of 138,400 euros.

101. Universities of Applied Sciences

There are 17 church-affiliated universities of applied sciences in the Federal Republic of Germany that are state-recognized. Twelve are supported by the Protestant Church and five by the Catholic Church. They view themselves as distinct church institutions.

"The church-affiliated universities of applied sciences see it as their mission to integrate theology and social ethics into their degree programs in such a way that students gain insight into the Christian faith and its implications for the shaping of social conditions."

The academic focuses and degree programs are social work and religious education. Although these are church-affiliated colleges, they receive state subsidies.

The State of Berlin funds the "operating expenses"—which account for about 73 percent of the costs—of the Protestant and Catholic

University of Applied Sciences for Social Work; Bavaria pays 80 percent of the documented personnel and material expenses, and Hamburg 50 percent of the budget.

Individual payments for church-affiliated universities of applied sciences: Berlin 7.6 million euros, Lower Saxony 2.1 million, Rhineland-Palatinate 3.4 million, Baden-Württemberg 6.2 million, North Rhine-Westphalia 18.5 million, Bavaria 8.6 million, Hamburg 600,000, Saarland 212,900. In terms of construction projects, the Federal Republic of Germany contributed 1.5 million euros—half the cost of the new library at the Protestant University of Applied Sciences in Berlin. These recorded grants total 49 million euros.

There is also the Federal University of Applied Sciences, i.e., the one run by the Federal Republic of Germany. The President's 2009 Annual Report contains some noteworthy observations about everyday campus life:

"Morning Prayer Returns: Especially in today's fast-paced world, it is important to find time for oneself and one's loved ones. The organizing committee received an inquiry asking whether there were any church-sponsored activities at the Federal University of Applied Sciences (FH Bund). It had already been a tradition at FH Bund to hold a monthly morning prayer service. However, this tradition had been suspended following the departure of Prof. Dr. Schmahl.
In September, however, Norbert Achcenich, the senior chaplain of the Federal Police, was persuaded to continue this tradition. It was able to begin in December 2009. Twenty-eight students attended the 30-minute morning prayer service before classes began."[109]

102. Church Music

Church music plays a special role in higher education, for which there are currently 27 training institutions.

Whether they are (16) state music conservatories or (10) church music conservatories, the EKD lists them all as "church music conservatories" on its culture website.

This is possible because students can also study church music at state-run colleges of music (and theatre) and earn a degree in the field. At the state's expense. However, the number of students studying church music is low. In Munich there are 17, in Nuremberg two, and in Würzburg one student.

But church-affiliated colleges of church music also receive state subsidies. For example, the Church College for Protestant Church Music in Bayreuth receives 695,600 euros in subsidies for faculty costs, which amounts to 38,644 euros per student for its 18 students. The subsidy to the Church College for Church Music and Music Education in Regensburg

amounts to 1.5 million euros, which, with 34 students amounts to 44,117 euros per student. However, the state also receives revenue, as the Diocesan Ordinariate of Rottenburg-Stuttgart pays a subsidy of 3,100 euros per year. (That's not a typo.) And the fact that the Regensburg Cathedral Boys' Choir, the Tölz Boys' Choir, the Windsbach Boys' Choir, and the Augsburg Cathedral Boys' Choir receive a combined total of 278,000 euros in subsidies is hardly worth mentioning.

Construction projects are funded separately, such as the renovation and fundamental refurbishment of the Orangery in Erlangen-Nuremberg for the Institute of Church Music and the Institute of Art History, which received 6.5 million euros.

103. Other educational institutions

In addition to theological training and universities of applied sciences, there are, for example, further state subsidies for Protestant and Catholic seminaries, monasteries, and seminaries in Baden-Württemberg. The state pays (2009) 2.9 million euros for these institutions.

The Catholic University of Eichstätt—a church foundation under public law of the Catholic dioceses of Bavaria—receives, due to an amendment (1988) to the Bavarian Concordat of 1924, reimbursement of 85 percent of actual expenses (including investments). In 2009, this amounted to 32 million euros for operating expenses and
€50,000 for investments.

Since there is parity among religious communities, one does not have to look far to find the Protestant counterpart to the Catholic Eichstätt University; it is the University of the Evangelical Lutheran Church in Bavaria in Neuendettelsau. Operating subsidy: 945,000 euros.

104. Hidden " " training centres

Children and young people in the so-called Third World are particularly affected by poverty in many ways, as they have virtually no educational opportunities. In this regard, it is commendable when universities in Germany take steps to provide these children with educational opportunities. To this end, there is a master's program in street children's education in Germany that is unique to date. The program's description states:

"The master's program in Street Children Education is an interdisciplinary, four-semester, full-time program conducted in cooperation with the universities of education and the universities of Heidelberg and Freiburg. The program is offered in Heidelberg and Freiburg."[110]

That's all. What is puzzling, however, is that the program's sponsors are *Don Bosco Youth Third World* and the *Augustinum Heidelberg*. The training modules then implicitly reveal who the actual university partners of the teacher training colleges are: the Institute for Diaconal Studies at the University of Heidelberg and the (Catholic) Faculty of Theology at the University of Freiburg, Institute for Practical Theology, Department of Caritas Studies and Christian Social Teaching. For example, the training module "Social Pedagogy with Street Children" is led by Prof. Dr. Werner Tzcheetzsch. He works at the Faculty of Theology at the University of Freiburg in the Department of Religious Education and Catechetics.

105. Further Cost Coverages

Two examples from the Free State of Bavaria's exemplary detailed budget demonstrate that these listed subsidies are not the only ones available:

For the funding of the Student Pastoral Care , grants of 64,100 euros are paid, and grants to the Bavarian Student Services for ground rent in favor of the church are budgeted. This amounts to a total of an additional 314,000 euros.

And at universities in Hesse—including, specifically, the Catholic Philosophical-Theological University of St. Georgen and the Lutheran Theological University of Oberursel—a meal allowance of 0.61 euros per student per workday is paid.

106. Concordat Chairs [111]

In addition to approving professors for the training of its own church personnel, the Catholic Church also has influence over 26 non-theological professorships, the so-called concordat chairs. These represent—in terms of the professorships alone (base funding per position: € 213,800)—an expenditure of approximately €6 million.

Concordat chairs are non-theological chairs for which the (Catholic) denomination of the applicant plays a role in the appointment process, although they do not belong to the Faculty of Theology.[112]

These chairs are established under the concordats concluded between the Catholic Church and the respective German federal states. The holders of these chairs are designated to teach all students in the respective faculty, not just theology students.

In Bavaria, there are currently 21 concordat chairs, the legal basis for which is Article 3 of the Bavarian Concordat. In addition, there is a Guardini Chair in the Faculty of Philosophy at Ludwig Maximilian University in Munich, as well as a Chair of Philosophy and Education in Würzburg. A 1997 state parliament inquiry revealed that 22.6 percent of the chairs in education, 25 percent in political science, 33.3 percent in sociology, and 36.8 percent in philosophy were filled with the Catholic Church retaining the right of veto.

There are two concordat chairs in Mainz (history and philosophy). Bonn also had two concordat chairs, likewise for philosophy and history. However, these concordat chairs were not included in the new constitution of the University of Bonn adopted in 1991; it can therefore be assumed that they were not filled with new appointments.

The Baden Concordat of 1932 guarantees two Concordat chairs (Philosophy and History) in Freiburg.

Contrary to widespread assumptions, there are currently no concordat chairs in Düsseldorf, Cologne, and Münster.

In Bavaria, the 1968 school reform led to an increase in the number of these professorships. The denominational school was converted at that time into a Christian community school, a move "compensated" by the Catholic Church's significant influence over the appointment of university professorships:[113] The concordat chairs in history were transferred to the social sciences (sociology or political science), and as part of the closure of the Catholic teacher training colleges, the concordat chairs in education were added. The regulation was extended to all state universities subsequently established in Bavaria, whether through the conversion of teacher training colleges (1972) or new foundations (1974 and 1978).

In 2008, following a call for applications from the Concordat Chair of Practical Philosophy in Erlangen, several scholars filed a motion for "interim relief." The aim was to prevent the university from continuing the appointment process. This motion was dismissed in both the first and second instances on procedural grounds. One of the judges, however, questioned the validity to restrict fundamental rights and state sovereignty in the appointment of civil servants on the basis of state-church relations and the Catholic majority.[114] After the chair was filled, a new application was filed, on which a decision is expected in the fall of 2010.

107. Research and Scholarships

In 2010, approximately 100 million euros in taxpayer funds were spent on research funding in theology at German universities.

Conducting scientific research on religion, churches, religious rituals, and so on is certainly of historical and cultural interest. However, the scientific independence of such research is an essential prerequisite. Consequently, it cannot really be a religious institution that conducts research on religion. Such bias follows the same logic as a study on smoking conducted by a cigarette company.

Yet this research is "flourishing." But who can list all the research projects, who knows all the figures? A few examples.

German Research Foundation (DFG). The "Religion and Politics" Cluster of Excellence at the University of Münster brings together some 150 researchers from 18 disciplines in the humanities and social sciences and 11 countries. They examine the complex relationship between religion and politics from antiquity to the present day, spanning regions from Latin America to Europe and the Arab world. It is the largest research network of its kind in Germany and the only one of the 37 Clusters of Excellence nationwide to focus on the topic of religions. The federal and state governments are funding the project with 37 million euros from 2007 to 2012 as part of the Excellence Initiative, which amounts to approximately 6 million euros per year.[115]

The German Research Foundation's Collaborative Research Centre 619 at Heidelberg University (theme: "Ritual Dynamics: Sociocultural Processes from a Historical and Cross-Cultural Perspective" [116]) is funding the following sub-themes in 2008, among others: "The discourse on non-Brahmanical rituals and their transformation in the religious history of South India since the 18th century," "Ritual transfer between South Asia and the West from a historical and religious studies perspective," as well as "Between online religions and religion online: Constellations for ritual transfer via the Internet." The Collaborative Research Center has been in operation since 2002[117] and has received 10.4 million euros since then, including 2.1 million euros in 2008 alone.

In 2008, Research Project 963 received 1.5 million euros, among other things, for the topic: "The Buddha's Words and the Donor's Intent: Media Differences and Textual Variation in Sutra Colophons and Votive Inscriptions of Early Chinese Buddhism (4th–7th Centuries)."

In the same year, 3.2 million euros were spent on research into "Religious Individualization in Historical Perspective" (FOR 1013)[118]. And: "Inspiration and Subversiveness. Artistic Creation as an Aesthetic-Religious Experience," a sub-theme of Collaborative Research Center 626 "Aesthetic Experience in the Context of the Blurring of Artistic Boundaries," cost the *German Research Foundation* 2.5 million euros in the year in question.

The DFG reports grants totalling 23.3 million euros for theology for the years 2005 through 2007, and 37.2 million euros for "Culture" (a category that primarily encompasses religious studies, ethnology, anthropology, and Jewish studies). Combining these two areas, the total amounts to approximately 60 million euros over three years, or about 20 million euros per year.

The state-funded *Alexander von Humboldt Foundation* also supports the sciences, as does an unspecified number of
"third-party funding sources," so it seems appropriate to use the figures from the university statistics for third-party funding.

The Scientific Staff receive as additional research funding (€14,700 per position) €14 million, and the professors (€48,000 per position) €35 million, totalling research funding for theology in the range of at least approximately €49 million.

These research projects already total 84.3 million euros, so a budget of 100 million euros seems appropriate—and is likely still too low.

108. Misuse of Interdisciplinary Research

To an outsider, some research topics across a wide range of disciplines—including the natural sciences—may appear highly specialized, superfluous, or eccentric. However, it is up to the individual sciences, their respective communities, and research bodies—including those in theology—to judge this.

There is, however, research within theology, specifically in religious education, that constitutes a scandal in the instrumentalization of science

for missionary purposes. One example is the project "Children's Concepts of God," led by Prof. Anna-Katharina Szagun at the University of Rostock.

The project was mentioned in general terms, and it was stated that "a six-figure sum" was available for it. Nothing more—no specific figures. Nor was there any information about who is funding the project, i.e., who has an interest in it, or what the specific research question is. Inquiry with the *German Research Foundation* (DFG): No response. However, through cross-references, it was possible to determine who the client is: the *Evangelical Church in Germany* (EKD). One could dismiss this with a shrug; political parties and labor unions also award research contracts to scientists "close" to them. But what was this multi-year research project about? "Giving a Voice to the Voiceless" was the title given to a multi-year study in which explicitly non-denominational children were tested. The aim was to investigate how to teach them, even as young children, to speak and think in religious terms and metaphors: "Children's Theology."

"Selected preliminary findings:

1. in non-denominational children, religious search movements—some of them touching— Complex thought models developed independently by non-denominational children—who initially cannot verbalize their structure and in some cases require a longer process of supported elaboration to arrive at their own interpretation—support the assumption of a natural theology. [...]

17. If a child sees no connection between their life world and God, one can conclude that they either do not yet have a relationship with God or that their relationship with God is currently disrupted. The cause of this may be that the child's previous concept of God stands in the way of establishing or continuing a relationship with God, i.e., that a restructuring of their thinking must take place."[119]

From a secular perspective, these are research findings and resulting guidelines on mental child abuse commissioned by the *Evangelical Church in Germany*.

109. Support for Gifted Children

The relevant committees and staff members are unlikely to even notice when, for example, they visit the website of the *Cusanuswerk's* "Episcopal Foundation" and read the following description of the organization:

"The Cusanuswerk is the Catholic Church's organization for the promotion of gifted students in Germany and awards state grants to particularly gifted Catholic students in all fields of study. [...]
The question of fundamental orientations for academic, social, professional, and personal conduct is at the heart of the Cusanuswerk's support work. This also includes engaging with the Christian faith."[120]

So the state is using taxpayer money not to support academic talent, engineers, doctors, or physicists, but rather religious convictions—or Catholics? Apparently, this doesn't bother anyone. As the Federal Ministry of Education and Research writes:

"Through their moral and financial support, the twelve organizations for the promotion of gifted students contribute to the development of highly qualified and responsible individuals who are capable of meeting the demands placed on future leaders and those in positions of responsibility. They reflect the pluralistic spectrum of ideological, denominational, political, economic, and labor-oriented movements in Germany."[121]

Apart from the fact that, according to the logic of German association-based democracy, these "currents" refer only to organized groups, the misleading labelling is evidently not a problem. It is hardly made clear that this concerns the Federal Republic of Germany's state-funded support for gifted students. As stated in a description by the Ministry:

"Cusanuswerk – Episcopal Scholarship Program. The Cusanuswerk is the scholarship program of the Catholic Church in Germany, founded in 1956. It is one of the twelve scholarship organizations for gifted students in the Federal Republic of Germany.
The Cusanuswerk provides scholarships to particularly gifted Catholic students in all disciplines and at all universities during their undergraduate and doctoral studies. It aims to strengthen its scholarship recipients' sense of responsibility and empower them to initiate dialogue between academia and faith, society and the Church.
Since its inception, the Episcopal Scholarship Program has supported more than 5,000 students and doctoral candidates; each year, around a thousand students apply for a scholarship through five different selection processes. Currently, approximately 900 Cusanus scholars are receiving support."[122]

It would be mischievous to think ill of this, for this principle of "episcopal student aid"—Catholic bodies select recipients, and it is paid for with tax dollars—also applies to other "episcopal" initiatives (cf. e.g., Misereor, p. 182). Our Protestant brothers and sisters in faith do exactly the same. After all, no one in Germany may be disadvantaged on the basis of their religious affiliation. (Article 4 of the Basic Law)

The Protestant counterpart is called *the Evangelisches Studienwerk Villigst*. The total pool of tax funds allocated to organizations that support gifted students is shared among these two religious organizations, foundations affiliated with all political parties, the business community, and labour unions, as well as the German National Academic Foundation.

Students receive (state-funded) scholarships from public foundations for the promotion of gifted students. The German National Academic Foundation is the only one of these foundations that maintains strict ideological neutrality, "whereas the denominational foundations require more than just a baptismal certificate."[123]

The total budget allocation in the Federal Ministry of Education and Research's budget for "grants to student aid organizations" amounts to 198 million euros (2010) and is distributed among 12 organizations. A breakdown by individual foundation is not published. However, based on the figures for scholarship recipients published in the Statistical Yearbook, a plausible distribution among the individual student aid organizations can be estimated.

Of all 24,596 students receiving *support*, the *Cusanuswerk, a Catholic student aid organization,* supports 1,116 students (4.5%), and the *Evangelische Studienwerk Villigst, a Protestant student aid organization,* supports 1,266 (5.1%). In line with their share of scholarship recipients (9.6%), the two denominational scholarship organizations are likely to receive around 19.2 million euros.

However, the Federal Foreign Office also awards scholarships "to foster cultural relations with other countries." The largest sum goes to the *German Academic Exchange Service* (DAAD) at 76.8 million euros (2010 budget). Next in the funding ranking are the foundations of the political parties, and under "Other," for which a total of 8.7 million euros is available (2010), the footnote explains: "Including church organizations, [...]."[124] A breakdown is not possible.

Where these funds go is evident, among other places, in *the Catholic Academic Exchange Service* (KAAD), which receives 350,000 euros from the Federal Ministry of Education and Research.

According to the DAAD, 1,310 international students studied Protestant and Catholic theology at German universities and universities of applied sciences in 2009. With a scholarship of 650 euros per month, that amounts to 7,800 euros per year multiplied by 1,310 students, totalling 10,218,000 euros. This figure does not include travel expenses, health insurance, or tuition fees.

110. Conclusion: Training of the Next Generation

To summarize the costs incurred by the German government in financing the training and support of the next generation of clergy with taxpayer funds: 279 million euros for theology at universities and colleges, 58 million for denominational universities of applied sciences and church music training, 36 million for other educational institutions, around 100 million euros for research funding, 6.6 million in other costs, 19.2 million for scholarships for gifted students, and 10.2 million for theology scholarships—a total of approximately 509 million euros in public funds.

There is still a shortage of publicly funded vocational schools and other church-run training and continuing education institutions. Since the cost estimate for universities is based on the very lowest figure, the actual total amount will therefore be even higher.

Childcare facilities

A total of 3.9 billion euros in direct costs is spent (in 2008) on funding religious childcare facilities.

111. Objective

"Let the little children come to me," say all who know that a child's mind is still easily influenced and shaped. But what to do when the little children no longer (have to) go to church? In the spirit of Christian charity, educational care is offered that is (supposedly) open to everyone. This is what the then-chairman of the EKD Council, Bishop Wolfgang Huber, said in January 2009 at the University of Applied Sciences in Bochum:

"The most important institutional settings for Christian early childhood education are church-run daycare centers. [...] In 2006, the EKD and its Diakonie, as well as the Roman Catholic Church and Caritas, together operated a total of 17,521 facilities. Given the 48,200 facilities that existed in the early childhood sector, this is a considerable number (36.35%), even if it does not constitute an absolute majority."[125]

And in this lecture, the then-highest-ranking Lutheran in Germany stated clearly and unequivocally what the churches' core concern is regarding daycare centres. In contrast to children's church services, where the children are largely are already Christian; otherwise they wouldn't participate,

and the daycare centres would have entirely different options. The EKD Council Chair:

"In church-run daycare centres, on the other hand, there are regularly unbaptized children, children from other religions, or even from decidedly secular families. This means at least two things: First, there are missionary opportunities for Christian daycare centres. By providing unbaptized children with inspiring experiences using educational materials based on the Christian faith, they invite them to believe in Jesus Christ in a compassionate and unobtrusive way."

And so that no one might think the Church is limiting its missionary work to its denominational daycare centres, Bishop Huber explains precisely:

"The state must not act as a religious educator—but it must allow room for religious offerings, including those of the churches. Children's right to religion therefore requires that religious content be introduced and taught to them not only in daycare centres run by religious communities and churches."

It follows that religious instruction must also take place in municipal daycare centres.

Anyone surprised by this should read the June 2003 ruling of the Hessian Administrative Court in Kassel, which addresses the issues of religious freedom, grace before meals in kindergarten, voluntary participation, and alternative options. The case involved an urgent motion seeking to prohibit the recitation of a grace before meals in a municipal—and thus ideologically neutral—kindergarten. This motion was denied. The key points of the court's reasoning:

1. The principles regarding positive and negative freedom of religion developed by the Federal Constitutional Court in its decisions of October 16, 1979 ("School Prayer"; BVerfGE 52, 223) and May 16, 1995 ("Crucifix," BVerfGE 93, 1) regarding positive and negative religious freedom in the school context apply all the more so to the context of voluntary kindergarten attendance.
2. Accordingly, a grace said in a municipal kindergarten does not, in principle, violate the state's requirement of neutrality.
3. However, even in the case of voluntary state-sponsored events, negative freedom of religion must be taken into account by ensuring that participation in the prayer itself is voluntary and that reasonable, non-discriminatory alternatives are available to those who object.[126]

The only question remaining is what constitutes "reasonable, non-discriminatory alternatives" for children in a kindergarten group. This does not seem to be a problem, because:

"In balancing the interests of those who wish to say a prayer and those who do not, it should be taken into account that the grace takes only 5 to 15 seconds and that the petitioner can easily spend that time in other areas of the kindergarten (under the supervision of a teacher). The decision is final."[127]

Being called, gathering together, falling silent, looking, saying grace, clapping and laughing, holding hands, saying "Enjoy your meal-tit-tit" together, laughing, and sitting down: How narrow-minded and lacking in life experience or empathy must the judges of a court be to reduce this "social situation" to 5 to 15 seconds. Well then, Your Honor, the non-denominational, Muslim, or children of other faiths who do not wish to pray in a Christian manner can, in the meantime, go to the restroom without discrimination.

112. New Evangelization

The chairman of the Catholic Bonifatiuswerk, Archbishop Hans-Josef Becker, also points out the particularly important role that these daycare centres (and schools) play in the Church's missionary work in the new federal states:

"Here, the Church's educational work is not only realized 'from the ground up' in the truest sense of the word; here, an important contribution to evangelization also takes place, one that affects not only the growing children and young people but also their family environment. In no other area of the Church's activity in the diaspora is the broad and deep impact of proclamation and witness to the faith felt as strongly as in the elementary spheres of kindergarten and school. It is here, incidentally, that the 'New Evangelization in the face of spreading neo-paganism,' of which I spoke at the time on the occasion of the Boniface Jubilee, takes place in a very concrete way."[128]

"New Evangelization"? But what else can one expect from the lobbyist of a successful church that has its institutions financed largely by all taxpayers and parents? Modesty? Non-religious people should be grateful that he isn't publicly mocking the stupidity of taxpayers and those without religious affiliation!

These operational guidelines for daycare centres issued by high-ranking representatives of the Protestant and Catholic churches also make it unmistakably clear that taxpayer funds for daycare centres run by religious organizations are not primarily general socio-educational tasks of

society that the state would have to finance anyway. They are primarily instruments for proselytizing children (and their families) for the churches' own purposes.

Even the mildest daily routine at religious daycare centres includes indoctrinating children with Bible stories, teaching them to pray, singing hymns, discussing topics related to God, and so on. The extent to which this instrumentalization takes place on the ground certainly varies and depends on several factors: the influence of the churches, the commitment of the director, the beliefs of the teachers, the expectations of the parents, and so on. However, such tasks should not be financed by the state to any significant extent. And if the churches had any decency, they would also cover their share of the costs for this "double package" of educational care and religious instruction. The opposite is the case, however: the churches are increasingly withdrawing from funding, yet at the same time—using the funds they save—they are strengthening the "Christian profile" of "their" daycare centres.

This ideological stance also makes it clear that the issue of funding religious daycare centres is not about potential savings for the state, since the state is required to fund these centres anyway. If the churches in Germany wish to proselytize, that is their right—but it should not be funded with taxpayer money.

113. Figures

As of March 1, 2009, there were a total of 50,299 daycare centres for children in Germany, where 3,050,916 children were cared for by 465,347 staff members. The net expenditures (i.e., actual expenditures minus revenue generated) of state agencies for this purpose (in 2008) amounted to 11,326,585,000 euros.[129]

The Catholic Church operates 9,386 daycare centres nationwide; the legal entities are the local parishes or Caritas. 90,696 staff members care for 604,094 children there. For the Protestant Church, there are a total of 8,331 daycare centres with 78,209 staff members caring for 501,143 children.

Of all childcare facilities, 34 percent (17,256 centres with 1,125,177 children) are state-run, and 66 percent (33,043 daycare centres with

1,925,739 children) operated by private providers. Among private providers, religious daycare centres account for 53.4 percent of facilities (with 1,105,237 children, i.e., 57.4 percent of children in private daycare centres). In terms of all children in all daycare facilities, 36.2 percent of children attend religious daycare centres.

Of the 11.3 billion euros in government spending on daycare facilities, 6,819,924,000 euros were spent on privately operated daycare centres; that is, religious daycare centres received 57.4 percent of this amount (calculated by number of children), or approximately 3.9 billion euros.

In some federal states, the churches hold a significant market share for kindergarten spots, which are now guaranteed by law. In Bavaria, for example, 2,422 (40% of all kindergartens) are under Catholic management and another 959 (16%) under Protestant management. Thus, approximately 56 percent of Bavarian kindergartens are run by religious organizations. 1,875 kindergartens (31%) are run by municipalities, and the remaining 749 facilities (13%) are operated by the Workers' Welfare Association, the German Red Cross, or other providers. A general trend holds true: the more rural the area, the more religious the institutions, up to the point of a church monopoly.

This dominant market position of the churches has two sides. On the one hand, it is still difficult—and in some areas of Germany even impossible—for non-religious parents to secure a spot in a non-religious kindergarten. On the other hand, the religious freedom of current and future kindergarten staff is called into question, as they must be, remain, or even become members of a church if they do not want to remain or become unemployed.

The de facto monopoly held by church-run organizations over kindergartens violates the principle of subsidiarity. This principle states that the state must delegate social responsibilities to other entities in order to respect the constitutional rights of the individual. Article 4 (1) of the Basic Law: "Freedom of faith and conscience, and freedom of religious and ideological belief, are inviolable."

But at least: Around 1900, roughly 80 percent of all daycare facilities in Bavaria were run by religious organizations; today, that figure stands at 56 percent.

On average, the Free State pays about 35 percent of operating costs, municipalities about 50 percent, parents about 10 percent (including any provider contribution).

Just under 5 percent is covered by economic youth welfare for parents for whom the parent contribution is financially unreasonable (after all, about one-third of parents).[130]

114. The Start of the Exit

State payments for denominational daycare centres have not only increased at the usual rates over the past ten years. They have risen significantly more sharply, not only because the number of state-guaranteed childcare spots is increasing, but also because denominational officials successfully threaten to close their daycare centres if the state does not fund them at an even higher level than before. As a result, the churches now have to pay fewer or no subsidies at all.

In the state of Hamburg, this "first step toward phasing out" has already been successfully implemented across the board. Whereas the churches previously covered 20 percent of the costs of their daycare centres, this share had already been reduced to 10 percent. In July 2001, the Senate not only increased its previous payments, but all new spots in church-run daycare centres have since been 100 percent funded by the city as part of the expansion program. The result: by 2010, church subsidies for "their" daycare centres in Hamburg had dropped to zero.

In North Rhine-Westphalia, the largest federal state, a similar trend occurred. Starting from a higher level of church contribution to operating costs (1990: 36%), the church's share was reduced from 20% to 12% by 2007. The parental contribution stands at 19%.

115. On the ground: In Bochum, Leimen and Sörup

Back in 2004, stakeholders in Bochum had sat down together to discuss adjusting the number of spots to meet declining demand. Then, in 2006, the Protestant Church planned closures and building sales without consulting the city or other operators, as it wanted to save 700,000 euros. Otherwise, they would have liked to see that amount provided as additional funding from the city. While they were aware of the strained situation of municipal finances, it was ultimately the city that had to fulfil the legal right to kindergarten spots. And other municipalities had already stepped in to help the churches voluntarily.[131]

Result: The city did in fact fully assume the costs of 16 kindergartens operated by the Protestant Church.

In 2007, with the reduction of the churches' share of funding to 12 percent — a move that required the state to cover additional costs of around 80 million euros — the state government of North Rhine-Westphalia believed it had satisfied the churches and that the agreed-upon number of daycare centres would be maintained. However, the churches, which operate about half of all daycare centres in North Rhine-Westphalia, refused to reverse the announced closures.

In Leimen (in northern Baden-Württemberg), the town had also relied on the church and had to learn a bitter lesson. The district seat currently has ten kindergartens: three Protestant, two Catholic, and five municipal. In October 2009, a long-standing vacancy in the Protestant parish was filled, and a new female pastor and a male pastor were installed in their offices. Does a new broom sweep clean? In any case, during a financial review in December 2009, the parish council discovered that the parish was in the red. The decision was made to close one of the two Protestant kindergartens. However, nothing had been made public yet. Apparently, they did not want to face a storm of outrage during the peaceful Christmas season.

In early January 2010, rumours began circulating in Leimen that the parish would close one of its two kindergartens midway through the year. This plan was then confirmed and explained in letters sent to the affected parents and the city administration/city council on January 12, 2010, although the letters mentioned a merger of the kindergartens. Financial problems were cited as the reason for the kindergarten's closure, specifically a budget deficit in the high five-figure range. It was also argued that the kindergarten no longer met educational standards. Furthermore, maintenance investments of approximately 500,000 euros. Church tax revenues were also declining, which is why the responsible church council pursued a policy of divesting itself of as many properties as possible.

During the ensuing discussions between parents, the church parish, and the city of Leimen, it emerged that the church parish is currently undergoing a budget stabilization process (the church's equivalent of state insolvency proceedings) and must be restructured within six years. Consequently, the parish is no longer the sole decision-maker.

The closure of the kindergarten was intended, on the one hand, to save the church its current annual subsidy of 10,000 euros for the two kindergarten classes and, on the other hand, to generate revenue by selling the property. All of this was done without consulting colleagues or reaching a mutual agreement with the city—and there was a reason for that.

When asked whether the church would reimburse the city for its share of the investment subsidies previously provided by the city upon the sale of the building—meaning the city would receive a share of the proceeds—the church replied in the negative. It turned out that no arrangements had been made for such a scenario. The city had trusted the church congregation.

In the last ten years alone, 128,000 euros were invested in the kindergarten, 90 percent of which was covered by the city—that is, a "grant" of 115,000 euros. In addition, the street was also renovated, and as part of this project in 2008/2009, the entrance area (stairs, wheelchair-accessible entrance, doors, handrails) was redesigned, which cost the city 35,000 euros for the kindergarten area alone. But that didn't matter; after all, people were happy to do the church a favour.

These 150,000 euros in investments and grants, which increased the building's market value, are now lost to the city.

In the ensuing discussion about the closure, the church agreed to continue operating the kindergarten until mid-2012, provided that the municipality fully covered the deficit. This was intended to allow the children currently attending the kindergarten to complete their time there. It would also give the municipality more time to arrange for a suitable replacement.

In the meantime, the city has learned from its mistakes, and the city council has passed a resolution to approve investment grants to churches only if they come with a repayment obligation. Thus, if a kindergarten is closed in the future at the initiative of a church congregation, the grants provided must be repaid based on the duration of operation (with a 10% depreciation).[132]

But even in the far north of Germany, a parish has since gained valuable experience. In 2009, the parish of Sörup, at the request of numerous parents, extended the opening hours of the church- run kindergarten until

3 p.m. and reached an agreement with the local government on cost sharing: The local government covered 16,600 euros and the church 1,600 euros—for one year. They wanted to see if the offer would be accepted, which it was to a large extent. After one year, in July 2010, the church no longer wished to cover its nine-percent share. The parents then asked the local government to take over the church's share. Only when discontent grew and the municipal council convened did the church district announce that the provost had granted permission to continue covering the church's share—for another year.

Religious Education

In 2009, a total of 1.7 billion euros was spent in Germany on state-funded religious education teachers and church-appointed staff for religious education in general education schools and vocational schools.

Religious instruction in Germany is (alongside the right of religious communities to levy taxes) the second area in which the separation of church and state has not been implemented under constitutional law. Article 7, Paragraph 3, Sentence 1 of the Basic Law states: "Religious instruction is a regular subject in public schools, with the exception of non-denominational schools."

This adopted the provisions of the Weimar Constitution, for: "The guarantee of state-sponsored religious instruction, state-run denominational schools[...] formed the strongest foundation for the continuation of the institutional bond between church and state and for securing the church's public influence within the broader development of society."[133] Once again, the old socialist slogan "Religion is a private matter" (Point 6 of the SPD's Erfurt Program) could not be implemented under constitutional law.

This constitutional mandate of the federal government has led to a wide variety of interpretations in the constitutions of the federal states and in constitutional practice. In the practice of the federal states (with the exception of Brandenburg, Bremen, and Berlin), it has become established that religion is a regular academic subject (although its relevance to promotion to the next grade is handled differently). It is taught by teachers in the civil service, who are, however, subject to a church-denominational teaching license. If necessary, additional teachers are recruited from the

church (via "secondment agreements"), the costs of which are "reimbursed" to the churches.

116. "Pro-Reli" vs. "Pro-Ethics"

The determination — not to say doggedness — with which the churches defend religious education as a required subject has been evident not only historically — as in the discussions surrounding the Bavarian Concordat of 1924 — but also very recently in the "Pro Reli" referendum in the state of Berlin in 2008/2009.

Berlin not only has a long-standing tradition as a "city of newcomers" with a wide variety of religious views, toward which it has always shown tolerance. Following the experiences of National Socialism, the Protestant Church (Regional Bishop Dibelius) insisted that religious education remain exclusively within the Church's purview—that is, "on behalf of the Church"—even if the state financed it, and that it not be taught by state-employed teachers. The disputes between the church and the municipal authorities ultimately led to the consequence that religious education was an optional elective subject that had no bearing on promotion to the next grade. The church's position on funding was as follows:

> "The remuneration of catechists is fundamentally a matter for the Church. However, since religious education is taught as a subject in the public school curriculum, is demanded by the majority of parents, and is of fundamental importance for school education, it is entitled to have its costs borne primarily by the Berlin Senate and made available to the Church in the form of subsidies."[134]

Thus, an accepted compromise had been found for the coming decades—the "Berlin Model," which also enables voluntary and state-funded instruction for humanist worldview education ("Lebenskunde") and smaller religious communities.

This "truce" held until the early 1980s, when the Protestant Regional Church began advocating for two changes behind the scenes. First, it sought the introduction of instruction in additional religious-ethnic orientations (for Muslims), and second, it sought to establish the status of an elective-compulsory subject for all these subjects, including Protestant religious education. Students were to be required to participate in one of these subjects. However, there was no spokesperson on the Muslim side who spoke "for everyone."

When the Berlin Senate then introduced mandatory ethics classes for students in lower secondary school (grades 7–10) in 2006, a veritable storm of opposition erupted from the churches. It was triggered by a Catholic lawyer from the Rhineland who, having moved to Berlin, believed that school conditions in the current federal capital should now be brought in line with those in the western part of the country. Since the federal German model—with religion as a required subject (with the option to opt out) and ethics classes as an alternative for those not participating in religious education—was unthinkable in Berlin, he came up with an alternative: religious education and ethics as equally weighted elective-required subjects for all students. This model was to be legally introduced via a referendum.

When the petition — which was a prerequisite for the referendum — threatened to fail to secure the necessary number of signatures, the churches had to step up to the plate — whether they wanted to or not — and they did so successfully. Even the two bishops collected signatures during the Christmas season. The required number of signatures was far exceeded, and the referendum had to be held.

What was happening within the churches at the time, however, made a mockery of any notion of democracy and fairness—not to mention "love for one's neighbour." Pastors were pressured, silenced, and threatened with disciplinary action if they did not follow the official line of the regional church. "Pro Ethik" posters were torn down, thrown into the street dirt, and an unprecedented and costly campaign "It's About Freedom"—featuring large billboards, celebrities, flyers in the subways, and letters to all church members. Nevertheless—or perhaps precisely because of this—only 14.1 percent of eligible voters supported Pro Reli's proposal. That wasn't enough, and the churches hadn't even managed to secure a simple majority of the vote. The election campaign had also made it clear to the public that the two churches are merely—if not to say, frankly, despicable—political lobbying organizations.

117. Religious education takes a back seat

In schools, religious education often faces a situation in which the issue of denominational instruction tends to be addressed only at the elementary

than it is. Some students appreciate this "subject for chatting," where it is easy to get good grades for their report card.

This unofficial violation of the constitution exists in Hamburg, where the constitutionally protected and mandated denominational instruction for students belonging to the respective religious community has been rebranded as "World Religions Class" or "Religious Education for All" under the leadership of the Protestant Regional Church.

This is an example of how the churches simply disregard provisions and guarantees of the Basic Law that they otherwise vehemently defend as inviolable against any change. When acceptance of the instruction in schools demands it, the following seems to apply: Better just a little Protestant than nothing at all. For example, the Federal Ministry of the Interior writes the following regarding religious education:

"Religious education as a regular school subject is denominational instruction, i.e., it is intended to convey the values and doctrines of the respective religious community. A course on religious studies that is merely intended to provide neutral information about one or more religions is not religious education within the meaning of the Basic Law."[135]

The state of Bremen was not included in the overview of religious education (in the appendix) because it does not offer denominational religious instruction. Instead, it offers "Biblical history classes" as "general studies based on the Bible" (pursuant to Article 141 of the German Constitution "Bremen Clause"). The program is currently under review, as the Christian Senator for Education believes there is insufficient demand for it.

However, it would be necessary to clarify on the ground exactly what kind of instruction this entails. "Biblical History Class" is not offered in grades 8 and 9 because, to quote the text, "it is assumed that confirmation classes are being taught during this time."

118. Funding

With regard to the financial costs of religious education, two distinct areas must be considered. On the one hand, the costs for religious education taught by teachers in the civil service; on the other hand, the compensation for religious education teachers in the church's employ via

agreed “contracts of engagement” or funding for religious education in state schools.

The payments to the churches (and religious orders), which are smaller in volume due to the provision agreements or other state-church agreements, are normally reported in the state budgets of the federal states broken down by school type. In contrast, state statistics on the far higher expenditures for religious education provided by state-employed teachers are highly inconsistent, incomplete, or even non-existent.

Inquiries to the relevant ministries of education yielded the following total figures (see Appendix, p. 258, Overview 2: Religious Education in the Federal States 2008/2009): 6.8 million students in general education (and vocational) schools participate in religious education. If these student numbers are converted to full-time teaching units (the technical term), there are approximately 26,000 full-time equivalent positions for religious education teachers.

These somewhat cumbersome formulations are necessary because the federal states, if at all, always count only those teachers as “religious education teachers” who hold a teaching qualification (“Fakultas”) for religion. However, this does not indicate whether or how much religious education they teach, as the number of teaching hours per week is not recorded.

To provide an overview, the following calculation has been used: The number of participating students multiplied by 2 weekly class hours yields the total number of class hours. Divided by the 25-hour teaching load of a full-time teacher unit (FTE) and by the average class size of 21 students yields the number of full-time teacher units required to provide religious education.

Based on the amounts in the state budgets, the number of full-time equivalent positions can be calculated (the stated figure divided by 60,000 euros yields the FTEs for teachers in church service). This number is then subtracted from the total, resulting in the number of full-time equivalent religion teachers in state service. This number, multiplied by 60,000 euros, represents the state’s financial expenditure on state-funded religious education teaching positions.

The federal states pay 258 million euros to the churches and religious associations for the 4,400 full-time teaching positions in church service. For religious education teachers in the civil service, the total is 1.3 billion euros. This brings the total amount of direct government spending on religious education to approximately 1.6 billion euros.

The significance of these payments for the churches is illustrated by the specific case of the state of Berlin, where the two churches together receive 10.6 million euros in state subsidies, but more than three times that amount—33.7 million euros—for their religious education teachers in church service.

119. Calculation Basis

Cost of a full-time position: The annual expenditure for a full-time position was calculated based on the salary scale of North Rhine-Westphalia. A12: Primary school teachers (Grade 1–4), A13: Middle school teachers and lower secondary school teachers, A14: Upper secondary school teachers. The calculation is based on A12, 7th seniority level, 2 children, according to the NRW salary scale effective March 1, 2010: Base salary of 3,719.15 plus family allowance (2) results in a gross salary of 3,928.68 x 12 months = 47,144 per year plus 29 percent of employer costs (share of social security contributions plus supplementary pension) of 13,672 euros. Total costs: 60,816 euros, rounded to 60,000 euros per year.

Class size: Nationwide, the average number of students per class is estimated to be around 24. For religious education, however, this class structure is dissolved, and cross-class groups are formed based on religious affiliation. The number of students per class is smaller than in a regular class. Religious education is considered one of the most expensive educational offerings, as more teachers must be hired and funded for the same number of students than for German, mathematics, etc.

To arrive at a reliable figure, the calculations were based on a study by the Bavarian Supreme Court of Auditors. In its 2001 annual report, the Court had examined whether the maximum number of students per religious education group had been reached in Bavarian schools. In contrast to the average of 24.2 students per class in elementary schools, there were only 18.7 students in religious education classes instead of the possible 21.2 students per group. Apart from the fact that the Free State of Bavaria incurred 39 million DM in additional expenses as a result, this rounded figure should serve as the basis for the calculations. It is certainly not set too low, as it has been reported that some federal states use significantly lower student numbers. However, there is no evidence to support this.

A second review based on more recent figures also confirmed this average number of students in religious education classes exactly.

According to the comprehensive report "The School System in North Rhine-Westphalia: A Quantitative Analysis, 2009/10"[136] a total of 1,849,310 students participate in Catholic and Protestant religious education. They are divided into 88,100 classes, meaning that the average number of students per class is 21 (20.99).

120. Minimum class sizes

However, regarding payments to the churches, it should be noted that the lessons taught by church employees are not necessarily reimbursed in full. The guidelines on this vary widely among the federal states but are significant in that a minimum number of participants serves as the basis for calculating payments to the churches. This ranges from four Catholic students as a learning group in Hamburg to 15 students in Berlin elementary schools and 12 students in high school. Other federal states apply different standards depending on school type and grade level. In Brandenburg, 12 students are set as the minimum number; however, for "pedagogical or organizational reasons within the school premises," the minimum number of participants funded by the state may be reduced to as few as six students. If these minimum numbers are not met, the church must pay for the teachers itself.

In Schleswig-Holstein, for example, the Archdiocese of Hamburg covers a quarter of the costs of Catholic religious education in small groups (three or four students) out of its own pocket (approximately €510,000). The rationale behind this is the experience that once religious education is removed from the school system, it is very difficult to reintroduce it.

The situation was and remains the same in Berlin. Here, the regional church provided Protestant religious education, particularly in East Berlin, also in small groups. However, it had to finance this itself, which is why it was scaled back as funds became tighter. The regional church pays around seven million euros for small-group instruction in Berlin and Brandenburg.

In Hamburg, the Catholic Church—due to the densely populated urban environment—takes a different approach, as it also brings "individual children" together for religious education in the parishes there. However, in Hamburg, 140 students at public schools already receive religious education, with the minimum number of participants for a state-funded learning group being just four students.

121. Teacher training

These expenses do not yet take into account that the religion teachers were already trained at the state's expense and that teacher training for the churches is also reimbursed.

The state has already invested in the training of the 26,000 full-time religion teachers (positions). According to the 2009 Education Finance Report by the Federal Statistical Office, the training costs — 4 years of elementary school, 9 years of high school, 5.8 years of university study, university degree (excluding medicine) — 114,500 euros. That amounts to approximately 3 billion euros at today's "prices" in training costs for religious education teachers. For teacher training, the budget of North Rhine-Westphalia 1,176,000 euros for both churches; in Bavaria, the budget allocates 909,000 euros for this purpose. In Berlin, a flat rate of 5 percent of the allocation funds is added "on top" for teacher training. No data on this could be found in the other state budgets. However, if one calculates the continuing education costs in North Rhine-Westphalia and Bavaria relative to their expenditures on religious education (0.3%) and applies this percentage to total expenditures, the figure amounts to at least around 4 million euros for teacher continuing education in religion.

122. Pension payments

Pension payments for retired religious education teachers are still missing. There are no exact figures on the number of religious education teachers who receive a pension after the end of their careers. These figures are not collected based on the subjects the retirees previously taught. However, after consulting with specialists, one can estimate a percentage of around 20 percent based on the overall figures (how many civil servants are currently working, and how many retirees are there?). In other words: for every 100 religious education teachers, there are 20 retirees.

With regard to state-employed religion teachers—that is, excluding those on temporary contracts—there are currently around 21,600 full-time religion teaching positions. Of these, 20 percent—or 4,300—are retirees. Since they all retired only after many years of service, they receive the 14th seniority step of salary grade A 13 (€4,226), of which 70 percent is pension (€2,958) per month and €35,498 per year. The total amount (4,300 × €35,498) amounts to approximately €153 million in pensions for former religion teachers.

In this regard, the total funding for religious education amounts to approximately 1.7 billion euros per year.

This figure does not include funding provided by the churches themselves (for example, the Protestant Church in Berlin and Brandenburg pays approximately €7 million). This funding is mostly based on small learning groups that are not publicly funded.

Churchly run schools

In 2007, the federal states spent a total of 2.3 billion euros on the approximately 2,000 Protestant and Catholic "denominational schools" in Germany (private general and vocational schools).

Just as Christian religious instruction provided by the churches and funded by the state is a constitutional mandate, the state has also committed itself—albeit only indirectly—to financing denominational schools: "The right to establish private schools is guaranteed" (Art. 7, para. 4 of the Basic Law). Since the entire German school system is under state supervision, private schools must be recognized as state "alternative schools" under private sponsorship if they wish to receive state funding.

123. Proportions of Confessional Schools

According to surveys by the Federal Statistical Office for the 2007/2008 school year,[137] there are 4,946 private general education and vocational schools in Germany. That is approximately 8 percent of all German schools.

Among the (3,020) general education schools, the (538) Protestant and (708) Catholic schools together account for 41 percent; among the (1,926) vocational schools, the proportion of religious schools is only slightly lower, as the (596) Protestant and the (164) Catholic vocational schools together account for 39.5 percent.

These state-approved private schools were attended (2007/2008) 913,300 students, of whom 435,620 attend Protestant or Catholic general education schools (48%) and 83,334 students (9%) attend Protestant or Catholic vocational schools. Of the 913,300 students attending these private schools, a total of 518,954 (57%) attend Protestant or Catholic schools.

This general description of "Protestant or Catholic" is therefore appropriate, as there are various other denominational school operators in addition to the church school foundations. In the case of Catholic schools, there are more than 150 different legal entities, primarily the various religious orders that have traditionally been involved in school education.

While the focus of Protestant schools used to be on special education schools, the Catholic Church has prioritized Catholic high schools as elite institutions and has always had significantly more schools. In recent years, however, Protestant schools have caught up significantly, particularly in elementary schools in the new federal states.

In Saxony, for example, of the 2,448 state-run general education schools (1992/93), around 1,000 have since been closed, leaving only 1,412 schools under public sponsorship (2009/2010). This decline corresponds to the drop in birth rates and out-migration but is also the result of the rapid increase in privately run schools, which rose from 43 to 374 during the same period.

This trend toward private schools is evident throughout Germany. Nationwide, the share of private schools rose steadily from 4.5 percent (1992) to 8.5 percent (2007). While the increase in the western states (from 5.8% to 8.2%) is moderate, it is significantly more pronounced in the east (from 1.4% to 9.9%).

When compared to public schools, two distinct differences emerge regarding private schools: girls attend these schools more often than boys, and foreign-born children are less common than in public schools. This suggests that, in the case of church-run schools, religious orientation does not play a decisive role; rather, social selection takes place. Furthermore, many of the parents who send their children to private schools have little interest in religion. "Religious schools" do not accept everyone, and so children with social challenges—primarily those from immigrant backgrounds—are also filtered out, in part due to tuition costs. This naturally creates easier teaching situations within the schools, which are viewed not because of this social selection but as the result of better teaching conditions. People also like to point to higher academic achievement or the teaching of values, which supposedly occurs more frequently at denominational schools.

124. Funding

The federal states finance Christian schools differently. On average, 80 to 90 percent of the operating costs of private schools are paid for by the state. In Brandenburg, this amounts to 100 percent of the comparable costs of public schools; in Schleswig-Holstein, 80 to 85 percent; and in Hamburg, 84 percent.

In this regard, when addressing the broader issue of private school funding, it makes more sense to refer to a comprehensive study by the Federal Statistical Office, which compiled and published detailed data on this topic in its "2009 Education Finance Report."

From 1995 to 2006, public subsidies from the federal states for private schools rose by 67 percent, from 2.4 to 4.0 billion euros. This figure includes both operating costs and capital expenditures.

For Protestant and Catholic private schools, which account for 57 percent of private school students, 57 percent of these subsidies can therefore be assumed: 2,264,000,000 euros.

125. North Rhine-Westphalia and Lower Saxony

In the two federal states of North Rhine-Westphalia and Lower Saxony, there are also special regulations.

In North Rhine-Westphalia, there are also private alternative schools run by various entities: Waldorf schools, church-affiliated high schools and comprehensive schools, Montessori schools, etc. However, the so-called denominational schools (107 Protestant and 1,054 Catholic schools, i.e., one-third of all elementary and secondary schools in North Rhine-Westphalia) are under municipal administration. They are therefore not funded in the same way as public schools but *are* state-run denominational schools.

"In parish newsletters, however, they are still referred to as if they were church institutions. [...] For Advent caroling and the fundraising campaigns for Epiphany, children are primarily recruited from the state denominational schools. All of this can pave the way for the children 'into the local parish' and enable 'steps toward finding a home in the faith,' writes the Archdiocese's Department of Education [...]. As a pleasant side effect, Catholicism is also strengthened among the teaching staff in the state. This is because only teachers of the relevant denomination are allowed to teach in denominational elementary schools."[138]

Another distinctive feature is that the parents of students at new schools largely decide for themselves whether a school should be a state-funded denominational school

or remains one. For existing schools, a two-thirds majority is required. This is supported politically when necessary, for example by the CDU-FDP state government at the time, which abolished "school district boundaries" within all cities and municipalities throughout North Rhine-Westphalia for the 2009/2010 school year. Since then, the principle "Religious affiliation takes precedence over place of residence" has applied, and so Catholic parents drive their children to the nearest Catholic denominational school, which, in turn, because there are so many enrolments from Catholic students, 'unfortunately' can no longer accept unbaptized children or those of other faiths from the immediate neighbourhood.

The Lower Saxony School Act classifies "privately operated schools" into two categories: alternative schools, on the one hand, and "church-run alternative schools that have evolved from public schools," in short: "Concordat schools": 15 Haupt- and Realschulen that were agreed upon in the 1965 Concordat and for which the state of Lower Saxony covers all costs.

Similar to North Rhine-Westphalia, parents (though requiring a two-thirds majority) can submit a request to convert a comprehensive school into a denominational school, and the state then fully funds that school. Incidentally, parents who are not Catholic do not have the right to vote. However, the decision is made by the school authority.

126. School Tuition

Normally, tuition is paid at denominational schools depending on the level of state funding.

However, this can vary within the same state. For example, the Archdiocese of Berlin has different amounts depending on the type of school, starting at 45 euros for an elementary school student and increasing with higher levels of education. A high school or vocational school student pays 75 euros per month.

The Protestant School Foundation follows a different policy, with tuition fees scaled according to both parental income and the number of children. It also starts at a minimum rate of 45 euros and then rises steadily until the tuition fee reaches 315 euros for monthly incomes of 150,000 euros or more. The second child pays half, the third a quarter, and the fourth child attends tuition-free.

These tuition fees, which the state cannot collect, serve not only to prevent the children of "parents unwilling to educate their children" from attending denominational private schools. They can also be used to

convince the local government to transfer the public school to the church. This is what happened in Stade on the Elbe: The city would save 100,000 euros in costs. It will be worth it for the church, because at the church-run elementary school in Rotenburg (72 km away), 150 euros in tuition is already paid each month (equivalent to 1,800 euros per year). If the school in Stade now has 100 parents paying full tuition — excluding reduced tuition for social reasons — it will generate 180,000 euros in revenue per year. It can then use the surplus to strengthen the school's "Christian profile." Additionally, 30 percent of the tuition is tax-notheast from Berlindeductible.

127. On the Ground: Wriezen – Part 1 and Part 2

Wriezen, a town in the Märkisches Oderland region northeast from Berlin, is just as unremarkable as hundreds of other small towns in the German "provinces." And just as unremarkably, something exemplary happened there in 2007.

Part 1: The establishment of new denominational schools prompted the Synod of the Regional Church of Berlin-Brandenburg-Silesian Upper Lusatia to

On January 1, 2004, a Protestant school foundation (based in Berlin) was established. It allocated 1.8 million euros from the church's budget deficit and contributed several properties. Now, applications to establish schools in the capital and the surrounding area could be processed efficiently and quickly on a centralized basis. The foundation quickly became the largest private school operator in Berlin and Brandenburg and currently runs 31 schools. The trend continues to rise.

In Wriezen, northeast of Berlin, something happened that journalist Ulli Schauen has vividly described:

"The mayor of the Brandenburg town of Wriezen also took advantage of the simple procedure for establishing a Protestant school. He wasn't exactly inspired by a Protestant spirit. Nor was there any mention of parents placing particular importance on their children's religious education. But the mayor was deeply troubled by the fact that the district had decided to close the Wriezen State Gymnasium. Were the citizens of his town really supposed to have to send their children to Bad Freienwalde, twelve kilometers away? Finding a school building was the least of his problems. The building of the Wriezen state high school would soon be vacant. A call to the Protestant School Foundation in Berlin, a few meetings and agreements, and right after the 2007 summer break, during which the state school was closed, the Protestant Johanniter Gymnasium was able to open at the same location—with half a million euros in start-up funding from the city. 94 percent of

the personnel costs (calculated based on the costs of a public school) are covered by the state of Brandenburg anyway. [...] The district administration, which was led by the nose, put on a brave face, as there is nothing it can do to prevent the entire school planning process from being thrown into disarray by the establishment of a Protestant private school. The elected district politicians are powerless. The principle of subsidiarity (priority for independent operators) undermines the principle of democracy (where elected representatives ensure a balance of interests through their decisions)." [139]

The mayor had pulled off a coup; the high school remained in the city. But he hadn't counted on the state church: What is a Protestant school without a church building? Where are the graduation ceremonies supposed to take place in a "dignified" setting? But: The large, imposing St. Mary's Church in town is still half in ruins... So, what now?

The founding board of trustees of the Johanniter Gymnasium includes not only the regional bishop, Prof. Dr. Wolfgang Huber, but also the president of Viadrina University (Frankfurt/Oder), Prof. Dr. Gesine Schwan, representatives of the Order of St. John, the editor-in-chief of the regional newspaper, and the district administrator.

Part 2: St. Mary's Church was destroyed in April 1945. The south aisle was partially rebuilt in 1951. An active support association, founded in 1991, is working toward the complete reconstruction of the church. The church tower has already been renovated at a cost of more than one million euros, and now visitors can once again gaze out from the tower of St. Mary's Church over the vast expanse of the Oderbruch. Moreover, the church tower points the way to the city centre even from a distance, thus playing a defining role in the cityscape. The support association developed the slogan: "The reconstruction of St. Mary's Church must become a priority for the citizens of this town." The plan was for diverse use by the church, the parish, and the high school. Then things moved forward with momentum, as the support association reports.

It became clear "that the founding of the Evangelical Johanniter High School in Wriezen in August 2007 is a milestone in the city's history. The closure of the state high school had fueled the worst fears. With the welcoming of the first classes and the opening of the high school in the Catholic Church on Freienwalder Street in early September 2007, a new direction also emerged for our association's work. The association's board maintains very close contact with the school administration and the school's booster club. With its need for space, the Evangelical Gymnasium stands as an important pillar of support alongside the parish, the city, and the booster club."

In the spring of 2009, an architectural competition was announced for the reconstruction of St. Mary's Church. The church (with €40,000) and the city (with €20,000) funded the preliminary work. In November 2009, the winner of the competition was announced, and the State Office for Construction and Transportation released the first €500,000 for the first phase of construction—the exterior renovation—from urban development funds. One of the conditions for this funding is the church building's "character as a defining feature of the cityscape." Note: A denominational school rarely stands alone.

Family and Youth

In addition to religious education, daycare centres, and denominational schools, there is another broad field of denominational activities financed by taxpayer funds, namely youth organizations and the services churches offer to families and children.

When it comes to formulating financial claims, they do not mince words. Thus, the work of *the Federation of German Catholic Youth* (BDJK) is also based on resolutions of the Joint Synod of the Catholic Dioceses in the Federal Republic of Germany in 1974/75, which state, among other things:

"The right of independent youth welfare organizations to receive public funding must be guaranteed through policy measures. Independent youth welfare organizations must not be restricted in setting their goals or representing their interests, provided that these are consistent with the Basic Law of the Federal Republic of Germany. The responsible municipal and state authorities are called upon to design their youth plans in cooperation with independent youth welfare organizations in such a way that the necessary tasks of youth work can be carried out, developed over the long term, and continued in accordance with their importance and the situation."[140]

While one can demand a great deal, this vision finds its counterpart at the political level. Thus, the state of North Rhine-Westphalia writes regarding the status of independent providers in the "Child and Youth Support Plan of the State of North Rhine-Westphalia 2006–2010":

"The Child and Youth Support Plan is based on a key fundamental understanding: Educational work with children and youth is primarily carried out by independent providers of child and youth welfare services. Through collaborative partnership, they are the guarantors of educational work based on plurality, diversity, autonomy, and a sense of responsibility with young people. Independent youth welfare

providers are particularly well-suited for this due to their value orientation. Therefore, subsidiarity is of paramount importance." [141]

The 70 million euros that North Rhine-Westphalia allocates annually to the Child and Youth Support Plan also serve to "secure the associations' infrastructure,"
i.e., the costs for personnel and administration as well as for planning and management tasks. It also serves to support the specific priorities of the associations. These include children's and youth recreation, political and social education, sports and leisure-oriented programs, and media work. Funding is provided to the recognized youth associations affiliated with the Landesjugendring NRW. The key reference is "Social Code Book VIII," which is dedicated to child and youth welfare.

128. Various Institutions and Purposes

As part of its current survey for 2008, the Federal Statistical Office recorded all government payments under the heading "Statistics on Child and Youth Welfare" (excluding daycare centres).

The data covers 39 different types of facilities and purposes. These range from assisted living arrangements, educational support, early intervention, youth social work, youth hostels, youth centres, and youth homes to family vacation centres, marriage and family counselling centres, and association offices. A total of 3.1 billion euros was spent on this in Germany in 2008, of which independent providers received 776 million euros.[142]

Based on a very detailed overview of the institutions and the people working there,[143]which is not only broken down by public and private operators but also identifies ten different groups of private operators, it is possible to determine the proportion of religious institutions among the private operators. The calculation is based on full-time equivalents, since the number of institutions does not indicate their size, and the number of employees does not indicate the proportion of part-time workers. On this basis, religious organizations account for 46 percent of independent organizations. Even though this likely includes institutions run by Caritas and Diakonie, approximately 357 million euros in state funding can be attributed to them.

A few examples of what is funded by these tax dollars in the church-, and in each case it must always be specified:

"...is funded by the Federal Children and Youth Plan (KJP)": X-MAG, the official Kolping Youth magazine, which every member between the ages of 12 and 18 receives; the "Berlin Talks" of *the Christian Association of Young People* (CVJM); the leadership training program of *the St. George Girl Scouts* (PSG); the children's and youth centers run by church parishes, as well as teen and youth clubs, etc.

Adult Education / Cultural and Social Support

In addition to kindergartens, religious education, and youth and family facilities, adult education and the cultural work of Christian churches are also funded by the state.

129. Adult Education

The Catholic and Protestant Federal Working Groups for Adult Education cite the following as their funding sources: BMBF (Federal Ministry of Education and Research), BMFSFJ (Federal Ministry for Family Affairs, Senior Citizens, Women, and Youth), and BfB (Federal Agency for Civic Education).

Both churches have consolidated their educational institutions into federal associations. The 2008 annual report of *the Catholic Federal Working Group for Adult Education* (KBE) is cited below on behalf of both religious communities.

The KBE comprises twelve state working groups, each of which (with the exception of the dioceses of Erfurt, Freiburg, and Rottenburg-Stuttgart) corresponds to a specific federal state—since that is where the funding comes from. The other eleven members are: *Association of (Catholic) Rural Adult Education Centres*, *Catholic Federal Working Group for Family Education Institutions*, *Catholic Federal Working Group for Vocational Education, Borromäusverein e.V.* (Catholic Library Work), *Working Group of Catholic Social Educational Institutions in the Federal Republic of Germany*, *Working Group for Catholic Family Education e.V.*, *Leadership Council of Catholic Academies*, *Federal Association of the Catholic Women's Community of Germany*, *Kolping Society of Germany*, *Catholic Workers' Movement of Germany* (KAB) *e.V.*, and the Episcopal Relief Organization *Misereor*. Five additional members have an advisory vote: *missio* (International Missionary Society), *Catholic Working Group for Soldier Support*, *the Catholic Working Group for Play*

and Theater, *the Catholic Bible Society*, and *the Catholic Professional Association for Nursing Professions*. This overview of Catholic national associations alone gives an idea of the number of Catholic educational institutions in Germany: there are 341. Of these, 35 are residential adult education centres, 8 are academies, 189 educational institutions, 18 diocesan educational institutions, 5 state institutions, 36 family education centres, 47 association educational institutions, and 3 educational forums, as well as 51 unclassified institutions.

The continuing education statistics for 2008 provide further figures: 1,302 full-time staff members work at these 341 institutions, 894 (69%) of whom are women. An additional 18,995 people were active at the continuing education institutions, which conducted 177,962 events attended by 4,014,912 participants, approximately 80% of whom were women. The sphere of influence of these institutions is primarily (66%) seen in the immediate vicinity (municipality, city, and county), and the focus of the topics lies in the three subject areas of religion and ethics, culture and the arts, and family, gender, and generations.

The very high proportion of women and the strong regional focus illustrate the scope of work and broad outreach achieved by these educational institutions across the region.

Of the annual revenue for this Catholic adult education program, 37 million (28%) comes from participant fees, 40 million (31%) from the provider's own funds, 35 million (26%) from public funds, and 12 million (9%) from other sources.[144]

The 35 million euros in revenue from public funds consists of 890,000 euros (3%) from the European Union, 2.5 million (7%) from the federal government, 8 million (23%) under Social Code Book III (Employment Promotion), 19 million (54%) under the Continuing Education Act (in which the churches are expressly recognized as continuing education providers), and approximately 4 million (10%) from other state and local funds.

This continuing education and employment promotion also includes intensive cooperation with military chaplaincy and, in family education, for example, "Religious education modules for working with parents and children up to three years of age: Growing Up with God." The aim is to reach adults, especially mothers, during a phase "in which they are open to questions of life planning and faith due to the birth and life with a child or children." This has a specific purpose:

"Parent-child groups, as well as daycare centres and parish groups, thus become important venues for religious education in "pre-linguistic space." All of this was done in collaboration with Prof. Albert Biesinger, holder of the Chair of Religious Education, Kerygmatics, and Church Adult Education at the Faculty of Catholic Theology at the University of Tübingen and founder of *the Foundation for the Relationship with God in Families*.

This brings us full circle to "child theology" and the universities (see p. 132, "Abuse of Research"). This self-serving, church-internal orientation of the work is also evident in a completed project that points to comprehensive work and communication.

The following participated in the project "Ethical Learning in General Adult Education" of the Catholic Federal Working Group for Adult Education (KBE): (Cloppenburg:) KVHS Cloppenburg, (Düsseldorf:) Kaiserswerther Diakonie, (Freiburg:) Ecumenical Adult Education Freiburg, (Frankfurt:) Catholic Adult Education, Haus am Dom, Rabanus Maurus Academic Center (AZRM), (Gießen/Mainz:) Catholic Educational Institute of Upper Hesse, Academy of the Diocese of Mainz Erbacher Hof, (Kleve/Lower Rhine:) Catholic Education Forum in the Kleve Deanery, Haus der Familie Emmerich, Family Education Center Geldern-Kevelaer, Family Education Centre Kalkar, Family Education Center Kleve, Catholic Education Centre of the Kleve District, (Münster:) Franz Hitze Haus Academy, (Stuttgart/Böblingen:) State Agency for Political Education, Catholic Educational Association of the Böblingen District, (Oberursel:) Arbeit und Leben Hessen, (Warendorf-Freckenhorst:) Catholic Rural Adult Education Centre "Schorlemer Alst". Scientific consultation and evaluation were provided by the Chair of Christian Anthropology and Social Ethics at Johannes Gutenberg University in Mainz; the project ran from January 2007 to December 2009 and was funded by the Federal Ministry of Education and Research (BMBF).

In 2008, government subsidies amounted to approximately 70 million euros, with Catholic and Protestant adult education institutions receiving equal funding.

130. Education and Cultural Work

To illustrate state cost coverage in the broader field of education and cultural work, a few examples from a wide variety of sectors and different organizations are provided below.

The city of Münster pays two church parishes 85,760 euros per year for their libraries under an "operating agreement." But the Episcopal Vicariate General of the Diocese of Münster also receives 42,500 euros for the purchase of books and media, following a decision by Münster's Cultural Committee. The heavily indebted state of Berlin allocates 1.2 million euros for cultural support of the two churches, which covers 14 different cultural aspects, ranging from mini-clubs to academies. The Cemetery and Monument Working Group, in which both churches are very active, receives 433,000 euros from the budget of the Federal Government Commissioner for Culture and the Media, and the "Church Tracing Service with Two Home Town Files" receives 3 million euros annually from the Federal Ministry of the Interior.

There are also notable developments in Saxony-Anhalt, a federal state where only 18 percent of the population belongs to a church. The Francke Foundations receive 7.8 million euros in grants, and the Luther Memorials Foundation in Saxony-Anhalt receives 2.3 million euros to cover its deficit. Of this amount, 1.1 million euros comes from the state, 905,000 from the federal government, and 280,800 from other local authorities, which are itemized in the budget. This shows that the Protestant Church of the Province of Saxony also contributes, namely 10,200 euros (0.4%). This is also a sign of appreciation for Luther.

But Saxony-Anhalt has even more planned. 2017 there is the "Reformation anniversary," 500 years of Martin Luther and the Reformation, and a national preparatory committee comprising politicians and church representatives. Saxony-Anhalt has already allocated a total of 8.9 million euros in its budget for the years 2011 through 2017. Religion and the church marketed as a tourism event? Why not, if the church is willing to go along with it?

Conclusion: The 84 million euros already mentioned here are certainly many times higher for the second area of education and cultural work. Other federal states will be no less restrained, so that rounding up to 100 million euros represents a minimum amount.

Military Chaplaincy

Under the heading "Military Chaplaincy"—which, according to the Basic Law, may only be authorized but not funded—the federal budget allocated approximately 31 million euros in 2009. More detailed figures are no longer published.

131. Rationale

Johannes Neumann has very aptly described the circumstances surrounding the establishment of military chaplaincy. It did not begin in 1956, but rather during the secret negotiations (1951) to establish a new German army, in which the churches were also represented.

"Shortly after the founding of the Federal Republic, spurred on by the outbreak of the Korean War in 1950, the Adenauer government began preparing for rearmament with the strong 'encouragement' of the Western Allies. On October 26, 1950—just thirteen months after the appointment of the first federal government—the so-called 'Blank Office' was established as the precursor to the later Ministry of Defense. In light of the horrors, they had experienced during the war and the fears and suffering they had endured, many Germans had vowed never to take up arms again. Most did not want soldiers and certainly did not want to become soldiers themselves. However, there was also a by no means small group of professional soldiers who had learned no other trade. They were available as cadres for the rearmament of the Federal Republic. In light of this dilemma facing the population of the Federal Republic of Germany, the churches' moment of truth arrived: Whereas just five and a half years earlier the bishops had had prayers said "for Führer and Fatherland," now the old spectre of "godless Bolshevism" was once again conjured up, against which Christians must remain vigilant and arm themselves swiftly, lest the West be overrun by communist hordes. [...] So now the churches, which since the 19th century had accompanied with their prayers the Prussian rearmament and subsequently the armament of the German Empire, and finally Hitler's rearmament, were allowed to help once again. And they did so with great enthusiasm, for it corresponded to their deepest conviction: 'He who prays does not tremble'—this saying from the booklet 'Komm gut durch' (Get Through It Well), published by the Catholic Military Bishop's Office (1967), sums it up: Religion, this religion, a religion conveyed in this manner, replaces Valium in an emergency. This religion is, in a sense, the natural ally of any government willing to rearm, as well as of state governments in need of security. Nothing is likely to harmonize with Christianity from an emotional standpoint as much as the soldierly virtues of blind obedience and strict order, of brave fighting and uniform allegiance. This is also reflected in the formal correspondence between these two hierarchically structured systems of rule. Against the backdrop of Jesus' teachings, this may seem astonishing.

Nevertheless it can be observed that Christianity has a consistent affinity with the military and the art of war, both in its ideological foundations and in its religious discourse. [...] While the Catholic Church was the first major social group to endorse rearmament, the disputes over military chaplaincy at the Protestant synod nearly led to its dissolution. After some cunning manoeuvres, the church leaders and officials—often former Wehrmacht chaplains—who were committed to formal military chaplaincy succeeded, contrary to a resolution of June 29, 1956, to proceed dilatorily with military chaplaincy, to persuade the EKD Synod on March 8, 1957, to approve the military chaplaincy agreement."[145]

There is no need to mention the annual Catholic services for soldiers held in Cologne Cathedral.

132. Regarding the financing

Article 141 of the Weimar Constitution (via Article 140 of the Basic Law) states:

"Insofar as there is a need for worship and pastoral care in the armed forces, in hospitals, penal institutions, or other public institutions, religious communities shall be permitted to perform religious rites, whereby any compulsion must be avoided."

There was no mention of any funding at that time (1919 and 1949, respectively). After 2007, military chaplaincy is no longer presented in a separate chapter of the Federal Ministry of Defense's budget, but is instead included in a single summary chapter: "KP 04: Bundeswehr Administration, Bundeswehr Universities, Military Chaplaincy and Judicial Administration, as well as Personnel Expenses for Civilian Staff at Command Authorities, Troops, etc." This makes it difficult or impossible to trace the expenditures for military chaplaincy as they were previously itemized. The last figure provided in a separate chapter (2007) puts the expenditures for military chaplaincy at 26.8 million euros, plus 3.5 million euros in pension payments, for a total of 30.3 million euros. Since general costs (fuel and lubricants for vehicles, telephone costs, etc.) are covered by the general budget, approximately 31 million euros is an accurate estimate.

One-time costs, such as the refurbishment of the Catholic Military Bishop's Office in Berlin (around €10 million), are not included in this figure.

133. Military Chaplaincy: Beyond the Constitution

Jürgen Roth, the "head of the military chaplains":

"The very fact that church officials in this field are civil servants violates the principle of the separation of church and state in Article 137, Paragraph 1 of the Weimar Constitution (in conjunction with Article 140 of the Basic Law). The prohibition against a state church is being violated. In this context, it is of little use when the leading experts on state church law in this country assert that military chaplaincy is not a state church institution at all. But where is there a closer connection between state and church than precisely there, where church dignitaries are made civil servants and, as a state-church "double-headed entity," lay the theological foundation for churchgoers in uniform? [...] A stronghold in the darkness of unconstitutionality."[146]

134. Life Skills Education

The blurring of state and church affairs is particularly noticeable in "life skills education." Is this now a state or a church-run class? Does the Christian chaplain, as a mental 'hybrid,' become an ideologically neutral "life teacher"? Or does a military chaplain have so little to do in peacetime that another occupation had to be found for them?

This instruction, which has been taken over by military chaplains and constitutes a major part of their work, was voluntary until recently. Since January 1, 2009, however, attendance has been mandatory. Exemption on grounds of religious freedom is not provided for. The Bundestag's Defence Committee has not yet identified this as a fundamental rights issue.

Also noteworthy in the military chaplaincy budget is the allocation for soldiers' prayer and hymnals, meaning that Christian publishers of Bibles and hymnals can count on a steady annual revenue of 450,000 euros. The basis for this is established:

"Pursuant to Section 63(3), Sentence 2 of the Federal Budget Code (BHO), it is permitted to provide a prayer book free of charge to every career soldier and every enlisted soldier, as well as to conscripts performing basic military service."

It is also striking that these prayer and hymnals are listed under the collective heading "Life skills instruction, pastoral events (retreats, spiritual exercises, etc.), and worship expenses."

135. Responsibility of the Military Chaplaincy

Johannes Neumann described this aspect very precisely—also in connection with "life skills instruction":

"The 'life skills instruction' to be provided by clergy of both denominations, as well as the oath-taking instruction, are mandatory military activities. Military chaplaincy must therefore serve as a venue and instrument for fostering religious motivation in the context of legitimation processes that apparently cannot be conveyed by other means, such as political argumentation. Particularly in the area of 'internal leadership,' military chaplaincy was planned from the outset as a legitimizing component vis-à-vis society and as a stabilizing and motivating element within the troops. In his 1953 draft 'Life Skills Instruction within the Scope of the Military Chaplain's Duties,' Count Baudissin had envisaged that this instruction should help (conscripted!) "In this way, every distortion—especially the Bolshevik-materialist one—will be exposed for the grave error it is, and awareness of the value of our social order will be strengthened. This thus becomes an indispensable prerequisite for the willingness to engage in military defence." [...] Therefore, the chaplain should not deliver this instruction as a chaplain, but as a member of the armed forces 'on behalf of the commander who is solely responsible for the overall education of his unit.'"[147]

136. Disrespectful behaviour

Although the Bundeswehr clearly recognizes that the churches are exclusively tied to the provision of pastoral care for troops, it does not view this as a disadvantage for non-denominational soldiers that needs to be addressed:

"Military chaplains are key points of contact for religious and ethical matters, both in daily life and during deployments. They stand by soldiers during times of crisis upon request. Since pastoral care is structurally the exclusive domain of Protestant and Catholic clergy, they also attend to the needs of non-Christian soldiers. Whether through a confidential conversation, contact with representatives of the respective faith community, or even practical, sometimes quite ordinary matters—such as a compass to determine the direction of the sky during prayer."[148]

This light-hearted portrayal also cannot mask the lack of respect for other worldviews, which is also evident when Christian chaplains perform their rituals at funeral services even before the coffins of non-denominational soldiers killed in action.

137. Number of military chaplains

The military chaplaincy agreements[149]stipulate that one military chaplain must be provided for every 1,500 soldiers of the Protestant or Catholic faith.

The number of Bundeswehr soldiers has been reduced over the past few decades: as of June 2010, there were 247,000 soldiers. The authorized strength of 495,000 during the Cold War was capped at a maximum of 370,000 and is now limited to a maximum of 250,000. But, what a miracle, the number of military chaplains has remained the same. Is this a reason to stop publishing the funding figures and staffing plans?

The 2007 defence budget—which is the last to list the military chaplaincy's budget as a separate section—shows 290 military chaplaincy civil servants in the personnel overview. After subtracting the civil servants employed in the central church offices or in administrative positions, there are ultimately around 210 military chaplains. Based on the benchmark that each of them is responsible for approximately 1,500 Protestant or Catholic soldiers, the Bundeswehr would thus currently have a troop strength of around 480,000 soldiers (210 chaplains x 1,500 equals 320,000, half of whom are Protestant or Catholic, plus a corresponding number of 160,000 non-denominational soldiers). That is, of course, a mockery.

Based on the current troop strength (247,000 men and women) and assuming that the proportion of soldiers from the new federal states (48%)[150] is higher than the overall population average (19%) and that, consequently, the proportion of those without religious affiliation is also somewhat higher than in the general population (35%), it is not an unrealistic assumption that roughly half of the soldiers have no religious affiliation. This means that for the remaining 125,000 soldiers — among whom there are still around 1,000 Muslims and 200 Jews — a maximum of 82 military chaplains (instead of 210) would then need to be employed, according to the military chaplaincy agreement. Whether, however, with only 41 Catholic and 41 Protestant military chaplains remaining, it would be necessary to employ both a Protestant military bishop (salary grade B 6) and a Catholic military vicar general (also salary grade B 6) is another question.

If anyone were to attribute these figures to the increased number of military chaplains deployed on Bundeswehr missions abroad, one might call them a cynic. It is certainly true that the psychological care for soldiers on

deployment requires an expansion of this support, but it should come from psychological experts such as traumatologists, not from "chaplains."

In this regard, it is time to replace the 128 illegal military chaplains with ideologically neutral professionals who can provide appropriate psychological support for all soldiers, especially those without a religious affiliation.

138. Proselytizing behind the Front

The peculiar "blunders" resulting from this unchecked military chaplaincy are evident not only in the care of troops by evangelical preachers, at the invitation of the Protestant military chaplaincy, which subsidized these preachers with more than 50,000 euros from the military chaplaincy budget. A report from a visit to the troops:

"'No one is forced to be baptized here.' Pastor Klaus-Dieter Zunke's welcoming words immediately create a relaxed atmosphere among the medical soldiers at the German field hospital in Rajlovac near Sarajevo. It is Saturday morning. Zunke, a former military chaplain who heads the Working Group for Soldier Pastoral Care (ags), founded in 1987, presents the guests with a book: the Bible. This is not done through a tedious lecture, but rather through a lively multimedia presentation whose pace, wit, and depth repeatedly amaze the audience. "WAS! What a Book" is the name of the show with which Zunke and his team visit troops in Germany and on overseas deployments to share information about the Holy Scriptures. [...] "The audience certainly does not experience 'forced baptisms.' But engaging with the Bible's message—especially during overseas deployments—consistently leads soldiers to reflect and ultimately to ask for baptism of their own accord."[151]

139. Networks of chaplains from various branches of the armed forces

The collaboration between various "sectors" of Christian pastoral care (and thus the link to the following two chapters) is evident, among other things, in the fact that speakers from *emergency pastoral care* participate in service and continuing education events organized by the military chaplaincy, cooperation projects exist with the *Central Institute for Marriage and Family in Society at the Catholic University of Eichstätt* (ZFG), a *school chaplaincy conference* takes place in connection with life skills education, and, of course, *hospital chaplaincy* at Bundeswehr hospitals is also discussed. In addition to the diverse *soldier pilgrimages* there is also

family pastoral care, "a focal point of military pastoral care," featuring family vacations accompanied by military chaplains—which, not coincidentally, take place at Catholic family vacation centres. The circle closes again: who pays for what and who gets what.[152]

Institutional and Hospital Chaplaincy

A total of 12 million euros is allocated for institutional pastoral care in the budgets of some federal states.

Article 141 of the Weimar Constitution (as incorporated into Article 140 of the Basic Law) stipulates that religious services and pastoral care must also be permitted in hospitals, prisons, or other public institutions, provided that no coercion is involved.

Institutional chaplains are responsible for the inmates of correctional facilities (and for correctional officers). It is no coincidence that hospitals and prisons are mentioned together in the Basic Law, as two aspects apply to both: On the one hand, the inmates/patients are in an extremely personal situation, and on the other hand, they cannot easily escape the coercive situation.

140. Institutional Pastoral Care

The Protestant Church takes pride in the fact that, for 160 years, the Diakonie has selflessly cared for society's marginalized in the spirit of Christian charity. It is even more surprising, then, that institutional chaplaincy today (even though it is only permitted under the Basic Law) is financed or subsidized by most state justice departments.

This is based on agreements such as those in Lower Saxony, where Article 11 of the 1965 Concordat states:

"In hospitals, prisons, and other state institutions, the competent Catholic clergy are permitted, within the framework of the general house rules, to conduct pastoral visits and perform religious rites. Where there is a need for full-time pastoral care, the costs are borne by the state; the clergy are employed by the state in consultation with the competent ecclesiastical authority. The state shall make an appropriate contribution toward the costs of non-full-time regular pastoral care if institutional pastoral care places a disproportionate burden on the locally competent clergy and requires additional expenses."[153]

Accordingly, the supplementary agreement to the Loccum Treaty states that the state provides the premises for worship services free of charge.

Institutional pastoral care (also known as prison pastoral care), however, does not fall under the so-called "res mixta," the joint affairs of church and state, making the various claims even more surprising.

In *the Historical Dictionary of Bavaria*, for example, the following is written regarding the state treaties with the Evangelical Church in Bavaria of 1924: "The Bavarian State undertook to cover the costs of institutional pastoral care (Art. 17 StKV)," although the documented state treaty[154] clearly contains no such provision. This "generosity" in the formulation of joint matters, which consistently negates the principle of the separation of church and state, is evident in statements such as that made by the Minister-President of Brandenburg, Matthias Platzeck, on the occasion of the signing of the state treaty between Brandenburg and the Holy See (2003):

"After all, this is what is known as a comprehensive agreement, which not only addresses individual aspects of the relationship between the state and the Church, but also comprehensively regulates their relations with one another. The various sections outline the status of the Catholic Church on the one hand, and on the other hand specify which matters are to be handled jointly by the state and the Church. A spectrum with many facets, ranging from cemetery administration to the provision of institutional pastoral care."[155]

In this negation of the principle of separation, most federal states conclude "service agreements" with the churches, i.e., institutional chaplains are similar 'hybrids' to military chaplains: employees of the churches who are, however, paid by the state for their work. The standard budget for a position is half of the regular working hours in the public sector (example: Hesse[156]), currently amounting to approximately 30,000 euros per position per year.

In the budgets of most federal states (excluding Berlin and Saxony-Anhalt), expenditures for prison chaplaincy are listed under the budget of the Ministry of Justice for correctional facilities. In 2009, these expenditures totalled approximately 11.8 million euros. The largest share comes from North Rhine-Westphalia, the largest federal state, which has allocated 2.6 million euros for prison chaplaincy.

Hamburg is not included, as the Free and Hanseatic City had already "phased out" these payments in 1975 with a one-time payment of 2 million DM.

Additional expenditures can be found in other budget items, such as the renovation of the prison chapel at the Munich Correctional Facility (€220,000)—most correctional facilities have prison chapels—and for continuing education programs (€48,000), in which prison chaplains also participate.

In this regard, the federal states pay the churches approximately 12 million euros for prison chaplaincy.

And are there problems with inmates who belong to other religious communities (not to mention those without a religious affiliation)? No. In a statement by the Christian prison chaplains at the Sehnde Correctional Facility (Lower Saxony), they put it quite casually:

"We see ourselves as an 'Abrahamic community.' Abraham, a father in the faith, unites us people of Jewish, Muslim, and Christian backgrounds. We are a living church that also lives behind high walls. May God bless your path!"[157]

The example of Lower Saxony may illustrate how difficult it can sometimes be to secure such funding. Until the 2005 budget, the Ministry of Justice's budget for correctional facilities included a budget line item titled "Reimbursements to church administrations." Since 2006, this line item has been absorbed into the category "Other grants for current domestic purposes" and has thus become virtually invisible to the public.

141. Hospital Chaplaincy / Clinic

In principle, hospital chaplaincy need not be mentioned further here, as it is largely financed by the churches themselves; however, in recent years there have been increasing signs that the churches — in some cases quite aggressively — are attempting to have this denominational service in hospitals financed from public funds.

The rationale is clear and understandable, as outlined in the introduction to the "Guidelines" for Protestant hospital chaplaincy:

"Through hospital chaplaincy, the Church is present where people need it most. There are few other places where Protestant chaplains come as close to people—with their worries and questions, their fears and hopes—as they do during a hospital stay."

However, this presence has a special ecclesiastical significance and mission:

"Caring for people in the hospital through hospital chaplaincy is the specific way the Church fulfils its mission to bear witness to the Gospel of Jesus Christ in word and deed." And: "The individual regional churches provide hospital chaplaincy out of their own free will and on their own terms." And: "In few areas outside of parish ministry do the churches employ as many pastoral positions as they do in hospital chaplaincy."[158]

However, when it comes to the question of funding, this very guide contains some peculiar phrasing. On the one hand, it states: "Hospital chaplaincy is primarily funded by resources provided by the respective church employer." On the other hand, it addresses the importance and appreciation of the role:

"The funding of hospital chaplaincy, and especially its refinancing by a hospital, constitutes an investment in the quality of clinical care and reflects the importance and appreciation of hospital chaplaincy as a human and spiritual presence in critical life situations, such as those encountered in a hospital setting.
Both hospitals and churches are struggling with increasingly scarce resources. If, in this situation, a hospital contributes to securing hospital chaplaincy through full or partial refinancing, the following is important: Professional hospital chaplaincy is generally carried out on behalf of the church; it derives its substantive purpose and freedom from this. The hospital uses this church-regulated and recognized hospital chaplaincy, among other things, as part of its full range of services to attract patients and fulfil its public service mandate.
To ensure or expand hospital chaplaincy aligned with these guidelines despite declining church funding, refinancing by a hospital operator can make a decisive contribution."

In practice, this means that the churches propose that the hospital operator cover 25 percent of the costs—specifically, the personnel costs. In a specific conflict that came to light in Kassel (in 2005), Kassel University Hospital had already provided the hospital chaplaincy with approximately 200 square meters of space free of charge, including a telephone, computer connection, heating, and cleaning services. The hospital's refusal to cover further costs was countered by the responsible provost, who argued that one must also consider that hospital chaplaincy is a significant factor in hospital certification. The *International Federation of Non-Denominationalists and Atheists* (IBKA) responded to this blatant attempt at blackmail by the church district with a written statement from the

Hessian Hospital Association and the Federal Ministry, the Ministry of Health and Social Security, which emphasizes "that expenses associated with hospital chaplaincy are not reimbursed by social security agencies."

In July 2010, the Wuppertal church district demanded refinancing from the hospitals, arguing that otherwise positions for hospital chaplains would have to be cut. The cost for each full-time position was stated as 87,000 euros per year. Negotiations have begun, and the outcome is still pending.

Incidentally, most hospitals in Germany already have rooms for worship services and "quiet reflection," and some even have churches on their grounds.

Police Chaplaincy and Emergency Chaplaincy

Article 141 of the Weimar Constitution (via Article 140 of the Basic Law) states:

"Insofar as there is a need for religious services and pastoral care in the armed forces, in hospitals, penal institutions, or other public institutions, religious communities shall be permitted to perform religious acts, whereby any coercion must be avoided."

The police (with the exception of the Federal Police) are a matter for the federal states. It should be noted that Article 141 of the WRV, which authorizes so-called "institutional pastoral care," applies only to "public institutions" in addition to the "army." However, the police are not such a public institution.

In this respect, corresponding agreements on police chaplaincy in state-church treaties and concordats are not protected by the Constitution.

142. Police Chaplaincy

In 2010, there were 110 Catholic police chaplains and 100 Protestant chaplains serving police officers.

Their duties and mission are publicly reported, but nothing is said about their funding. Does the Church pay, or does the state? According to the Constitution, they are merely to be "authorized," meaning they are funded by the religious communities. Whether this is actually the case is the question.

Regarding the self-image of this pastoral care, here is the Catholic Police Pastoral Care's own description:

"The focus of police chaplaincy is shaped by the specific demands of the police profession: resolving conflicts, enforcing the state's monopoly on the use of force to protect human and civil rights, handling stressful operations, delivering news of death, constant contact with marginalized groups and the criminal underworld, extended closed operations within the country, and prolonged absences due to international police operations abroad [...]."[159]

Are police chaplains supposed to help enforce "the state's monopoly on the use of force"? Of course, only the force used to protect human and civil rights! Among their Protestant colleagues, the approach is not quite so martial:

"All law enforcement and administrative staff members who are seeking guidance, clarity, or emotional support regarding professional or personal matters may turn to the police chaplains. These conversations are protected by the confidentiality of pastoral care and the right to refuse to testify.
Police chaplains provide *instruction* on professional ethics and conduct *continuing education seminars*. They seek to promote *dialogue* between the police and other sectors of society, particularly between the police and the church. They invite people to attend *church services*."[160]

The church agreements with the federal states generally stipulate that police pastoral care is provided free of charge by the churches, with the exception of the state's provision of premises at no cost, which in this respect constitutes a monetary benefit. In practice, however, additional full-time positions are funded in some federal states.

In Bavaria, a full-time police chaplain has been paid since 1920; since 1991, there have been four full-time police chaplains, and since 2000, there has also been a female police chaplain in Munich.

The state budgets of four federal states (Bavaria, North Rhine-Westphalia, Saarland, and Thuringia) allocate 408,000 euros for police chaplaincy.

No such information was found in the budgets of the other states, though this may be due to the fact that, as in North Rhine-Westphalia—where these payments are initially categorized under "Other subsidies for current domestic purposes"—such a breakdown is not provided there, and the payments/subsidies are recorded under general personnel costs.

143. Pastoral Care in the Federal Police

As early as 1952, there were agreements between the Federal Ministry of the Interior

and churches to provide ongoing pastoral care within the BGS. In the beginning, there was only one clergy member per denomination. This was expanded over the years; by 1965, the Protestant side already had a dean and nine full-time pastors. In July 2005, the BGS became the Federal Police, which today has 11 full-time and 6 part-time Protestant clergy, as well as 11 full-time and 3 part-time Catholic priests. Costs for the 22 full-time clergy: 2 at pay grade A 16, 6 at A 15, 14 at A 14, plus 149,000 euros in material costs. In total (at base salary level 5), this amounts to approximately 1.4 million euros.

The organization of police chaplaincy for the Federal Police is regulated in the same way as military chaplaincy. The senior chaplains and chaplains of the Federal Police belong, in ecclesiastical matters, to the office of the Catholic Dean of the Federal Police; in matters pertaining to Federal Police service, they are members of the authorities and departments where they are employed.

In the Federal Border Guard, the mandate—just as it is today for the state police forces and the Federal Police—included both pastoral care and instruction in professional ethics. The Catholic Pastoral Care Office of the Federal Police describes how this dual mandate came about in relation to the role of the churches at the time of the Federal Border Guard's founding:

"On the part of the federal government, just a few years after the end of World War II and Nazi rule in Germany, there was concern regarding the freedom of conscience and value orientation of officials originating from the old Wehrmacht. In light of the new republic and the new Basic Law, appropriate ethical instruction had to be provided. Given the discrediting of the state through Hitler's abuse of power, the problem lay less in the cognitive realm; that is, it was clear what the officer needed to know and take to heart. The differences from the Third Reich could not have been clearer. But how could such content be conveyed credibly? Since conviction comes through witnesses, they sought such witnesses in an institution that had retained its credibility despite challenges, namely the Church. Herein lies the origin of 'professional ethics' and, at the same time, the Church's distinctive feature."[161]

Without delving here into the role and behaviour of the churches during the "Third Reich," one can only note that this mendacious portrayal of the churches — in which a legend of their credibility is peddled — disqualifies them from this professional ethics instruction.

144. Emergency Pastoral Care

Emergency pastoral care (NFS) is still predominantly financed by the churches, yet the claim, as is often the case, is different. Thus, Nadescha Arnold writes in her thesis in religious education:

"Of course, we receive occasional individual donations, but the bulk of the funding comes from the sponsoring organization, the church. Only sometimes are there additional sources of funding, such as when municipalities help cover some of the costs for materials and training.
In principle, however, the goal is for the NFS to be fully funded by the respective county government, given its role as the disaster management authority. Nevertheless, it is advisable for the church districts to also allocate fixed funds in their budgets to convey a signal of recognition and appreciation for the NFS as a church mission, both internally (to the parish and staff) and externally (to the public)." [162]

This claim, however, stands in direct contrast to their view of "pastoral care as an encounter with God," for "emergency pastoral care is a core church task carried out under the special conditions of modern social developments."

Is this "encounter with God" then to be financed as general disaster response using taxpayer funds?

Speaking of "modern social developments." Dieter Hashagen, chairman of the *Humanist Association of Wesermarsch* and a celebrant and eulogist for non-religious people in addition to his profession as a geriatric caregiver, reported on what this can mean in emergency response today. He describes why he works with the Crisis Intervention Team (KIT):

"The emergency pastoral care program at KIT was expanded to include support for atheists through my membership. For example: When an elderly man was at risk of suicide, he told the emergency medical services that he did not want to be assisted by a pastor from the emergency pastoral care program because he himself did not believe in God. He knew me personally by name and agreed to my visit and to speaking with me. After I arrived, the emergency services were able to leave. After an hour-long conversation, there was no longer any talk of suicide.
It is not uncommon for people with an immigrant background to receive emotional support from their peers—humanists and atheists included. Of course, at the scene of an accident, you cannot tell whether a person is a Christian, humanist, atheist, Buddhist, or Muslim. KIT is fundamentally (religiously) neutral and nonpartisan. Otherwise, it doesn't really matter who is the first to provide emotional first aid at the scene of an accident. There, I am simply part of my team, regardless of my personal worldview. First and foremost, I am a human being; I accept the person involved as they are and strive to act with compassion."[163]

Church's International Work

The aid and mission agencies of the two major churches and organizations closely affiliated with them receive approximately 270 million euros in "fixed allocations" from the budgets of the Federal Ministry for Economic Cooperation and Development (BMZ) and the Federal Foreign Office.

The interconnection between the churches and the state and political sphere is evident not only in Germany itself, but also—and even more clearly there—in the financial support for church work abroad, which is funded by both the Federal Ministry for Economic Cooperation and Development (BMZ) and the Federal Foreign Office (AA).

145. Cultural Foreign Work

In 2009, "fixed amounts" were paid to the Protestant and Catholic Churches from the Foreign Office's budget. Under the heading "International Activities of Social Groups," two million euros were earmarked for the "cultural work abroad of the churches." With these budget allocations, which are in themselves merely planned, one can always be certain that they will be paid out as such.

While the figures aren't huge, they are nonetheless more than surprising. The first two entries—for the "Foreign Office of the Evangelical Church in Germany" and the "Catholic Foreign Secretariat," each at exactly 740,000 euros—are already astonishing. What does the Federal Foreign Office have to do with the churches' "foreign work"? The two items that follow are nothing short of a scandal, as exactly 249,000 euros are paid out to both the *Evangelical Mission Society* and the *German Catholic Mission Council*. Since when has proselytizing—or at least the financial support of Christian proselytizing abroad—been a state responsibility of the Federal Republic of Germany?

And the three German Seamen's Missions, which receive 130,000 euros in support from the Foreign Office, are of course also "intended solely for the social care of seafarers."

However, these payments are merely the overt funding of church activities; there are also other, somewhat hidden budget items, such as the budget line "General Cultural Work Abroad," from which primarily the *German Academic Exchange Service* (DAAD) receives 77 million euros and the *Alexander von Humboldt Foundation* receives 30 million euros.

Next come the foundations of the political parties represented in the Bundestag, listed in order of size, and finally, under item 11 at the end, there is an additional 8.7 million euros allocated for "Other," which is explained as follows: "Other programs in crisis-stricken countries and other recipients, including church organizations."

146. Aid and Mission Organizations

Christian aid organizations always have a dual focus on humanitarian aid and faith-based mission in their programs. If their sole task and goal were humanitarian aid, they would not be *Christian* aid organizations. Their "proprium" (that which defines their essence and distinguishes them from others) is the proclamation of the faith through deeds and words. In this regard, all political bodies must ask themselves whether they are clear about the intentions behind these mission organizations that place such a strong emphasis on humanitarian aid.

A simple example is the Blind Mission, where it is not just the word "mission" that raises eyebrows, since the stated aim is to help the blind and visually impaired, is it not? Why, then, is there a Catholic Blind Mission and also a Protestant Blind Mission? And why is there a Protestant development service and a Catholic one?

147. Protestant Development Service

The former *Working Group of Church Development Services* was dissolved at the end of 1999, and its former members—*Overseas Services* (DÜ), *the Protestant Central Office for Development Aid* (EZE), the *Ecumenical Missionary World Service* (ÖMW), the *Pritestant Missionary Society* (EMW), and the *Church Development Service* (KED)—were merged to form the *Protestant Development Service e.V.* This centralization will continue, as work is already underway to integrate with the institutions of the Diakonisches Werk.

The Protestant Development Service describes itself in detail on its website:

"The Protestant Development Service (EED) is a development agency of the Protestant churches in Germany. Each year, it supports approximately 1,500 projects and programs in Africa, Asia, and Latin America, as well as in Oceania, Southeast Europe, and the Caucasus.

The EED advises its partners and provides them with financial support. It places German experts in overseas projects and awards scholarships to young professionals from partner countries.
The EED's partners include churches, Christian organizations, and non-church-affiliated entities. Together with them, the EED works worldwide to promote a life of dignity. Justice, peace, and the preservation of creation are its guiding principles. Development in partnership is a core element of its work.
In Germany, the EED supports development education initiatives carried out by 500 groups and congregations. It provides grants for seminars and study tours, as well as for campaigns, research, and informational materials. Through its lobbying and public relations work, the EED promotes development policy issues within the church and society.
The EED is a member of the ACT Alliance, the global ecumenical alliance for development cooperation. ACT stands for "Action by Churches Together."
The EED e.V. was founded in 1999. As the development service of the churches, it pursues charitable, church-related purposes. The association is headquartered in Bonn."[164]

The aspect alluded to in the concluding sentence ("charitable, ecclesiastical purposes") is formulated more clearly and unambiguously by the Church Office of the Evangelical Church in Germany:

"The Protestant Development Service supports churches, Christian organizations, and private institutions with financial contributions, personnel, and expert advice so that they can participate in building a just society [...]."[165]

"Great," thinks the unsuspecting reader, "finally an organization of the Protestant Church that selflessly does good for partner churches and Christian organizations abroad and isn't a drain on the state's resources." No, it's not quite that simple, because if you look a little closer, you'll find something about the finances: "The Protestant Development Service uses church tax funds, government grants, and donations. In doing so, it adheres to the principles of good stewardship." Well, steward, the order is, if not alphabetical, at least a sequence of importance, so church tax funds come first. No, that's not quite right either, because shortly thereafter it states:

"From the church budget line of the Federal Ministry for Economic Cooperation and Development (BMZ), 105.7 million euros flowed into the EED budget via the Protestant Central Office for Development Aid. In addition, the EED received a further 2.1 million euros from the BMZ for the 'Civil Peace Service' program and 5.7 million euros from the 'Weltwärts' program. In total, the EED thus had 113.5 million euros in government funds at its disposal to fulfil its tasks.

"Brot für die Welt" solicits donations from communities, churches, and the general public. From these donations, the EED received 4.9 million euros to help fund projects and the placement of specialized personnel, most of which are supported by government funds.
To carry out its own projects, the EED received an additional 3.2 million euros from other sources.
In 2009, the Protestant regional churches and the military chaplaincy transferred 48.5 million euros from church taxes to the development service."

Excuse me? There's a "church title" in a federal ministry? Yes, that's right. No, no privileges—just properly agreed-upon contracts.

"In 1962, the Federal Republic of Germany and the two major Christian churches reached an agreement. In it, the federal government committed to providing financial support for the churches' development work.
To cooperate with the government, the churches needed a legal basis. They established two central agencies for development aid—one Catholic (KZE), the other Protestant (EZE).
To this day, the EZE remains a contractual partner of the Federal Ministry for Economic Cooperation and Development (BMZ)."

Now one can play with words. What is an (unconstitutional) institutional link, and what is a (permissible) cooperation between church and state?

And now, the correct order of funding: the Federal Republic of Germany (67%), regional churches (28%), Bread for the World (2.9%), and other donations (1.9%).

However, the *Evangelical Development Service* does not work alone. It has clear missionary cooperation partners:

"The EED's personnel expertise is also utilized by cooperation partners such as the Diakonisches Werk, Kindernothilfe, the mission agencies, or Peace Brigades International. Fifty-seven employees of the mission agencies who undertake development tasks were supervised by the EED in accordance with the Development Aid Workers Act, and the EED also covered part of their funding."

This leads to the factually accurate description: The Evangelical Development Service is a missionary organization of the Federal Republic of Germany that is deployed in projects worldwide. The Protestant regional churches provide smaller financial contributions toward this.

148. Diakonie Disaster Relief

As part of the upcoming consolidation of the various activities of "Protestant development aid," Diakonie Katastrophenhilfe will merge with the Evangelischer Entwicklungsdienst. The starting point for identifying the most important donors is somewhat different:

"Diakonie Katastrophenhilfe, founded in 1954, is the humanitarian aid organization of the Protestant churches. Guided by the Christian view of humanity and a sense of overall responsibility for God's creation, it provides unconditional humanitarian emergency aid in cooperation with the global Christian community, regardless of the political, religious, and cultural affiliations of those affected."[166]

The founding motto of the first coordinator of Diakonie Katastrophenhilfe, Ludwig Geißel, sums up precisely what it is all about in its excellent ambiguity: "Fly now, pray later."

Transporting relief supplies by air is the fastest way to deliver aid, and the Federal Republic of Germany and the European Commission are funding approximately half (48%) of the Protestant disaster relief efforts: 12 million euros. The government grants are broken down as follows:

Federal Ministry for Economic Cooperation and Development (BMZ), Emergency and Refugee Aid: €4.8 million / Federal Foreign Office (AA), Humanitarian Aid: €5.5 million / European Commission Humanitarian Office (ECHO): €1.2 million / EU, Europe Aid: €103,000 / State of Baden-Württemberg: €86,000 / Others: €473,000.

The remaining funds consist of €6.6 million in direct donations (26%), €3.0 million (12%) from the disaster relief fund of the sister organization *Bread for the World*, €1.9 million (7.5%) from Christian charitable organizations, €1.3 million (5.4%) from interest, and €260,000 (1%) from other income.

Since German state church law is known to be based on the three principles "secularity, neutrality, and parity," a similar arrangement is to be expected for the Catholic Church.

149. Misereor

The Catholic Church doesn't make it as complicated as its Protestant counterparts; it has placed its government-funded fundraising arm, the Catholic Central Office for Development Aid, directly under the episcopal relief organization *Misereor*, since that is where the tax money is ultimately supposed to go.

The *Episcopal relief organization Misereor* stands "with anger and tenderness at the side of the poor," but unfortunately hardly with its own money.

Of the total revenue (in 2009) of 161.6 million euros, 101.2 million (63%) comes from the Federal Ministry for Economic Cooperation and Development (BMZ), 51.6 million (32%) are donations, and 8.8 million (5%) are church budget funds. Yet it still bears
"Bishop" on it, and the uninformed can rest assured that the Church is "in it" — just not with its own money.

150. Federal Mission Headquarters?

It has already become clear from the Evangelical Development Service's revenue that aid and mission work is funded through various programs of the Federal Ministry for Economic Cooperation and Development (BMZ). In addition to direct funding, funds also flow from the "Civil Peace Service" and "Weltwärts" programs.

The BMZ describes the role of the funded foundations of the political parties in detail by exporting the German model:

"The central development policy objective of the six political foundations funded by the BMZ (the Friedrich Ebert Foundation, the Konrad Adenauer Foundation, the Friedrich Naumann Foundation for Freedom, the Hanns Seidel Foundation, the Heinrich Böll Foundation, and the Rosa Luxemburg Foundation) is the sustainable promotion and development of democracy and civil society."[167]

When describing the churches as "actors" in German development policy, the language becomes much more poetic:

"The churches play a prominent role in German development policy. Together with their partners in developing countries, they have been engaged in the Federal Republic's development cooperation for more than 40 years. In many parts of the world, they have been able to alleviate poverty and improve people's living conditions. Churches are able to mobilize a segment of civil society worldwide and can thereby exert a targeted influence on the formation of political awareness. [...] The churches finance the vast majority of their activities themselves using their own funds and donations amounting to approximately 500 million euros per year. Through the Protestant Central Office for Development Aid in Bonn and the Catholic Central Office for Development Aid in Aachen, the BMZ supported the churches with 192 million euros in 2009."

Given the churches' prominent role in German development policy, is the BMZ a Federal Mission Centre?

And the churches claimed contribution of 500 million euros to development work could, upon inquiry to the ministry, only be confirmed to the extent that the churches provide this information to the ministry. A plausibility check of this data among the major organizations shows that in 2009, 49.3 million euros in church funds were allocated within the Protestant Church (Evangelischer Entwicklungsdienst 48.5 million euros, Diakonie Katastrophenhilfe 821,000 euros, Johanniter Auslandshilfe 0 euros, Brot für die Welt 0 euros). Within the Catholic Church, the figure was 13.7 million euros (Misereor 8.8 million euros, Caritas International 4.9 million euros, Malteser International 40,000 euros). The total is thus 63 million euros. A compilation of donations received by the major organizations mentioned above yielded a total of 133.4 million euros.

Church funds and donations/collections for the organizations mentioned total 196 million euros. They are thus still far from the stated 500 million euros in church contributions, and this sum would then be equal to that of the BMZ, resulting in a 50:50 funding ratio.

151. No pastoral care measures

The aforementioned "church fund"—whose balance has been growing steadily by 7% year over year in recent years—is accompanied by the note in the budget that "pastoral care measures are not financed from these expenditures." This is presumably a very outdated conception of "pastoral care," which likely refers to things like confession, prayer, and singing hymns. "He who pays the piper calls the tune" has, of course, nothing to do with pastoral care. Absolutely nothing.

From 168 million euros (in 2007), the "church budget" has since risen to 205 million euros (in 2009), and this has also been reflected in the aid and mission organizations in the form of a decline in their own religious share—in the finances.

In further examining the question of how the aforementioned 500 million euros of alleged church-owned funds, there are two revealing answers. No figures, however. The Evangelical Central Office responds to an inquiry:

"Development cooperation within the Evangelical Church in Germany is very diverse. On the one hand, there is the Evangelical Central Office for Development Assistance (EZE) within the EED. As you know, it had 47.3 million euros in church funds at its disposal for the 2009/2010 fiscal year. In addition, there are other major organizations such as 'Brot für die Welt' and 'Kindernothilfe,'

which use donations and collections to fulfil the church's global responsibility and service to others through their work. [...] In this way, various actors within the Evangelical Church carry out the mission of the church's global responsibility."

This is followed by a reference to the members of the *Evangelical Mission Society in Germany* (EMW), which includes well-known actors such as for example, the *Christoffel Blind Mission* and the YMCA, which normally operate separately in the market, are united under a single missionary umbrella. The Catholic counterpart responds to the same inquiry:

"Fundamentally, it must be said that church funds for work in the countries of the South and East do not come exclusively from Catholic aid organizations such as Misereor, Adveniat, Renovabis, Kindermissionswerk / Sternsinger, Caritas, Malteser, and many others. Rather, we must also include the dioceses, which likewise conduct fundraisers for their own projects—independently of and in addition to the collections of the aforementioned aid organizations. We must also include the many religious orders and congregations that are engaged in development work through their locations in Africa, Asia, and Latin America. These orders collect substantial funds for development projects in these countries through their mission offices here in Germany."

Attached is an overview—previously, only the aid organizations were mentioned—of the aid and, above all, the missionary works of the missionary religious orders. Also included are the "Sternsinger" (officially: Pontifical Mission Society of Children / Children's Mission Society), whose "holistic" self-help program includes: "catechetical programs, provision of children's and youth Bibles, children's and youth ministry, construction and furnishing of rooms for catechesis." Development of church structures.

But it is reassuring to know that the Federal Ministry does not finance "pastoral care measures."

152. Humanitarian aid

In addition to the BMZ, the prestigious Federal Foreign Office is also pulling out all the stops. A total of 418 million euros has been allocated in the Federal Foreign Office's 2009 budget for "measures and services to secure peace and stability, including humanitarian aid measures." The figure for "humanitarian aid measures abroad" is 102 million euros.

Since its establishment in 1994, the "Humanitarian Aid" Coordination Committee has met every two months at the Foreign Office and convenes for ad hoc special sessions in the event of humanitarian crises.

If one takes a closer look at this humanitarian aid, for example, on the ground, something peculiar becomes apparent.

The "Federal Government's Emergency Aid in Sudan" primarily consists of assistance for the victims of the so-called Darfur conflict, in which more than 2.5 million people have been displaced within Sudan because of fighting between rebels and the government. This conflict can also be viewed as a civil war between the Muslim north and the "animist-Catholic" south. The British colonial rulers had at the time prohibited missionary work in the Muslim north, so the Catholic Church turned to evangelizing the "pagan" tribes of the south. Today, Catholics make up about 20 percent of the population.

The German Embassy in Khartoum has published an overview of German emergency aid, detailing the aid organizations and the amounts they received for their projects from January 2007 to May 2009.[168]

In 2008, 17.6 million euros were disbursed to aid organizations. The Federal *Agency for Technical Relief* (THW), the *German Society for Technical Cooperation* (GTZ), the *United Nations Children's Fund* (UNICEF), and other neutral organizations received 5.8 million euros (33%) of this amount. The remaining 11.8 million euros (67%) went to Christian organizations. The largest "chunks" (9.2 million) went proportionally to the two largest organizations (six projects by the *Evangelical Central Office for Development Aid* and the German Caritas Association). However, a single smaller organization, *Humedia*, also implemented six projects and received 1.8 million euros for them. What does this organization do? Its mission statement reads:

"Humedia works on the ground with local and humanitarian NGOs (non-governmental organizations). Often, it is local churches and congregations, hospitals, and mission stations that ensure the aid reaches those in need."

This refers to the claim that local authorities distrust Western aid and that Christian organizations have better access through their Christian church networks. In South Sudan, however, there are hardly any Protestant churches or hospitals, so only the mission stations remain. And a look at the NGOs with which *Humedia* cooperates reinforces this missionary connection. The partner organizations are:

1. *action medeor*: an explicitly Christian NGO that specializes in supplying affordable medicines, and whose advisory board includes, in addition to a

auxiliary bishop and a regional church councilor, a doctor from the German Institute for Medical Mission. *action medeor* itself received 295,366 euros from the BMZ in the course of 2009.

2. *Kindernothilfe*: a Christian NGO whose bylaws define the primary purpose of its work as follows: "In fulfillment of the diaconal and missionary mandate of the Church of Jesus Christ, the association is tasked with fostering charity and a sense of responsibility toward children and young people in need throughout the world, particularly in Asia, Africa, and Latin America, as well as contributing to the alleviation of their suffering."
3. *Operation Blessing*: a U.S. NGO that describes its mission as "a mission to demonstrate God's love by alleviating human suffering."
4. *Mercy Air*: a Swiss evangelical NGO that operates a flight service as "bridge from heaven to people in need," and in whose guest homes in South Africa one can spend time "with their family and God."
5. *Nazarene Compassionate Ministries*: an evangelical NGO from the U.S. that, for example, cares for refugee children in Iraq through an "Acts of God" program: "The 'Acts of God' program is successful in reaching children and youth for Christ while they wait with their families to be resettled."

Humedia itself operates under the motto "Do not let your hearts be troubled! Believe in God and believe in me! Jesus Christ in the Bible (John 14:1)" and attests to its credibility through the donation seal certificate from the *German Evangelical Alliance*.

From January to May 2009, the "Federal Government's Emergency Aid in Sudan" program included 11 projects, one of which was organized by the Evangelical Central Office (€1.8 million), four by *Humedia* (€1.3 million), one by the Catholic Central Office (€740,000), one by *Johanniter-Unfallhilfe* (€255,708), and one by *World Vision* (€185,395). Of the total emergency aid during this period (€4.7 million), Christian aid and mission organizations received 90% (€4.2 million).

Are Christian aid and mission organizations supporting Catholic structures in the fight against a Muslim central government?

But from the government's perspective, that's perfectly acceptable. For instance, Günter Nooke, the former human rights commissioner and current special representative for Africa in the German government, described religious mission as a human right at the 2010 Ecumenical Church Congress in Munich. "According to the 1948 Universal Declaration of Human Rights, freedom of religion also includes the right to speak about one's faith and to teach it. Religion is not a private matter, as some believe."[169]

153. Public Funding Ratios

While the "public funding ratio" for the *Episcopal relief organization Misereor* was still 49% of revenue in 2000 (€73.2 million), it had already risen to 63% of revenue by 2009 (€101.2 million). The church's own contribution fell during the same period from 8% (€12.1 million) to 5% (€8.8 million).

The trend is similar for the funding sources of the Evangelical Development Service. While the government share was still 58.6% (€80.6 million), it rose to 67.5% (€113.5 million) in 2009, while the share of the regional churches decreased from 37.7% (€51.9 million) to 28% (€47.3 million) over the same period.

Both the EED's revenue from the BMZ budget and the costs incurred by *the German Development Service* (DED) for its *Weltwärts* development policy volunteer service program (budget: €87 million) and the Civil Peace Service (budget: €30 million) suggest the existence of additional religious beneficiaries. In the field of development aid, there are around 120 organizations in Germany, most of which compete for public funding. As the *Christoffel Blind Mission* writes in its 2009 annual report:

"With regard to income from public funds (EU/BMZ), the planned increase continued in 2009 as well. Past investments in personnel in this area are beginning to have a positive impact."

The "revenue" from project lobbying (2,959,327.58) came from the BMZ and the EU, listed in the annual report under "Revenue from co-financing." Other religious organizations are also supported:

Caritas International received 12.5 million euros (9.8 million from the BMZ and 2.7 million from the Federal Foreign Office).

In 2009, *Johanniter International Ad* will receive 2.2 million euros from the Federal Foreign Office and €854,443 from seven EU and UN organizations as well as the BMZ.

Malteser International handled a total of 21.2 million euros in 2009, of which 13.3 million euros [= 63%] came from public funds (5 million from the EU, 4 million from the UN, 2.8 million from the BMZ, and 1.5 million from the Federal Foreign Office).

Ärzte für die Dritte Welt e.V. received 2.3 million euros from the BMZ and other government agencies;

Human Help Network e.V. does not specify an amount, but names the BMZ and the state of Rhineland-Palatinate as funders, as does

Aktion Canchanabury, which does not provide figures but names the BMZ (upon request) as a funding source.

Kindernothilfe lists: the Federal Foreign Office (AA), the Federal Ministry for Economic Cooperation and Development (BMZ), the European Commission (EU), and the amount of 1.2 million euros.

Child Fund Germany received 431,000 euros (BMZ, AA, EU).

In 2009, *World Vision* received a total of 12.3 million euros in grants: 2 million from the Federal Foreign Office, 74,000 from the Federal Ministry for Economic Cooperation and Development (BMZ), and 10.2 million from the EU and the UN.

This small selection of larger organizations alone receives 242 million euros in taxpayer funds for aid and missionary work.

Yet these missionary organizations are not even necessary, as there is already a sufficient number of organizations actually engaged in humanitarian work, such as the International Federation of Red Cross and Red Crescent Societies, *Doctors Without Borders*, the *Society for Technical Cooperation*, the *Federal Agency for Technical Relief*, and many others.

Broadcasting rights on the media

"Never a day without God—on Deutschlandfunk and Deutschlandradio Kultur. Faith comes from hearing: Protestant morning devotions, church services, and more. Wherever you listen to the radio in Germany—every day of the year, you can start with a Protestant program: for example, with a morning devotion on Deutschlandfunk."[170]

And that every morning. Requests asking if this could perhaps be changed—since the station is otherwise highly appreciated—were denied; the response was that they are contractually obligated to do so.

154. Television

The *"Word for Sunday"* on Saturday evening on ARD is likely well known. Below is an overview of what church-related programming can be seen on television during a typical week. This excludes the religious channels Bibel-TV, EWTN-TV, and Kephas-TV, which broadcast religious content all day long.

So, as a random selection, the 33rd calendar week of 2010, from June 16–June 22, 2010 (no repeats). Selected by the Catholic Television Service, a department of the German Bishops' Conference:

Church Programs, Monday, August 16, 2010

Horizons / Beloved Lie / 8:30 a.m. / HR: It was a picture-perfect wedding when Horst and Elli got married. Only one thought plagued the groom, and not just since that day: "Dear God, please don't let me be gay!"

Day 7 / Jealousy / 10:15 a.m. / RBB: “When jealousy gets the better of me, I could explode.” Lars has been with his girlfriend Julia for ten years. His jealousy follows Julia everywhere. The authors visited several couples whose lives and love are being put to the test by jealousy.

Sundays / 12:15 p.m. / ZDF: The magazine program *"sonntags"* focuses on religious worlds, social values, and individual lifestyles. The range of topics includes religion, the church, ethics, psychology, and society. It addresses questions about life.

Church Programming, Tuesday, August 17, 2010

Youth and the Church / Dolce Vita, Abuse, and the Pope / 7:45 a.m. / ZDF-infokanal: Between Dolce Vita, Abuse, and the Pope shows how young people are coping with the current crisis and what expectations or demands for change they have of church leaders so that the church remains an option for them in the future.

Church Program, Wednesday, August 18, 2010:

Stations / To the Ends of the Earth / 7:00 p.m. / BR: Austrian actor Ulrich Reinthaller walked the Way of St. James in 2004. The spiritual sites along the way and his encounters with local clergy and pilgrim guides have taken on special significance for him.

Church Programs, Thursday, August 19, 2010:

Orientation / 11:45 a.m. / 3sat: The ORF’s religious magazine. Hosted by Doris Appel. The religious magazine reports on background information and current events from the world’s religions.

From a Christian Perspective / 7:57 p.m. / SR: Commentary on current events, a meditation on Passion images, a film about a parish’s children’s retreat, and an art project on a church tower.

Pilgrimage Tour / Germans on the Way of St. James / 10:35 p.m. / MDR: Heide Richter and Christine Kümmel have decided to go on a pilgrimage. Because they don’t feel up to such a journey on their own, they book the “Way of St. James package.” Will the group reach their destination together?

Church Programming, Friday, August 20, 2010:

The Way of St. James / 10:30 a.m. / Phoenix: On May 1, 2004, Europe changed. A new process of integration began. On July 25 of the same year, thousands celebrated a man named Jacob. This documentary weaves both events into a European film.

Church Programming, Saturday, August 21, 2010:

A Farm with Heaven / On First-Name Terms with Jesus / 10:00 a.m. / DAS VIERTE: What if Jesus returned to Earth today? English author Adrian Plass has set out to find an answer.

Anschi, Karlheinz & Co. / A Heavenly Magazine / 10:45 a.m. / BR-alpha: "Anschi, Karl-Heinz & Co." is the sequel to "Anschi and Karl-Heinz." A mix of fictional stories and documentary segments.

Church Bells / 2:30 p.m. / BR: Every week, Bayerischer Rundfunk broadcasts the ringing of church bells from a different church. This week, you can see and hear the bells ringing from the monastery and parish church in Biburg.

Horizons / House of Desire / 4:30 p.m. / HR: The house is modest and rather unassuming, neither particularly large nor valuable—and yet so desirable that 89-year-old Erwin Rothmeier has spent the last twenty years devoting all his time, energy, and a great deal of money to regaining ownership of this house, which he believes belongs to him.

Churches, Monasteries, and Pubs / 6:02 p.m. / RBB: Jochen Kowalski, the world-famous singer, loves his Brandenburg homeland. He guides viewers through Chorin Monastery, climbs the towers of the large churches in Boitzenburg and Rathenow, visits the village churches in Küstrin, and several other places.

Landesschau on the Road / The Never-Ending Construction Site / 6:15 p.m. / SWR: A fifth of the exterior facade of Freiburg Cathedral has already been replaced since it was first built. Exposed to the elements, the cathedral is constantly undergoing restoration and is, in fact, a never-ending construction site.

Credible / Felix Kaufhold / 6:45 p.m. / MDR: Felix Kaufhold always holds the rope tightly; you can rely on him. Climbing is his passion. The civilian service worker has found his dream job at Mansfeld Castle. It was clear, at the latest, from the moment he became a Christian that he would perform a year of civilian service instead of military service.

The Sunday Sermon / with Gereon Alter / 10:25 p.m. / ARD: Every Saturday evening, one of the eight men and women from the Catholic and Protestant churches in Germany delivers the Sunday sermon. Today, Gereon Alter from Essen speaks.

Church Programs, Sunday, August 22, 2010:

Faith and Life / Touba. Ascetics, Pilgrims / 8:30 a.m. / Phoenix: Once a year, the small town of Touba in northern Senegal swells to the size of a metropolis. The Mouride Islamic brotherhood has built the largest mosque in sub-Saharan Africa here.

Worlds of Faith / Mr. Abdoulaye / 9:00 a.m. / Phoenix: Mr. Abdoulaye is a German teacher at the John F. Kennedy Girls' High School in Dakar. His students call him "Mr." Abdoulaye or "Pierre."

Sundays / 9:02 a.m. / ZDF: The magazine *program "Sundays"* focuses on religious worlds, social values, and individual lifestyles. It addresses questions surrounding life

Protestant Church Service / 9:30 a.m. / ZDF: Getting Back on Your Feet. People usually learn to walk as toddlers. In Lindenfels-Winterkasten, some learn again in their mid-forties. That's because this idyllic village is home to the Eleonorenklinik, a facility for people who can barely walk on their own.

Portrait / The Racing Bishop / 10:00 a.m. / Phoenix: Desmond Tutu, born in 1931, doesn't exactly embody what one might expect of a venerable archbishop.

He is bursting with life, wit, and joy—and at an age when others have long since retired.

Stages / The Steepest Stage / 10:15 a.m. / BR: Only 18 kilometres as the crow flies separate the towns of Saint Jean Pied de Port and Roncesvalles, but this short stretch of the Camino de Santiago in the Pyrenees is no walk in the park. Wind and fog, heat and rain, but above all the constant, steep climb to Ibaneta take their toll on the pilgrims.

People in Luck / Ulrike Folkerts / 10:30 a.m. / SWR: As Lena Odenthal, she hunts down criminals on Sundays in the TV series *Tatort* on ARD. In June 2007, she was awarded the Federal Cross of Merit and the Courage Prize for her extensive social activism. The film follows the most popular *Tatort* detective as she works to promote human rights.

Picture Book / Cologne / 11:00 a.m. / SWR: There is no shortage of local patriotism. When people from Cologne cross the Rhine into their city, the saying still holds true: "Ich möcht' zo Foss noh Kölle jonn'"—Roman, Christian, optimistic—from Colonia through Holy Coellen in the Middle Ages to the present day.

Lido / Johann Michael Fischer / 12:35 p.m. / BR: With his buildings, Johann Michael Fischer has shaped the Bavarian landscape to this day. The documentary presents the life and work of the great Baroque architect.

Fireside Chat / 1:00 p.m. / Phoenix: Elmar Theveßen in conversation with Archbishop Robert Zollitsch (Chairman of the German Bishops' Conference).

God and the World / Born Too Early / 5:30 p.m. / ARD: One in ten children in Germany is born prematurely; the trend is rising. The reasons for this increase lie, of all things, in medical progress.

Under Our Sky / Pilgrimage Across the Steinerne Meer / 7:00 p.m. / BR: It all began with a vow: When the plague raged in the Austrian Pinzgau region in 1634, the residents of Maria Alm made a pledge: "If the Almighty spares us, we will thank Him, year after year."

Treasures of the World / Urnes Stave Church / 7:40 p.m. / 3sat: On a headland jutting deep into the Luster Fjord stands Norway's oldest wooden church: the Urnes Stave Church.

Theme Night / Mother Teresa, Saint of the Slums / 8:45 p.m. / arte: Alongside Pope John Paul II, Mother Teresa is the most popular religious figure of the 20th century. She dedicated her life to the poor and sick in the slums of India. Her decades of service, and in particular her fight against the spread of leprosy, earned her the Nobel Peace Prize in 1979.

Hitler's Austria / 9:00 p.m. / Phoenix: Six months after the "Anschluss," everyday life continued in the so-called "Ostmark." Many Austrians who had enthusiastically cheered for their compatriot Hitler in March 1938 were now disappointed.

Mother Teresa / Saint of Darkness / 10:40 p.m. / arte: Through her tireless dedication to serving the poor, Mother Teresa became a globally recognized moral icon of the 20th century.

Voodoo in Germany: Between High Cult and Commercialism / 10:50 p.m. / RTL: 'The Big Report' follows people as they search for clues in the realm of spirits and shows how the sacrificial cult of Voodoo is practiced in Germany today.

155. Radio Stations

Given the manageable number of television stations, the number of television programs can still be reasonably tracked. With the multitude of regional radio stations in Germany, this is only possible on an illustrative basis. Over the course of the week, (at least) 80 programs are broadcast. As with television, the focus is on Sunday, when church services are broadcast across the region. As an example, SWR, programs on a single day, Monday, August 30, 2010:

Anstöße on SWR1 and Morgengruß on SWR4 Rhineland-Palatinate / Rolf Burket, Bad Kreuznach, Evangelical Church / Surgery: Today I would like to speak especially to those who are facing surgery. […] Many doctors are devout Christians. You often don't see it, but it shows in their actions.

"Anstöße" on SWR1 and "Morgengedanken" on SWR4 Baden-Württemberg / Dorothea Frank, Bad Schönborn, Protestant Church / Voices and Sounds: How did you wake up? Cheerful and in good spirits—or were you immediately faced with the problem from last night and the decision you have to make today?

SWR2 Word of the Day / Dr. Dietmar Bader, Freiburg, Catholic Church / Pilgrimages more popular today than ever: Pilgrimages are more popular today than ever. Especially the one to Santiago de Compostela in northeastern Spain.

SWR3 Thoughts / Dominik Frey, Wiesloch, Catholic Church / "shared space": Bohmte is a small town near Osnabrück. What makes Bohmte special is that there have been no traffic signs on the main street for a good two years now. Simply do away with the many regulations and bring people back into contact with one another—even if it's just eye contact.

SWR3 Words / Ambros Tremel, Ludwigshafen, Catholic Church / "We": We are called to bring about peace and reconciliation and to give the world a message of hope. Let us no longer think in terms of "I," but of "we." That is why we always pray "Our Father" and ask for "our" daily bread. That is the first necessary step. (Pope Benedict XVI)

SWR4 Evening Reflections / Dr. Madeleine Spendier, Catholic Church / Who are you, Jesus? This is the question posed by an 85-year-old theologian living in Tübingen.

156. Costs

Although the ARD publishes the shares of the individual departments in the total television and radio programming of the state broadcasters but does not provide corresponding production costs.

The share of the "Religion" department on the first television channel amounts to 3,140 minutes (= 52 hours or 0.6% share). On the third television channels, the share of the "Religion" department totals 602 hours (= 0.9% share). The range extends from 1.9% at Bayerischer Rundfunk to 0.1% at Norddeutscher Rundfunk. On the satellite channel 3sat, the share is 1.3% or 28 broadcast hours.

The shares for "Religion" will certainly be higher, because is the film *Ben-Hur* a feature film or a religious program?

ZDF does not publish such broken-down figures. The share is certainly higher than at ARD. In this respect, the assumption of a one-percent share is very conservative.

In 2008, ARD and ZDF had combined expenses of 8,270,137,000 euros. Since the cost structure is likely to be just as diverse as that of other departments, 1% of these expenses amounts to approximately 83 million euros.

Historic Preservation

An area that was already addressed in the context of church construction costs is, in this context, historic preservation. These are payments for which the state is not contractually obligated.

157. "Bad money" for "good- purposes"

Buildings designated as historic landmarks in Germany must first have withstood the test of time and the vicissitudes of history. Consequently, these buildings are primarily constructed of hard stone, and who could afford such expensive construction in the past? The nobility and the churches—and at the top of both groups, the members were identical: all nobles. It was only later that wealthy merchant families and bankers joined their ranks. However, such a building must not only be "old" but also a "cultural asset worthy of preservation." Unlike the obligations regarding church construction, however, the state has not thereby assumed a legally enforceable duty to preserve the buildings but rather provides subsidies according to the financial capacity of state budgets. For this purpose, the proceeds from state lotteries are primarily used (Zahlenlotto, Spiel 77, casino revenues). The source of these funds is in other words,

from the Church's perspective, people's "gambling addiction." But since, as is well known, the lottery company stands to gain the most from a lottery, the government requires it to use the surplus—taken from the poor gambling addicts—for charitable causes. The idea is: Do good to offset the "evil" source of revenue.

However, some building owners do not value historic preservation, since this designation as a historic monument also means that the building must be preserved as-is, and furthermore, the owner's renovation plans are subject to strict limits and require approval. And the owner is—within reasonable limits—legally obligated to maintain the building. On the other hand, in addition to the subjective honour of owning such a building, there are also tax benefits for renovation costs and government grants, as long as there is still something left in the "annual budget."

The proportion of church buildings among all listed buildings in Germany cannot be easily determined.

While the EKD knows the number of historic buildings owned by the established church (of the 20,857 churches and chapels, 16,627 are listed as historic monuments), this does not indicate what proportion of all listed buildings these structures represent. And this proportion is needed to estimate the scale of state funding for historic preservation that benefits the churches.

A count of the list of listed buildings in the Havelland district in the state of Brandenburg yields a total of 341 buildings on the list: churches (mostly village churches), residential buildings, and larger structures (schools, etc.). After weighting for building size and cost, this amounts to approximately 30 percent of the total volume on the part of the churches. Another analysis of the list of historic buildings in the city of Erkelenz in North Rhine-Westphalia, comprising 257 buildings, yields a higher figure of 40 percent of the total volume, as it consists of numerous smaller residential buildings on the one hand, and five large structures among the 28 churches on the other. A third source, the list compiled by the Arnsberg District Government in North Rhine-Westphalia, which details all aspects of the costs of the 2009 annual funding program, lists 14 funding measures for buildings owned by churches (funding volume: €905,000) and 26 grants for private owners (volume: €1,104,100) under historic preservation. Church-affiliated organizations thus receive 45 percent of the actual funding for historic preservation. In this regard, it is therefore plausible to assume a minimum share of 40 percent for the churches

should be included in the funding for historic preservation.

The 2009 budgets of the sixteen federal states allocate a total of 38 million euros (€38,039,000) for general funding measures for historic preservation. If 40 percent of this is allocated to churches, that amounts to 15.2 million euros. Together with an additional 3.6 million euros that is directly allocated to major churches for historic preservation (including Cologne Cathedral), this already amounts to 18.8 million euros in taxpayer funds for the preservation of church buildings.

158. Confusion surrounding Cologne's Cathedral

In a letter to the editor *of Der Spiegel* magazine (Issue 26/2010, p. 15), the current provost of Cologne Cathedral, Norbert Feldhoff, writes:

"Cologne Cathedral costs an average of about 11 million euros annually, of which a good 7 million goes toward building maintenance. The funding breaks down as follows: 4.9 million from the cathedral's own funds, donations, and collections; 3.5 million from the Central Cathedral Building Association; 1.7 million from the Archdiocese of Cologne; and 0.9 million from public funds (North Rhine-Westphalia, City of Cologne). The state therefore pays less than 13 percent of the building maintenance costs."

This presentation is puzzling because, on the one hand, the list of costs specifies the total costs (€11 million), yet the state's share appears to be limited to building maintenance (€7 million). Something doesn't add up. Closer investigation clarifies what the confusion or cover-up is all about.

In a press release issued by the "Metropolitan Chapter of Cologne Cathedral"—headed by the provost himself—the project is "11,000 Stars for Cologne Cathedral" outlines what the "Cologne Cathedral World Heritage Site in Numbers" entails. Regarding costs, a clear distinction is made between the cathedral as a building (maintenance/investments) and as a cultural institution (cultural and spiritual offerings). Approximately 7.3 million euros are allocated annually for building maintenance, funded by the Central Cathedral Building Association (3.5 million euros), the Archdiocese of Cologne (1.2 million euros), public funds from the City of Cologne and the State of North Rhine-Westphalia (0.9 million euros), as well as donations and internal funds. The €4 million for cultural and spiritual offerings is then covered by the Archdiocese of Cologne (€0.55 million), internal funds (€2.35 million), and donations and collections (€1.1 million). However, the Cathedral Provost has now combined both payments from the Archdiocese (totalling €1.7 million) and set them against the single sum of public funds (€0.9 million). In doing so, he presents the state's share as the amount of money is comparatively small.

However, the 13% share of state is correctly attributed to *building* maintenance.

This fuels the suspicion that there is some intent at play and raises the question of how the Cathedral Building Association actually finances itself. The association itself refers only to its many members and a few sponsors, and takes pride in the fact that, as an association, it finances most of the building maintenance measures. Details on financing? None. In a description of the Central Cathedral Building Association (on *Wikipedia*), there was a note stating that it receives a large portion of its funds from state lottery proceeds.

WestLotto and Westdeutsche Lotterie GmbH confirm this information, as both list the state's seven cathedral building associations among the recipients of their "charitable contributions." Revenues from the state lotteries are allocated to the budget of the state of North Rhine-Westphalia and distributed from there for sports, welfare, and historic preservation. The amount earmarked for the cathedral building associations (in 2010) is 2,376,400 euros, of which the Cologne Cathedral Building Association receives the lion's share (60%): 1,425,840 euros.

And just a few lines further down in the budget of the North Rhine-Westphalia Ministry of Construction and Transport, the amount transferred by the state as a "grant for restoration work on Cologne Cathedral" (2010) is listed as 1.097 million euros. That is already about 200,000 euros more than the cathedral provost mentioned and now let's take a look at the City of Cologne's budget: There, a "grant for the preservation of Cologne Cathedral" of 207,000 euros annually has remained constant over the years. Now, these 1,097,000 euros from the state and the 207,000 euros from the city already add up to 1,304,000 euros, and with the state lottery funds for the Cologne Cathedral Building Association (€1,425,840), the state's share of the expenses for the maintenance of Cologne Cathedral already amounts to €2.73 million—well over twice the subsidies provided by the Archdiocese of Cologne itself. This direct state contribution thus already accounts for 37% of the €7.3 million in maintenance costs.

Private donations are particularly significant for Cologne Cathedral; for example, the owners of the Saturn department stores donated 200,000 euros for a new stained-glass window in 2005. If one now considers the tax deductibility of such larger donations and the many smaller donations to the Cathedral Building Association for what they actually are — a loss of revenue for the state in income tax, i.e., indirect financing — then the state's share of the maintenance costs for the Cologne Cathedral rises very

quickly to around 50%. And that was presumably something they wanted to cover up. So much for "not even 13%."

A request for clarification sent to the cathedral provost ultimately revealed the stark differences in perspective. Feldhoff rejected the notion that lottery funds are "state-owned." The state of North Rhine-Westphalia is merely the trustee of the profits from state lotteries. And in his view, treating the tax deductibility of donations (including those for Cologne Cathedral) as a loss of state revenue (as an indirect state benefit) is simply confusing for the impartial reader.

Construction Grants

This chapter now outlines the financial contributions and construction grants for which there is no legal entitlement and which are not financed from historic preservation funds.

159. Urban Development Funding

Urban development funding consists of federal funding programs co-financed by the states, whereby recipients must meet certain criteria.

Can churches also receive grants from these programs to cover the renovation or remodelling costs of their buildings?

Answer 1: No. The "Urban Development Funding Guidelines" of the state of Mecklenburg-Western Pomerania state:

"2.2 Public Authorities and Churches
(1) Funding for construction projects by public authorities within the meaning of Section 139(1) of the German Building Code (BauGB), including their buildings for private use, is generally excluded. Churches and religious communities under public law are treated as equivalent to public authorities."

This is unambiguous and also corresponds to the churches' self-understanding that, as a "public service," they are on par with political bodies (the state) and are therefore, among other things, exempt from taxes and fees. So everything is correct.

Answer 2: Yes. The churches in Germany would not be churches if they did not secure for themselves in the next paragraph the benefits that actually contradict this. As the worldly-wise Rhinelanders say, "Right pocket and left pocket":

"(2) In exceptional cases, with the prior consent of the Ministry, urban development funds may be used as top-up financing for the repair and renovation of buildings owned by churches or other religious societies as public-law corporations, provided that these serve the purposes of worship or pastoral care and have special urban planning significance within the meaning of § 172(3) sentence 1 of the German Building Code (BauGB) ..."

And what does the aforementioned § 172(3), sentence 1 of the BauGB actually state?

"§ 172 Preservation of Buildings and the Distinctive Character of Areas (Preservation Ordinance)...
(3) In the cases referred to in paragraph 1, sentence 1, no. 1, approval [for demolition, alteration, or change of use in zoning plans] may be denied only if the structure, either on its own or in conjunction with other structures, characterizes the townscape, urban design, or landscape, or is otherwise of urban planning significance, particularly of historical or artistic importance."

This is now like an open-ended funding basket: urban design, landscape, urban planning, historical, or artistic. At least three of these criteria to be met apply to every older church building as an "exceptional case." Funding is provided accordingly.

While the Federal Ministry of Construction has an overview of funded cities, it does not have an overview of the funded entities, whether private, church-affiliated, or municipal. A selection of church properties for the year 2009:

- St. Mary's Church in Wittstock is being renovated for 1.1 million euros. Due to a contractual agreement between the city and the church regarding non-church events (concerts, exhibitions, etc.), increased funding was possible: 880,000 euros from the Federal-State Program for Urban Monument Preservation. The Brandenburg Culture Portal notes: "The cooperation between church and city representatives is exemplary [...]"
- The area surrounding St. Mary's Church was also upgraded with urban development funding. The redesign of the church square, as well as Kirchplatzstraße, Gröper Straße, St. Marien-Straße, and Kuhstraße, was renovated at a total cost of 1.7 million euros.
- The restoration of the steeple of St. Peter's Church in Leipzig was already subsidized with 1.6 million euros in urban development funds from 2004 to 2006. The 463,000 euros were sufficient to cover the work in 2009, but additional public funding will be required for the coming years.

- The installation of underfloor heating in St. Georgen Church in Wismar was subsidized with 438,375 euros. A grant of 228,625 euros was provided from urban development funds for additional safety measures.
- The City of Erfurt is contributing
  300,000 euros from urban development funds. An additional 15,000 euros was provided from historic preservation funds.
- For the renovation of the Nikolaikirche in Bad Liebenwerda, the parish is receiving a grant of 217,000 euros.
- The parson's widow's house (owned by the church) in Warin near Schwerin is being renovated for
  600,000 euros, 400,000 euros of which come from urban development funds. An additional 60,000 euros comes from the state's Future Fund.
- In previous years, 90,000 euros in urban development grants had already been allocated to secure the tower shaft of the Heilandskirche in Orlishausen. In the 2009 program year, an additional 60,000 euros were allocated for the renovation of the church spire.
- The Ministry of Transport, Construction, and Regional Development of Mecklenburg-Western Pomerania has allocated 100,000 euros in urban development funds for the renovation of the Marienkirche in Penzlin (Müritz district).
- A total of 588,134 euros was allocated in 2009 for the 6th and 7th construction phases of the restoration of St. John's Church in Saalfeld/Saale. Three smaller churches received a combined total of 60,500 euros.
- At the Salvatorkirche in Gera, the central risalit was restored at a cost of 250,000 euros. Of this amount, 40,000 came from the State Office for the Preservation of Historical Monuments, 20,000 from the Foundation for the Preservation of Historical Monuments, 40,000 from the parish's own funds,
  and 150,000 euros from the federal government (1/3), the state of Thuringia (1/3), and the city of Gera (1/3). In addition, the parish will initially receive 50,000 euros annually from the city treasury and can use this money—including for other churches—for maintenance work.
- The costs of the 6th and 7th construction phases of St. Mary's Church in Wismar were financed with
  218,000 euros from urban development funds.
- The landmark of West Berlin, the Kaiser Wilhelm Memorial Church, needs to be renovated. The city is contributing 1.5 million euros from urban development funds.
- The "jewel" among these examples, however, is the use of public funding for the historic Collegium Maius in Erfurt. The total cost will amount to 11.7 million euros, of which 7.3 million euros will be provided from urban development funds. On August 24, Construction Minister Gerold Wucherpfennig personally presented the first check for 1.2 million euros to the president of the regional church office of the newly formed EKM.

The building will serve as the future headquarters of the EKM's church office.

Under the Urban Heritage Preservation Program, the federal government (in 2009) allocated 115 million euros for the new federal states and 90 million euros for the old federal states. The states have committed to matching funds, so that a total of 410 million euros was available for this program in 2009. In the new federal states, the federal government covers 40 percent of eligible costs, as do the states, leaving 20 percent to be covered by the sponsor (municipality or church).

According to the allocation formula of 40 percent for church-owned buildings, approximately 160 million euros in taxpayer funds are thus likely to be spent on church buildings.

160. World Heritage Sites in Germany

Among the many sources from which construction projects on church buildings are financed are the projects of the "Investment Program for National UNESCO World Heritage Sites."[171]

Funding is provided, for example, for the conversion of St. Petri Church in Eisleben into the "International Ecumenical Baptism Center" (900,000 n), work on the Cathedral of St. Mary in Hildesheim (€7.78 million), and fire safety measures at the Wieskirche in Steingaden, Bavaria — a new fire alarm system (€1.5 million) and the installation of a fire pump as part of the fire safety measures (€24,700).

Of the 311 million euros in public funds earmarked for 119 projects in 2009, at least 65 million euros (21%) were spent on churches, according to a tally from the list of funded projects. The federal government covers about half of this amount. It could not be determined to what extent funding was also allocated for additional churches within the millions of euros earmarked for several old town renovations.

161. Who knows the funding sources and can provide the figures?

In addition to urban development funding and the World Heritage program, there are other forms of direct and indirect public financing and grants. Some examples:

- In 2008/2009, a new underground entrance was built at Roncalliplatz on the south tower of Cologne Cathedral so that worshippers could not disturbed by

visitors to the tower. At the same time, the City of Cologne renovated the public restroom facilities on Roncalliplatz, built an elevator to the underground parking garage, and replaced the old kiosk with a new building, in which the church operates a cathedral shop selling literature and souvenirs.

- Of the total costs (approximately €500,000) for the renovation of the Protestant church in Neulietzegöricke, Brandenburg, €10,000 is being provided by the municipality and approximately €300,000 from the state program "Integrated Rural Development," since the church is, after all, of supraregional significance and thus important for rural development.
- The state operates a "Foundation for Cathedrals and Castles in Saxony-Anhalt," which also includes the cathedrals of Magdeburg, Halberstadt, Havelberg, Halle, and the Hamersleben Monastery. The foundation's deficit (2009), to be covered by the state, amounted to 10 million euros.
- Leipzig wants to commemorate the University Church, which was blown up in 1968, and is installing a plaza on the Trümmerberg (Etzold Sand Pit)—where the rubble from the church was dumped—whose slabs produce sounds and tones when stepped on, intended to evoke the sound of the University Church's organ. Cost: 430,000 euros. Funding source: Economic Stimulus Package II.
- In February 2009, the Catholic Church called on the state government in Düsseldorf to include church-run institutions when allocating funds from the economic stimulus package. The Catholic Office in Düsseldorf explained that there was a significant risk that local governments would only provide funding to public institutions. However, the funds should also be directed toward church-run kindergartens, schools, and clinics.
- In Ratekau (Holstein), the renovation of the historic fieldstone church is being funded with 800,000 euros from the second economic stimulus package.
- The Simultankirche in Althaldensleben will receive 150,000 euros from the Economic Stimulus Package II for the renovation of its interior and windows.
- The Nikolaikirche in Anklam is receiving 880,000 euros from the Economic Stimulus Package II.
- The speculation surrounding the "anonymous large donation" of 500,000 euros for the tower of the Dionysius Church in Krefeld came to an end when the Sparkassen Cultural Foundation finally acknowledged it.
- The renovation of Berlin's St. Mary's Church, on the edge of Alexanderplatz, will be funded from 2006 to 2012 with 3.2 million euros from the Commissioner for Culture and Media in the Federal Chancellery, after the State Office for the Preservation of Historical Monuments classified the church as a "cultural monument of national significance" upon request.

Municipal payments

According to the official responsible for church affairs at a state chancellery, it has so far been an insurmountable task (although there is interest in doing so) to compile a comprehensive list of all endowments, grants, benefits, monetary payments, etc., that churches in the state receive at the local level, as these are paid out of a wide variety of budgets.

Estimates put municipal endowments at up to 2.5 billion euros. However, this figure appears problematic. This estimate should therefore be treated with caution, as no supporting evidence is provided and it presumably includes all municipal payments (monument preservation, libraries, kindergartens, etc.). While this figure would be plausible for all municipal expenditures, it would constitute double counting in the context of this text.

The only reliable figure is available from the Federal Statistical Office.[172] According to this data, municipalities and municipal associations throughout Germany—that is, all municipalities and cities, excluding the three city-states of Hamburg, Bremen, and Berlin—paid a total of approximately 61 million euros (€60,989,000) to the churches in 2007.

This figure includes Title 3700 of the municipal budget classification system, "Church Affairs." It is best to leave it at that, as further detailed research into the 12,227 municipalities and independent cities in Germany would constitute a major research project in its own right.

A first indication of the differing traditions is the East-West distribution of "Church Affairs" funding. While 8.6 million euros (or 14%) are allocated for this purpose in the new federal states, the figure is 52.4 million euros (86%) in the old federal states. Based on population shares, a ratio of 20:80 would have been expected. However, there can be no talk of a "godless East."

162. Reason for payments

The occasions and justifications for these payments for "church matters" often seem to point to secularization, but this is not usually the case. The dates of the contracts or the justifications for the claims sometimes predate 1803 but are mostly significantly later. Primarily the assumption of construction costs and other expenses of the churches are set in a completely different historical context of the post-Napoleonic era.

"The wars had left behind great hardship: people without homes and devoid of any means, without a permanent residence, without work, and orphans without help made up a significant portion of the population. Spring frosts and torrential rains had caused crop failures in many places, followed by famines and inflation. The old belief that poverty and illness were a punishment from God could not be sustained in the face of this widespread distress. Since so many people were affected by hardship and poverty in the immediate post-Napoleonic era, the rulers, as well as those who were better off, feared riots by the starving. Poverty had reached such proportions in large parts of the German lands that we can scarcely imagine it today, unless we look to the countries of the Third World. […]

The sudden emergence of mass poverty shocked the state and the upper classes because conventional means of combating it proved insufficient. And even greater than the actual threat was the fear of those who had something to lose. […] As in the Middle Ages, social welfare was once again organized from the bottom up, by local communities and church parishes, because, on the one hand, they had at least two full-time officials—a pastor and a sexton/teacher—and, on the other hand, they were best positioned to mobilize volunteers.

The churches—in the form of the local (parish) congregation—now emerged as the providers of social services and benefits. To enable the churches to perform this function assigned to them, they were supported in every possible way beyond the 'distinctive church property'—which served pastoral care and had not been expropriated—but above all through financial contributions from public funds and the assumption of building costs."[173]

After the German state had itself created state and public institutions through social legislation toward the end of the 19th century, the actual rationale for this assumption of costs—to "take the pressure off" the local churches —had indeed ceased to apply, but it had never been in the nature of the churches to renounce existing contracts and agreements—even if the context of the justification had changed completely.

Here are just two examples of other payments made at this political level—which, likely, are not recorded under "Church Affairs." According to the 2009 budget, the City of Munich pays "subsidies to churches for public clocks" in the amount of 50,212 euros.

In his treatise on the Imperial Deputation Main Resolution of 1803, Johannes Neumann cites another example:

"In 1589, the lawyer, mayor, and professor Dietrich Flade was executed in Trier for heresy. He was a man of means and had granted a loan to the city of Trier. Since the assets of convicted heretics fell to the church, it assumed his role as creditor vis-à-vis the city. That is why, to this day—2002—the city of Trier's budget includes an item titled "Obligations on the Flade Estate." It has since been renamed: "Grant for Historical and Ecclesiastical Estates."[174]

According to the City of Trier, the amount currently stands at 362.50 euros per year. However, this is not considered "ecclesiastical blood money," as the man had been convicted by a secular court at the time. For this reason, the city's Department of Culture does not support a citizen's proposal to eliminate these payments entirely.[175]

163. Who pays the organists?

The scale of these municipal payment agreements is illustrated by small-scale examples that are usually reported only in the local press—if at all—and go unnoticed on the national stage. One example.[n]

In the present-day municipality of Schallstadt (on the Baden Wine Route), two ancient contracts from 1868 and 1879 still exist, stipulating that the municipality pays the organists for the main services on Sundays and holidays. Mayor Jörg Czybulka now argues that the obligation to pay has since lapsed, since at the time the contracts were signed nearly all residents were members of the Protestant church, whereas today only 40 percent are. In the careful management of taxpayer funds, the municipality now pays only 40 percent of the original amount,

In other words, based on current calculations, the municipality pays 1,700 euros annually for the organist at the church in Wolfenweiler and 1,500 euros in Mengen. To put an end to this vexing issue—over which he is in dispute with the parish, backed by the municipal council—the mayor has offered a settlement: eight times the annual costs, amounting to 13,600 euros for Wolfenweiler and 12,000 euros for Mengen.

The Protestant Higher Church Council in Karlsruhe considers this 25,600 euros to be too little; they argue that 20 to 25 times the annual cost is customary and that there are parishes that have already paid that amount, which would mean a sum between 64,000 and 80,000 euros for Schallstadt. The Protestant Higher Church Council wants all parishes to be treated equally—that is, fairly—and accepting the lower offer from Schallstadt "could also send a negative signal for future negotiations."

The two church parishes, as contractual partners of the political municipality, filed a lawsuit with the support of the Church Council before the Freiburg Administrative Court in the spring of 2010. The mayor is surprised: "We didn't want to go to court." The proceedings are still ongoing.

Church Days

A Protestant Church Congress is held every two years and a Catholic Church Congress every two years, meaning there is a "Church Congress" every year. Each of these five-day events costs between 8 and 18 million euros. A good third to half of this amount is financed by taxpayer funds. On average, that amounts to 7.1 million euros per year.

The importance of the Church Congresses is emphasized by the Federal Ministry of the Interior and justified as follows:

"The Christian churches and their members actively participate in the socio-political discussions in our society. Important forums for this include the Church Congresses regularly organized by the churches and their lay organizations. Since religious beliefs are important sources of values in our society, these events have great socio-political significance. Against this backdrop, the Federal Ministry of the Interior provides budgetary funding for the 'German Protestant Church Congress,' which takes place every two years, as well as the 'Catholic Congress.' The two Ecumenical Church Congresses in 2003 and 2010 were also supported by the Federal Ministry of the Interior."[177]

One can only assume that the author of this description has never been to a Kirchentag, at least not at the grassroots level, among the ordinary faithful. There, people sing and pray, and there is uplifting, encouraging information for Christian living, but hardly any socio-political discussions take place.

The most remarkable thing about the official brochures and the various websites of church congregations and religious groups regarding the Church and Catholic Days is, above all, what is missing: information on the financing of these Christian mass events. And when something is written, it follows its own logic.

164. Protestant Church Conventions

Regarding the financing of the 2007 Church Congress in Cologne, the *Protestant Press Service* writes:

"The costs for the Church Congress amount to just under 14 million euros, about one-third of which is covered by contributions from participants and contributors. The main funding sources are the host Rhineland Church (just over 3.5 million euros), the state of North Rhine-Westphalia (3.1 million), and the city of Cologne (1.5 million); the federal government contributes 430,000 euros, and sponsors over 700,000."[178]

The portion from government tax revenue is divided into three parts so that the churches' share appears to be the highest and the Rhineland Church itself is listed first. The correct breakdown should be as follows: 5 million euros in funding from tax revenue (36%), 4.7 million from participant contributions (34%), 3.5 million from church funds (25%), and 700,000 euros from sponsors (5%).

No mention is made at all of the costs for providing communal accommodations (schools) for 39,000 visitors, for the deployment of police, fire departments, and the THW, the work of the approximately 4,000 volunteers, etc.

The Free Hanseatic Cities, which traditionally tend to be reluctant to provide state funding for the churches, are required to contribute particularly generously: Bremen contributed 7.5 million euros (2009 Church Congress), and Hamburg is also expected to contribute several million euros (2013 Church Congress). The financial burden is higher than in other federal states, as both cities must finance both the state's and the municipality's shares.

The ratio of 35:35:25:5 (state, participants, church, donors, and sponsors) can be considered typical. The Kirchentags gloss over this topic with a lot of talk. For example, a very long statistical overview for the 2009 Bremen Kirchentag "Kirchentag in Numbers" with data on the number of participants, contributors, and organizational details. The gender, age, denomination, and occupation of regular participants are also listed in detail, as well as which regional churches and federal states they come from, and even figures on people with disabilities. Regarding finances, only the total amounts collected during the Kirchentag are mentioned. And otherwise? Nothing.

165. Federal Subsidies

The Federal Republic of Germany pays an annual subsidy of 400,000 to 500,000 euros toward the costs of the preparatory committees. In 2009, 955,000 euros were allocated for this purpose in the federal budget—more than usual, as a double, ecumenical Kirchentag was scheduled for 2010 in Munich.

These subsidies are actually surprising, since church matters—and thus subsidies for churches—do not fall under the federal government's jurisdiction. But who else is supposed to pay for the organizing committees, which, moreover, are not part of the established church? The organizers of the Church Congress are shrewd enough to rotate their events and the state subsidies among the federal states so that everyone gets a turn with "Zahlemann (The man who has to pay) and Sons," but what about the operating costs? No federal state was enthusiastic about covering those, so the federal government had to step in—and still does.

166. Catholic Days

In Germany, parity applies in religious matters (exclusively for the two major official churches): If one major Christian church receives something, the other receives it as well. However, the Catholic Days are significantly smaller events, so there will be proportionally fewer subsidies.

The Catholic Days are joint events organized by the Central Committee of German Catholics (the umbrella organization of Catholic lay organizations) and the diocese in which the Catholic Day takes place. The legal entity is a separately established association for each event.

The 97th Catholic Day in Osnabrück, for which the organizing association released the figures, cost 7.7 million euros, of which 3.5 million euros (46%) came from participant fees, donations, and sponsorships, €2.2 million (29%) came from tax funds provided by the Federal Ministry of the Interior, the state of Lower Saxony, and the city of Osnabrück, and €2 million (26%) came from grants from the Association of German Dioceses and the Diocese of Osnabrück.

This amount of 2.2 million euros is the donation from all taxpayers for a grassroots event, during which (just as with the Protestants) "a lot of shallow nonsense" is spoken, as the late Catholic "fundamentalist" Archbishop Johannes Dyba disparagingly remarked at the time. But as is well known, educated theologians have always had great difficulty with the

deep religiosity of their subjects, which is sometimes disparagingly mocked as 'popular piety.'

167. Ecumenical Church Congresses

There have been two joint Ecumenical Church Congresses (ÖKT) to date: one in Berlin in 2003, held in place of the Protestant Church Congress, and one in Munich in 2010, held on the date originally scheduled for the Catholic Church Congress. Since both events attracted more participants than the "standard church congresses," they also cost more.

The Berlin ÖKT cost 18.2 million euros, of which the heavily indebted state of Berlin paid 1.8 million euros. 5.6 million euros came from the state-owned lottery, the Federal Ministry of the Interior contributed 1.5 million euros, and the state of Brandenburg contributed 120,000 euros. In total, this amounted to 9.02 million euros in taxpayer funds, or 50% of the costs.

The 2nd ÖKT was even more expensive; of the total cost of 26 million euros, the State of Bavaria contributed 5 million euros, the City of Munich 3.65 million euros, and the Federal Ministry of the Interior 1.55 million euros—a combined total of 10.2 million euros, or about 40 percent. An amount of a similar magnitude (€10.8 million) was raised through internal funds (tickets, donations, sales from the Kirchentag shop, and sponsorship), and the two churches each contributed €2.5 million, totalling €5 million, which corresponds to approximately 20 percent.

It should also be noted that the City of Munich allocated 50,000 euros in its budget for the renovation of the sports halls where participants in the Kirchentag had stayed overnight. The City of Munich also received a thousand new traffic signs for the five-day event, and Bayerischer Rundfunk broadcast the concerts held at the Theresienwiese as part of the Kirchentag for two to three hours each day on *Bayern 2*'s "Bayern am Abend," provided hourly updates on the ÖKT on *B5 aktuell*, and aired daily coverage at noon and in the evening on public Bavarian Television. Who paid for it? The license fee payers.

168. Conclusion n Church Congresses

The federal government provides approximately 450,000 euros annually for the Kirchentage. In the federal states and cities, the subsidies vary in amount; the average for the Church/Catholic Days in 2007, 2008, 2009, 2010, and 2011 is 6.7 million euros. This brings the total cost subsidies from the federal government, the states, and local authorities to an average of around 7.1 million euros per year.

169. World Youth Day

The Federal Ministry of the Interior's annual subsidy for the Church Congresses, which averaged 450,000 euros, skyrocketed to 7.9 million euros in 2005 as a one-time allocation. The fine print included the following explanation: "The commitment authorization is intended for the preparation and implementation of the 20th World Youth Day in 2005 in Cologne." In addition, the state of North Rhine-Westphalia contributed 3 million euros, the European Union 1.5 million, and the city of Cologne also 1.5 million euros. All in all, 13.5 million euros in taxpayer money for a Catholic mega-event with no lasting impact.

The originally estimated cost of 84 million euros ultimately rose to 122 million euros. The Catholic dioceses contributed 30 million euros; an additional 14 million euros came from their own efforts (lotteries, souvenirs, and sponsors); and the 410,000 pilgrims covered the "remaining" 64 million euros. Although World Youth Day was initiated by the Pope in 1986—who also generously invites people to the Catholic event every year—the Vatican pays nothing.

However, the figures are incomplete, as, for example, the 20,000 euros that the state of Saxony-Anhalt paid to support the Diocese of Magdeburg's share are only listed in the state budget. In addition, the state of North Rhine-Westphalia must pay an annual subsidy of 10,000 euros to maintain the remaining "Marienfeld" site, including the "Papal Hill"—which was specifically constructed and installed for the Pope's open-air mass.

As a non-monetary honour from the state, the organizer of the 2006 papal visit received the Federal Cross of Merit on Ribbon, and in April 2007, a commemorative stamp was issued to mark Pope Benedict XVI's 80th birthday—reportedly at the personal request of the Chancellor, who thereby broke with the long-standing principle that living persons do not receive commemorative stamps. Likewise, the organizers of the mega-event, Hermann Josef Johanns and Auxiliary Bishop Heiner Koch, received the Order of Merit of the State of North Rhine-Westphalia in 2007.

170. Church- Special Events

In addition to these major events, which are officially sponsored by the churches, there is further support from the state—for church purposes.

The fact that civil servants can apply for educational leave to participate in the Church Days cannot be directly quantified in monetary terms, and

approved. However, this applies only to religious events of the two major official churches. This was the ruling of the Higher Administrative Court of Rhineland-Palatinate in 2009 (10 A 10042709.OVG) that special leave for participation in the Church Congress and the Catholic Congress must be granted, specifically due to the "special public impact" and the "resulting social significance" of the events. For civil servants who are Jehovah's Witnesses, however, this does not apply to their annual meetings because these are events without comparable social impact.

Things take on a direct monetary dimension in the Free State of Thuringia, which provided 1.5 million euros in funding for the 2006/2007 state exhibition on "Saint Elizabeth."

Something noteworthy is also coming up soon in Saxony-Anhalt: the 500th anniversary of the Reformation in 2017. For "measures and events" related to this spectacle, the state government had already allocated a total of 2.1 million euros in the 2008 budget, of which the first instalment of 650,000 euros was activated in 2009. An additional 1.1 million euros was earmarked in a separate budget category 82 of the budget plan titled "Reformation Anniversary 2017." The commitment appropriations through 2014 and beyond include, within the 4.6 million euros for historic preservation, tax funds for "necessary renovation work on monuments related to the history of the Reformation (preparation for the Reformation Anniversary 2017)." In addition, the budget line in the Thuringian budget that includes grants for projects supporting classroom instruction was increased by 130,000 euros in the 2009 budget: "Primarily for financing school projects as part of the Luther Decade Reformation Anniversary." That pays off.

And to avoid any misunderstanding that the churches might be receiving funding—since the state is allocating an additional 1.6 million euros for services related to the Reformation anniversary, of which 150,000 euros have already been drawn down—the 2009/2010 state budget (Section 07 03, Title 533 01) makes it clear:

> "The 'Luther 2017' office is a state office. Its task is to undertake conceptual and administrative work in preparation for and during the 500th Reformation anniversary. The office is located at the Luther Memorials Foundation in Saxony-Anhalt."

For this mega-event "Luther 2017," additional allocations for investments in parishes / parish administrations totalling 11.5 million euros, part of

which comes from a special source:

"The expenses will be financed in 2010 in the amount of 800,000 EUR and in 2011 in the amount of EUR 1,100,000 in 2011 from funds received in 2009 from the assets of the political parties and mass organizations of the GDR (PMO assets)."

Additional measures for investments in other areas related to "Luther 2017" are estimated at 4.5 million euros. A further 7.7 million euros has been allocated for marketing efforts to promote Saxony-Anhalt nationally and internationally as the "heartland of the Reformation" and a major European cultural and cultural tourism destination.

In the coming years, there will be additional initiatives, such as the state exhibition "Europe of Cathedrals" in Naumburg in 2011.

In terms of "smaller projects," Saxony-Anhalt allocated an additional 25,000 euros in 2009 to support events organized by the Diocese of Magdeburg marking the 850th anniversary of the death of Saint Norbert of Xanten.

But North Rhine-Westphalia will also host a special exhibition "Golden Splendor" on medieval treasure art in Westphalia. A project of the Regional Association of Westphalia-Lippe (LWL), the Diocese of Münster, and the University of Münster. The state-funded Regional Association will cover the costs. Cost: 1.6 million euros. The exhibition illustrates "how many benefactors had significant goldsmith works commissioned for the glory of God," says the Vicar General of the Diocese of Essen.

Court financial obligations

Although in church budget plans, under the budget classification system "Collections, donations, and special types of revenue"—which also include fines (the short term for court-imposed monetary penalties)—are designated as revenue (for example, budget code 2300 in the budget classification system of the North Elbian Church); when allocating court-imposed monetary penalties, priority is given to victim assistance services, child and youth welfare services, offender and probation services, health and addiction services, and road safety education institutions.

There are no nationwide breakdowns, such as the approximately 120 million euros in court-imposed fines that were distributed to charitable organizations in 2008.

For 2009, the state of Hessen listed the 7.9 million euros in fines imposed by Hessian courts by recipient group.[179] The largest share (€845,500) went to 40 facilities for ex-offenders, offenders, and probation services, followed (with €820,628) by 152 children's aid organizations and support services for children and youth. 108 workshops for people with disabilities, disability facilities, and associations received €623,375, and 87 healthcare facilities received a combined total of €587,764. In sixth place in terms of amount are the €339,377 in allocations for 76 church-affiliated institutions. This represents 4.3% of the total monetary penalties imposed by the Hessian judiciary (€7,886,478) in 2009.

In previous years as well, the church's share had remained at this level. While it was 4.3% in 2005, the share rose to 5.0% in 2006, decreased to 4.7% in 2007, then fell to 3.8% in 2008, and rose again to 4.3% in 2009, resulting in an average of 4.4%.

If this share is also taken as a basis at the national level, then of the approximately 120 million euros in fines, around 5.3 million euros are transferred to church institutions.

Certainly, the other social projects mentioned also include organizations that are church-affiliated or have ties to the church. For example, the Christian *organization Kindernothilfe* alone reported 542,069.83 euros in fines in its 2009 annual report; *Doctors for the Third World* cites around 500,000 euros, and the *Christoffel Blind Mission* reports 286,012.46 euros in fines. But that would be "a whole other story," and we'll stick to the figures already mentioned.

III. Welfare State and Cultural State

This section has been included specifically because it addresses two major areas for which the churches have advocated and helped formulate political state objectives: the "welfare state" and the "cultural state." The rationale is that the state must then finance these state objectives as public tasks for the common good.

Churches and Their Welfare Organizations

Of the approximately 45 billion euros spent on the work of Caritas and Diakonie (in 2002), the churches financed about 810 million euros from their own funds, which amounts to just under 2 percent. If we also consider that church taxes account for only half of church revenues, then the share coming from church taxes is not even 1 percent ("church share"). Even when viewed from the perspective of church finances—and not limited to church taxes—no more than about 4 percent ("Diakonie share") is paid from church funds for their specific purposes within their social works and institutions.

171. German Church: "Called to Caritas"

In early January 2010, the German Bishops' Conference published a statement by the German bishops under the theme "Called to Caritas." It states, among other things:

"As recipients of God's love, people are called to be bearers of charity and to become instruments of grace themselves, in order to spread God's love and weave networks of charity."

Every Christian's call to charity is rooted in God's all-encompassing love for humanity, which compels people to reciprocate and pass on this love.

Archbishop Zollitsch: "Charitable work is at the heart of the Church; it is firmly rooted in the Christian faith. The document reaffirms this conviction in light of recent developments within German Caritas. Guided by this fundamental orientation, Caritas will remain in the future what it has always been: a place of encounter with God for every person who allows themselves to be touched by the message of Jesus Christ."[180]

These are all fine words, but the question is: who pays for this "charity"? Based on what we know so far, it's safe to assume it's not the Church itself.

To put it briefly: In Germany's health and social welfare system, all "independent providers" are generally funded according to the same rules. The church-affiliated welfare organizations (the Catholic Caritas and the Protestant Diakonisches Werk) are generally treated no differently financially than the German Red Cross, the members of the German Parity Welfare Association, and the Workers' Welfare Association.

Apart from minor differences in the individual federal states, the churches do not pay any subsidies for the professional services provided by the health and social institutions under their auspices. The costs are covered by health insurance funds, long-term care insurance, the state, and patients' own funds. However, when the churches and their welfare organizations—in accordance with their particular understanding of religious worship—build hospital chapels, for example, or maintain specialized counselling services to channel the needy into church-run facilities, or establish bloated administrative structures, they must indeed use their own funds for these purposes.

In an interview with the *Frankfurter Rundschau* newspaper in the summer of 2009, Cardinal Karl Lehmann of Mainz — the former chairman of the German Bishops' Conference, widely regarded as wise and honest — was asked whether he foresaw the end of the church tax. The prelate's response:

"On the contrary. Other countries such as Italy, Spain, or Poland have developed their own tax models that also amount to a collaboration between state and church. Incidentally, the state knows all too well how many tasks and burdens we shoulder—for example, in kindergartens, schools, or hospitals."[181]

This answer is as typical as it is false. This misrepresentation is also perpetuated in church media. An example:

"Many of the Church's services, such as social services, Caritas, or life counselling, are accessible to all citizens free of charge. Without the church tax, the state would have to take over the majority of these institutions, thereby once again

burdening the taxpayer. Church services would be open primarily to church members. Everyone else would have to pay for services such as Catholic kindergarten spots themselves."[182]

172. "Churches do so much good"

These constantly repeated church narratives, as if Christian churches also used Tibetan prayer wheels, find their echo among the faithful, for how else could the devout know any better? Many church members have already intellectually distanced themselves from Christian doctrine and the Christian message, as they can no longer find plausible answers to their current ethical questions in these simple Bedouin stories. When asked why they are still church members despite this intellectual distance, why they still pay the church tax—which is sometimes not insignificant—the answer is often that the churches do so much good with it.

When asked if she knew about Caritas and Diakonie, an elderly lady replied: "Oh yes, those are the nice parish nurses with their white caps, which they hold in place with hairpins, and they also deliver meals on wheels."

Yes, that used to be the case. The church-affiliated community nurses the woman recalled no longer exist (they have been replaced by social service centers funded on a fee-for-service basis), yet among younger respondents, especially in the eastern states, the two denominational welfare organizations are largely unknown. And yet, the two major established churches are viewed positively by the public and politicians for doing so much good for society through their respective "social welfare organizations." The *Research Group on Worldviews in Germany* (fowid) investigated this question and, in September 2005, commissioned forsa to survey a nationally representative sample of Protestant and Catholic church members (aged 14 and older):

"After all, the Church uses the funds from the church tax to support many social institutions. Suppose the Church spent only a very small portion—or nothing at all—of the revenue from the church tax on social causes. Would that be a reason for you personally to leave the Church, or would it not be a reason for you?" [183]

Of all respondents, just under half (47%) say that if that were the case, it would be a reason for them to leave. The younger respondents (ages 14–29) are more morally sensitive and would predominantly (61%) leave the church, while less than a third (30%) of the oldest group of respondents (aged 60 and older) would do so.

Even those in the workforce, who after all generate the church tax revenue, are more sensitive to this issue (55% would leave) than those not in the workforce (41%).

Returning to the question posed to church members—whether they would leave the church if the churches "spent only a very small portion or nothing at all on social causes"—the churches might lose around half of their members if the actual figures were to become widely known. Younger people and working church tax payers, in particular, would end their church membership and thus stop paying their church tax.

The churches and their charitable organizations therefore have good reason to remain silent about the financing of their work and to leave it implied that they do "so much good," or even to lie outright.

To attribute this "good" exclusively to the quality of the work done by Caritas and Diakonie disparages the staff of all other sponsoring organizations. There is no primary "Christian seal of approval" for the quality of the work.

173. The "Third Way"

One distinctive feature that has so far been approved by the "supreme court" is the special labour law governing the church, known as the "Third Way." In the "First Way" (the state and its employees), the employer sets the conditions; in the "Second Way" (the private sector), working conditions are determined through collective bargaining between capital and labour; whereas in the "Third Way" (churches and "their" charitable organizations), everyone is supposedly in the same boat of proclaiming the Gospel and decides jointly on working conditions. Thus, the anti-discrimination provisions of the General Equal Treatment Act do not apply to church employees, who are subject to the church's own "loyalty guidelines."

In practice, the first labour courts have already addressed this issue, and the matter is making its way through the courts to determine whether the EU directive on equality has been interpreted too broadly in Germany. The EU, it is argued, granted the churches special loyalty requirements only for positions at the management level or in the ministry.

"In fact, private employers now even envy the churches for their special privileges—above all, the restrictions on workplace co-determination are the subject of envy. Thus, employees working for religious communities are not allowed to elect works councils, but only so-called 'church employee representatives'—and these have about as many rights as student council representatives."[184]

The unique constitutional provision in Germany that allows churches to organize and administer "their own affairs independently within the limits of the law applicable to all" raises the question, in this context as well, of which institutions and organizations are considered part of the church's "affairs" and which are not.

In labour law in particular, it would be sufficient and appropriate to observe the "limits of the law applicable to all" for staff (with the exception of "ministerial staff"), i.e., protection against dismissal, employee participation, equal rights, etc. No more, no less.

Even if, from a formal legal standpoint, it has so far been left to the churches to determine for themselves what belongs to them and what does not, the expectations of employees at denominational organizations also point toward a substantive "de-confessionalization," whereby aid and care need not be grounded in Christianity.

174. Employee numbers at Caritas and Diakonie

In 1961, a short paragraph was inserted into the Youth Welfare Act granting so-called "independent agencies" priority over state agencies. This "principle of subsidiarity" was exploited in particular by the organized Catholic "charity" (Caritas) and the Protestant "brotherhood" (Diakonie) to rise to become the largest private employer network in Europe.

In 1960, the Caritas Association and the Diakonisches Werk together had around 300,000 employees. In 2008/2009, Caritas (507,477) and Diakonie (443,744) together reported a total of 951,221 full-time employees. That is more than three times the number in 1960.

However, the number of people employed by the two organizations (and in their associated sectors) is considerably higher, as — according to reports submitted to the Occupational Safety and Health Association for Health Services and Social Welfare in 2002 — the total for Caritas (715,697) and Diakonie (732,355) amounts to 1,448,100, which is approximately 500,000 more employees (496,495) than the two organizations themselves reported. The explanation for this difference is that the

organizations count only "full-time employees," meaning no trainees, no civil service workers, no participants in the Voluntary Social Year (FSJ), and no students at their vocational schools
, etc., who are, however, all subject to social insurance contributions and are accordingly included in the count by the employers' liability insurance association. However, the "official" employee figures for Caritas and Diakonie make the number of people working under special denominational labour law appear smaller than it actually is.

Furthermore, these differences highlight the fact that there is a denominational network of organizations associated with the social welfare agencies that, while not (like e.g., the Catholic Kolping Society or the Protestant Kaiserswerther Association) are members of the Caritas Association or the Diakonisches Werk yet still see themselves as very denominational.

Each of the two associations already employs more full-time staff in Germany than the German automotive industry (Daimler, VW, and BMW), which together reported 434,574 employees in this regard (in 2003).

175. Professionalization

This rapid increase in staff numbers has significantly altered the internal structure of the organizations and the mindset of their employees. What was once a small number of full-time staff, supported by many volunteers and nuns and deaconesses, has now evolved into professional services into which volunteers find it difficult to integrate. Moreover, nuns and deaconesses are now virtually non-existent. As one nun once said: "Yes, we are considered a Catholic institution. But we don't notice it anymore." Or, as the saying goes: "Those who work for the Church lose their faith." Studies make it clear: If you remove the sign at the entrance, it is no longer clear who runs the institution.

176. Independent Social Welfare Organizations

Within the Federal Working Group of Independent Welfare Organizations (AWO, Caritas, Paritätischer Welfare Union, Red Cross, Diakonie, Zentralwohlfahrtsstelle of the Jews), Caritas and Diakonie—which together account for more than 70% of the workforce—are the undisputed heavyweights that dominate the association's work. The Federal Working Group (BAGFW) is regarded as an oligopoly that controls the sector of

so-called "independent providers" in the health and social services sector.

With the Federal Working Group, a *parallel structure* to state institutions in the health and social system has emerged that requires funding.

Through their idiosyncratic interpretation of the principle of subsidiarity, the "independent providers" — and in particular Caritas and Diakonie—secured a "right of way" from 1961 through the 1990s, which entrusted an ever-increasing number of sick and needy people in Germany to the two denominational associations.

177. Revenue

The revenue generated by Caritas and Diakonie through "Christian charity" amounted to approximately 45 billion euros in 2002 (Caritas: 25 billion euros, Diakonie: 20 billion euros). That was more than BMW's global revenue (€42.3 billion), nearly three times what Lufthansa generated (€16.9 billion), and more than the Deutsche Post Group earned (€39.2 billion).

The largest segments of Caritas and Diakonie's activities are hospitals (€17.8 billion), retirement and nursing homes (€7.7 billion), daycare centres (€3.8 billion), workshops for people with disabilities (€3.5 billion), and association work (€0.9 billion).

178. "Church quota"

Both in terms of the legitimacy of the church tax and the reputation of the two official churches, their respective "social welfare organizations" are of central importance as a justification and "expression of the church." Not only do the two churches repeatedly emphasize—both implicitly and explicitly—how much of the church's funds go toward this work, but this view is also widely held among the general public.

In total, the two major official churches spent approximately 828 million euros on Caritas and Diakonie in 2002. At first glance, that sounds like a lot, but in reality it amounts to only 1.8% of the funding that Caritas and Diakonie generated in 2002. Incidentally, these church funds were then allocated (almost exclusively) to three areas: first, to daycare centres (376 million)—where the children of church tax payers are raised—; second, to association work (300 million) — where denominational "health

policy" is pursued — and third, to counselling services (146 million) — which ensure that those receiving counselling also find their way into the inpatient facilities of the two Christian organizations.

Incidentally, if church members were to pay the same (modest) annual fee through their church tax as AWO members pay for their association (€24 per year), the two associations would already receive 1.25 billion euros in membership dues.

179. Investments

The construction of Caritas and Diakonie's residential facilities is financed either entirely (e.g., hospitals, addiction treatment centres) or predominantly (e.g., daycare centres, nursing homes, health resorts, family vacation homes) by tax revenues from the federal government, the states, and local municipalities. Through these facilities, Caritas and Diakonie have amassed a real estate portfolio with a replacement value of approximately 230 billion euros, which, for that reason alone, could no longer be "taken over" by the state.

In this respect, a situation has arisen in which the churches and their welfare organizations have had a real estate portfolio worth billion financed by tax money, which the state would now have to buy back if it wanted to privatize. Crazy? Yes, very crazy.

However, the question is whether institutions that were financed entirely by tax money transfer to church "ownership"—even if the funding guidelines say nothing about it.

180. Low self-financing

The issue of the low level of self-financing — 2% of the costs — has two crucial aspects:

1. The credibility of the sponsoring organization. Since most people believe that the churches, as they themselves always portray it, finance social institutions primarily through church taxes, roughly half of church members would leave the church if the churches provided only minimal funding for these institutions. Yet that is precisely the reality.

2. The Legality of a Claim to Ownership. Article 140 of the Basic Law (in conjunction with Art. 137, para. 3 of the Weimar Constitution) grants the churches privileges, including the right to administer their own institutions independently. So if a hospital, a nursing home, or a daycare centre is financed without a single cent from church taxes—is it still a "church-owned" institution?

Civil Service, FSJ, FÖJ, Weltwärts

In the Civilian Service, the Voluntary Social Year (FSJ), and the Voluntary Ecological Year (FÖJ), several thousand young adults are employed in church- and faith-based projects.

With the expected "suspension" of basic military service in the Bundeswehr, the current civil service will also lose its rationale as an alternative service for recognized conscientious objectors. However, civil service still existed in 2009.

181. Civilian Service

Of the average 65,796 civil service personnel per month in 2009, 17.4% were employed by the Caritas Association and 16.6% by the Diakonisches Werk, i.e., 34% (22,370).

Assuming that they receive an average of 305.40 euros per month in pay (Level 2), 216 euros in meal allowance, 172.56 euros in Christmas bonus, and 690.24 euros in severance pay, a civil service worker "costs" 5,874 euros over the nine-month period of service. Converted to 12 months, the two religious organizations thus receive 164,252,000 euros in state funds for the civil service workers employed by them.

In addition, the civil service agencies receive a flat rate of 7.69 euros per day per civil servant, i.e., approximately 62,789,000 euros for 2009.

If these positions were filled by regular employees, one would have to assume a salary of at least about 1,000 to 1,200 euros. This means that the two church-affiliated organizations save about 295,284,000 euros per year. All in all, the churches receive or save 522 million euros through their civil service workers.

182. Volunteer Services

Several years ago, efforts began to establish volunteer service programs for young men and women. The best known are the Voluntary Social Year (FSJ, since 1964) and the Voluntary Ecological Year (FÖJ, since 1993).

The churches are, of course, among the sponsoring organizations. For the popular assignments abroad, (Protestants) can apply to the *Working Group of Evangelical Missions* (AEM), as well as to the *Protestant Volunteer Services for Young People FSJ and DJiA gGmbH* and the *Ring of Missionary Youth Movements*. For Catholic applicants, options include, among others, the diocesan associations of *the Federation of German Catholic Youth* (BDKJ), the *Initiative Christians for Europe*, the *Jesuit European Volunteers*, and *Marienhaus GmbH*.

The breakdown of the 26,100 places funded by the relevant federal ministry is not available; therefore, a financial assessment should also be omitted.

183. Weltwärts

In addition, there are other programs such as *Weltwärts*, the development volunteer service run by the Federal Ministry for Economic Cooperation and Development (BMZ). Established in 2007, the program is intended to fund up to 10,000 placements. Meanwhile, among the 237 recognized sending organizations, 85 are clearly religious organizations, including missionary societies, even though budgetary regulations prohibit the use of ministry funds to finance "pastoral care measures."

The *Protestant Central Office for Development Aid* received 5.7 million euros from the *Weltwärts* program in 2009, while the Catholic Central Office received 4.5 million euros, for a total of 10.2 million euros.

Total church staff

In addition to these ongoing payments and grants, German society has financed the training of those working for the churches. The scale of this can be estimated.

In 2008/2009, a total of 951,221 full-time employees worked for Caritas and Diakonie, 507,447 at Caritas, 443,744 at Diakonie.

The last time the number of employees at the two established churches was recorded was in 2004. According to those figures, the Protestant Church has 143,229 employees, and the Catholic Church has 148,906 employees. This brings the total number of employees in the church sector to 1,243,000.

This can be considered a minimum figure, as Caritas and Diakonie employ additional staff who are not counted as employees in the official statistics. Likewise, denominational organizations (such as the Kolping Society) are not members of the association.

The 2008 Education Finance Report calculated the costs of education for various degrees. Based on the average education costs—6 years of secondary school, 3 years of dual vocational training, 1 year of technical college, and 4.7 years for a university of applied sciences diploma—the total comes to 120,600 euros. Based on current costs, German society has thus provided the churches with an expenditure (1.2 million employees multiplied by €120,600) of approximately 150 billion euros at no cost.

Since the churches do not pay taxes, they have not contributed to the training costs of their employees through tax payments, as other companies do.

Church and Culture

There is no question that culture in Germany has also been significantly shaped by the churches. However, it would also be necessary to clarify on what basis the nobility and the church were able to act as cultural patrons and what purpose these cultural contributions served—for example, church music or places of worship.

The churches see themselves as an essential part of contemporary culture. Thus, one of the reasons church officials advocate for general religious education is that large parts of our culture cannot be understood without familiarity with the history of Christianity and the Christian faith. This would follow the same logic as if one had to first study music history and theory in order to be able to listen to music. Furthermore, religious education that focuses on the transmission of religious beliefs is not necessary for imparting knowledge of religion.

184. Culture Church

As churches see dwindling attendance and consequently have underutilized capacity, an increasing number of "cultural churches" are emerging in Germany. This primarily refers to churches that have been "deconsecrated" or "secularized" and are now used for secular cultural purposes such as exhibitions or concerts, with funding primarily provided by local municipalities.

A different approach has been taken in Hamburg-Altona, where the Evangelical Church's tendency to become a denominational "event agency" is particularly evident. The church and the cultural church share the same building. The self-description [185]states:

"On behalf of the Altona-Ost parish, Kulturkirche Altona GmbH rents out the impressive St. Johanniskirche building for cultural and commercial purposes. There are no limits to your imagination and creativity when planning your event: Celebrations for every occasion / corporate events / presentations / receptions / fashion shows / weddings and celebrations / gala events / conferences and seminars / proms / film shoots / concerts / exhibitions and much more. Experience an unforgettable event at the Kulturkirche Altona, one of the most extraordinary event venues in the heart of Hamburg."

An example of an event: "On September 26, 2008, the Verein Hamburger Kaufleute e.V., or Hamle for short, hosted a traditional Ramadan dinner at the Kulturkirche Altona. The combination of Muslim tradition with the Christian church was highly praised not only by the many guests but also by the then Federal Minister of Labor, Olaf Scholz."

The daily rental fee (24 hours) is (including VAT) Monday through Thursday 2,380 euros, Friday 2,975 euros, and Saturday 2,380 euros. On Sundays, the parish needs the church for worship services. On weekdays, the organ can also be rented for 95.20 euros per hour. Technical support is charged separately.

This mixed-use arrangement offers greater financial benefits than a fully "secularized" cultural church. As long as religious services are held in the building, the Assembly Venue Ordinance (VStättVO) does not apply. The VStättVO, which sets out very comprehensive and precise legal requirements for the preparation and equipping of event venues to ensure a high level of safety for visitors and participants, states the following in Section 1, Paragraph 4, Sentence 2: "The provisions of this ordinance do not apply to rooms that are primarily 1. intended for worship services, 2. used for exhibition purposes—e.g., fairs."

The venues need only be "intended" for worship; worship services do not need to take place there predominantly. Thus, events can be held there without requiring the elaborate and costly safety measures that are necessary for other indoor events.

185. Culture as a State Task

The following discussion deals, in broad strokes and in detail, with an (ultimately failed) attempt by the two major churches—which are increasingly losing the moral-religious justification for their state funding—to find a new business model to secure taxpayer funds. The attempt failed at the federal level because the justification for it turned out to be far too crude and sloppy.

Background: In March 1999, the *Protestant Church in Germany* published Document No. 64: "Shaping and Critiquing the Relationship Between Protestantism and Culture in the New Century."[186] In November of the same year, the Central Committee of German Catholics issued the statement "Culture as a Task for State and Church."[187] At the same time, legal scholars specializing in state church law have defined the state as a "cultural state." Such developments must always give one pause, as these legal discussions and definitions lay the groundwork for the political arena, from which the obligation for state funding of culture—and thus also of the churches—is then quickly derived.

186. "Cultural Institutions"

In response to the increasingly waning acceptance of the churches as ideological communities, the two major churches are increasingly attempting to position themselves as "cultural institutions" and—with church tax revenues expected to decline in the medium term—to have a portion of their work financed even more heavily than before from general tax revenues. In this context, the German Bundestag established a fact-finding commission on "Culture in Germany" from 2003 to 2007, tasked with conducting an assessment and making recommendations.

The proceedings of this commission are discussed in connection with the churches' activities serve as an exemplary model of how the churches and

their representatives operate in the political arena, that this mix of aspirations, political influence, commissioned expert reports, staggering figures, and various actors will now be presented in somewhat greater detail.

The "Culture in Germany" Enquete Commission, established in July 2003, was unable to complete its work as planned within the legislative term due to the shortened legislative period.

However, the commission commissioned a wide variety of expert reports. At the suggestion of the expert member of the Enquete Commission, Prof. Dr. Dr. Thomas Sternberg (who, quite by chance, is also the cultural policy spokesperson for the Central Committee of German Catholics, an academy director in the service of the Church, and a CDU member of the North Rhine-Westphalia state parliament), it was unanimously decided in February 2005 to commission an expert report on the cultural contribution of the churches.

The terms of reference for the expert report [188]state, among other things, regarding the cultural activities of the churches:

"It is also undeniable that church congregations are a vital pillar of cultural life in Germany. [...] The cultural engagement of the churches, as well as the cultural contributions of various other religious communities, is so diverse that it should be examined in greater detail as part of an expert report. The cultural work of the Catholic (DBK) and Protestant (EKD and VELKD) churches in Germany should be assessed in collaboration with their respective agencies. [...] In the interest of a thorough analysis of the findings from the inventory and a forward-looking assessment, the consequences of demographic and the declining number of church members on the development of financial resources for the churches' cultural activities, possible resulting shifts in focus within the churches' cultural work, and the potential intensification of cutthroat competition among cultural institutions for public funding due to the elimination of previously church-provided subsidies. The report was to formulate recommendations for action for political decision-makers in order to continue to ensure and expand the churches' contribution to basic cultural services."

Thus, the task of the report was clearly defined: The churches wanted and should receive more state funding.

187. Securing the financial contribution of the churches and expanding

In March 2005, the commission was commissioned to prepare the report, which was accepted in September 2005 after only six months. In the activity report for the 15th legislative period, the commission also published a summary of the report: "The Contribution of Churches and Religious Communities to Cultural Life in Germany."[189]

The first four findings are as follows:

"1. The German public attributes only a peripheral role to the contribution that the Roman Catholic Church and the Protestant regional churches united in the EKD make to cultural life in Germany.
2. Based on their financial expenditures, the churches are among Germany's key cultural policy actors. The range, as indicated by the uncertain data, extends from 3.5 billion euros to 4.8 billion euros per annum. The currently probable figure is 4.396 billion euros. A detailed survey of all levels using a uniform classification system is hereby recommended.
3. The churches presumably allocate approximately 20% of their church taxes and income from assets for their cultural activities.
4. "In terms of spending on culture, the churches rank among the top in a comparison of public sectors, at least on par with municipalities and states. The Cultural Finance Report should be updated accordingly."

As a conclusion, this summary of the expert report

recommends, among other things:

"(7.) The funding problems of church cultural activities can only be resolved in the context of the churches' overall financing and in the long term. It is proposed that a working group on 'Funding of Church Work in the Federal Republic of Germany' be established with the aim of conducting a fiscal policy assessment of the churches' contribution to social life in the Federal Republic."

(10.) At the federal level, there is currently no dedicated forum for the work of the churches in the cultural sphere and, consequently, for their contribution to cultural life in Germany. At the same time, developments since September 11, 2001, have given the churches a new role within (civil) society. It would therefore make sense to build on the churches' primacy in cultural funding and elevate the current Commissioner for Culture and Media to the rank of Federal Minister for Cultural and Church Affairs, following the Czech model."

188. Federal Ministry of Culture and Church Affairs

In the 16th legislative period, a corresponding commission of inquiry was established again in December 2005.

Repeated requests (in August 2006) to the Enquete Commission to review the relevant expert report were denied. Even the suggestion that, since the summary of the report had already been published, at least an excerpt from the report—explaining how this figure of 4.4 billion euros had been calculated—should be made available was met with the standard response that the Commission had decided to publish all reports only with the final report.

The media thus first learned of the report's contents when the German Cultural Council published its journal *politik und kultur* (in the September/October issue 5/2006[190]) with a thematic focus on "Culture and the Church." Bishops, church officials, and church experts commented over 16 pages on the topic "The Churches, the Unknown Cultural-Political Power." (The executive director of the German Cultural Council, Dr. Olaf Zimmermann, was also an expert member of the Enquete Commission.)

Vatican Radio[191] immediately picked up on the German Cultural Council's account:

> "According to the German Cultural Council, the two major churches spend 4.4 billion euros annually on culture. Compared to the municipalities' 3.5 billion, the states' 3.4 billion, and the federal government's 1 billion euros in annual cultural spending, this makes them a significant—yet largely 'unknown cultural-political power' in financial terms," said the organization's executive director, Olaf Zimmermann.

The German Bishops' Conference [192]then organized a study day on "Church and Culture" as part of its fall plenary assembly on September 27, 2006, in Fulda, and Prof. Sternberg—who had previously proposed the report and its objectives as an expert on the Enquete Commission—delivered a keynote address[193] the core elements of the report: It called for a thorough assessment of the Church's cultural work, and the report "speaks of approximately 20% of the Church's income and between 3.5 and 4.8 billion euros annually, which the Church's activities in the field of culture account for."

In other words, the summary of the report and the associated policy demands had already been incorporated into the without any opportunity to verify the data and calculations presented there.

189. Coopting of Culture

The issue at hand was securing better financial support from tax revenues. The basis for this is to transform the Church from an increasingly less accepted "institution of faith" into a service provider of a "cultural church."

In November 2006, *Vatican Radio*[194]reported again on Germany: "New 'Church and Culture' degree program planned in Erfurt."

"Art raises its head where religions are on the wane." This diagnosis by Nietzsche summed up the process of the reversal of roles between art and religion at the end of the 19th century. Is this development now supposed to take place in reverse?

With the renewed decline of the church and religion, are the churches and their staff now attempting to co-opt culture for themselves, to portray themselves as the true cultural institutions, and to demand public funds for everything they define as culture?

At the same time, a discussion and shift were taking place at the university level. The Bavarian Court of Auditors warned of overcapacity in the theological faculties, and in Passau, this is already being reduced. What to do?

In January 2007, the Executive Director of the German Cultural Council, Olaf Zimmermann, delivered a speech at the "Future Congress" of the Evangelical Church in Germany (EKD) in Wittenberg: "The Church as a (New) Cultural Home."[195]

For this "new" home—that is, to win back those who have drifted away or left the church—it is not the tenets of faith that are being formulated; no, the "key to contact" is culture: "The Evangelical Church can draw on a shared cultural core and can use culture to open up access to the church. This is particularly successful in Protestant church music, which is part of the cultural canon."

On October 19, 2007, the German Cultural Council [196]held a press conference at the Kulturkirche St. Matthäus in Berlin. The occasion was the book launch *for *Die Kirchen, die unbekannte kulturpolitische Macht** (The *Churches: The Unknown Cultural-Political Power*). Questions from the journalists in attendance regarding the calculation of the figures in the report were not answered.

190. Silence until the Final Report

On December 11, 2007, the final report of the Enquete Commission "Culture in Germany" was published: 512 pages. Five pages are devoted to describing the "Cultural Activities of the Churches," with constant reference to the data from the "Church Report" [197].

The core statements of the report are adopted without changes:

"With their museums, choirs, and music ensembles, their public and specialized libraries, their educational institutions, historic buildings, and much more, the Christian churches in Germany make a significant contribution to cultural life in our country. They are among the key players in Germany's cultural policy. The churches allocate approximately 20 percent of their church taxes, donations, and investment income to their cultural activities, amounting to roughly 3.5 to 4.8 billion euros. In terms of cultural expenditures, the churches are thus on par with municipalities and states when compared across public levels." (p. 145)

And, to close the political circle, Member of Parliament Johann-Henrich Krummacher (CDU/CSU) remarked in the Bundestag debate on December 13, 2007, among other things:

"For what would this country [...] be without the commitment of the churches, from the Middle Ages through the modern era to the present day? Incidentally, the Enquete Commission found that the two major Christian churches in our country spend more on cultural promotion than the government does." [198]

These comparisons refer to the Cultural Finance Report,[199] i.e., the "Report by the Federal and State Statistical Offices, which presents public cultural expenditures by the federal government, states, and municipalities, as well as key indicators over time (1995–2005) and by sector. An objective data source for parliament, the administration, and the public."

The 2006 Cultural Finance Report lists a total of 9.59 billion euros in "Public Expenditures for Culture and Culture-Related Sectors in 2003": 1.43 billion from the federal government, 4.36 billion from the states, and 3.8 billion from the municipalities.

191. 622 million euros in public funds for the cultural work of the churches in the Federal Republic of Germany

The Cultural Finance Report notes, among other things, that public funds also flowed into the "culture-related sector" (for adult education centres and other continuing education, church affairs, as well as radio and television stations). For church affairs, the public

spent approximately 622 million euros on church affairs in 2003. The federal states play a major role in this, contributing 574 million euros for the cultural work of the churches, while the municipalities paid 47 million euros and the federal government 1 million euros.

There is no confirmation that such public funds were deducted from the churches' much-cited 4.4 billion euro cultural contribution at the time, or that even considerations to that effect were taken into account. The calculation of this 4.4 billion euro figure is so outlandish—and has so little to do with reality—that it is simply unbelievable.

Because this report[200] specifically illustrates the arbitrary handling of facts at the micro level, it warrants closer examination. It should be noted that this is a highly detailed account, but it cannot be presented any other way. As the Christian saying goes: "The devil is in the details."

192. Cultural Contributions of the Churches: The Example of Church Libraries

From among the various topics, church-run public libraries have been selected as an example. The Commission's final report states, among other things (p. 146):

"Since the mid-19th century, providing literature to the general public has become an important mission of the Church. The 3,864 Catholic Public Libraries (KÖB) in *the Borromäusverein e.V.* and the 1,030 in the *German Association of Protestant Libraries* ensure access to reading material through a dense network of institutions that—in terms of numbers—account for about 50 percent of all public libraries."

This description corresponds to the Church's expert opinion and is not readily found elsewhere. It does not address what conditions a library must meet to be considered a "public library," what the self-understanding of library work entails, or how these "libraries" are financed.

193. Public Library

According to the definition used by German municipalities, libraries can only fulfil the function of a general public library if they are staffed by full-time personnel (at least one position with 20 hours per week).

In 1998—the year of the last comprehensive survey by the *Yearbook of German Municipalities*—there were a total of 2,116 libraries under

public or church sponsorship. Of these 2,116 libraries, 135 (= 6.4%) were under church sponsorship (11 Protestant, 124 Catholic).

All libraries combined held a collection of 69.7 million items (books, audio recordings, etc.). The church-run libraries accounted for 1.8 million of these items (= 2.6%). The Protestant Church is less represented (0.2%) than the Catholic Church (2.4%).

These libraries required total expenditures of 1.01 billion DM (for staff and acquisitions). The share of church-run libraries amounted to 14.3 million DM (= 1.4%).

194. A lot – much less – very little

In a more detailed report by the German Library Institute [201], a total of 3,898 public libraries with full-time staff and 8,236 public libraries without full-time staff were counted for 1998, for a total of 12,134 public libraries, of which 5,118 (= 42.2%) were operated by church organizations (1,027 Protestant, 4,091 Catholic).

The holdings of church-run public libraries amounted to 20.4 million items (= 15.9% of all 128.4 million items). Expenditures for acquisitions and personnel totalled 1.11 billion DM, of which church-run institutions accounted for 40.9 million (= 3.7%).

This recurring pattern consists of, on the one hand, a high number of church-affiliated public libraries (42%), on the other hand a comparatively small collection (16%), and thirdly, minimal expenditures (4%).

The actual contribution of church-run public libraries to the general public is thus modest in scope, a fact that is, however, obscured by the mention of the large number of institutions.

195. Differences in the number and Count

A brief overview of these libraries in Bonn illustrates how the large number of “Catholic public libraries” came about: 32 “Catholic public libraries” run by parish communities, with an average opening time of about 4.5 hours per week—always including Sundays morning, for Mass.

This type of small parish library can be found throughout Germany, whether it is the St. Marien Catholic Public Library in Brake or in Ramsloh, in Scharrel, in Rieden/Vilshofen, as well as in Langenfeld, or the parish library of the Ruhr-Valmetal Pastoral Association.

196. The Mission Statement of Church-Affiliated Public Libraries

The mission statement [202]of these libraries is understood (in the Catholic tradition) as work carried out within the context of what is known as "pastoral care" and is intended to open up paths to "self-discovery and an experience of God." At the core of their work is the promotion of "religious socialization and education," and they emphasize "the Christian roots of our society." It is always (in the Protestant understanding) part of the "proclamation of the Christian message."

In this regard, the claim that it is "open to all people"—as a general cultural service—follows the same logic as, for example, the selfless view of a butcher who believes that everyone, including vegetarians and vegans, can shop at his store.

197. Funding of Public Libraries

An analysis of the German Library Statistics[203] shows a total of 2,152 public libraries with full-time staff in 2006, of which 105 (4.9%) are operated by Catholic institutions. Of the 6,444 public libraries with part-time or volunteer staff, 3,477 (54%) are operated by Catholic institutions.

A significant number of these "Catholic Public Libraries" are located in North Rhine-Westphalia: 43 with full-time staff and 1,206 with part-time or volunteer staff. These will now be examined in more detail.

For the full-time libraries, the Catholic sponsors contribute 1.97 million euros from their own funds and receive an additional 1.90 million "external funding." Thus, they finance only 51% of the total budget themselves. For the small libraries, the Catholic sponsors spend 2.19 million euros from their own funds and receive 759,000 euros in "external funding." The church-affiliated institutions' own contribution here amounts to 75%.

A meeting of the Culture Committee in Münster in May 2007 [204], item 8, illustrates what these grants might look like in specific local cases: grants for books for public and parish libraries to focus areas.

The German Trade Union Federation receives a 500-euro grant for its library, while the Episcopal Vicariate General of Münster/Department of Pastoral Care/Library Division receives a 42,500-euro grant—85 times as much.

Or, in the dispute over the temporary closure of the library in Unkelbach, it states, among other things:

"The city of Remagen, which has cut subsidies by more than 50% for all libraries in the city over the past few years—as many municipalities in Germany have done—yet still contributed 600 euros this year, which is 50% more toward the acquisition costs for new media than the parish, as the library's sponsor, did with its 400-euro payment."[205]

198. Recommended Naming

These aspects (pastoral care/public subsidies) are also deliberately obscured in the recommended naming convention. For example, the Diocese of Mainz writes the following in its *ABC of Library Work*.[206]

"KÖB: Abbreviation for the name 'Catholic Public Library.' This refers to a public library operated by the Catholic parish. The former term 'parish library' should no longer be used, as it is associated with an image of isolation. Few people are also aware that the term 'parish library' was imposed by the state on the Catholic public libraries of the time during the Nazi era. It is, however, possible to choose a separate name for the library. But even in this case, 'Catholic Public Library' must be retained as an additional designation."

199. Calculation of the financial cultural contribution of the churches

While the lists of the many institutions of the two churches all suffer from the significant shortcoming that their actual contributions are not presented in a differentiated or comparable manner and that virtually nothing is stated regarding their financing—making them little more than half-truths—the situation is now becoming downright absurd.

The expert and his working group had also noticed this: "[...] it is difficult to determine the culture-related expenditures of the Protestant churches cooperating within the EKD." Upon inquiry, however, the expert was informed:

"The Protestant Church spends approximately two billion euros annually on cultural purposes, just under half of which goes toward church buildings. These expenditures primarily serve the purpose of proclamation, but in their design can be classified as part of the cultural sector in the broader societal understanding."

However, the concept of "societal understanding"—the idea that everything that defines the church is part of the culture—did not get us very far, because this statement now had to be categorized in some way. Fortunately, the EKD has an overview of its finances. From this, the report now takes an "excerpt"—without specifying a reference year or providing further justification—and identifies seven areas of activity: church music / education and scholarship / public relations / international work / daycare centres / youth work / maintenance of church buildings.

In the next step, "in the interest of a conservative estimate," a "varying statistical plausibility" of the cultural component of these areas of activity is "assumed"—ranging from 20%, 50%, to 100% cultural component. They might as well have rolled the dice.

In the next step, however, these arbitrary percentages are not applied to the Protestant Church's correctly reported net expenditures—which would have resulted in only 1.28 billion euros—but rather to total expenditures (i.e., including substantial government subsidies, parental contributions, etc.), which then yields approximately the desired figure of 2 billion euros: a "plausible total expenditure of €1.778 billion." This precision to three decimal places is, however, remarkably unique.

200. Catholic Church: No figures

While there were at least some arbitrary figures available for the Protestant Church, this was completely unknown for the Catholic Church and its cultural activities. No figures whatsoever. From the "inventory"—the questionable nature of which has already been explained using the example of Catholic public libraries—it is now concluded "analogion rationis" that everything is similar in the Catholic Church. However, expenditures are higher for libraries, lower for church music, and church buildings are to be valued at a factor of 1.1 higher, resulting—though how this is calculated is not further explained—in "a conservative estimate of 2.618 billion euros per annum." (Any other figure would have been just as inaccurate.)

Together, these two cultural expenditures amount to "culture-related expenditures of an estimated €4.396 billion per year." The layperson is amazed; the expert turns away in horror.

Since the expert acknowledges that the question of costs for listed churches involves "uncertain data," a "range" is ultimately cited, which would lie between 3.5 and 4.8 billion euros.

201. Conclusion

The findings in this "church report" are not only an embarrassment for the expert and the churches involved; it is a scientific and political indictment that the Bundestag's Enquete Commission accepted such a "report" in the first place and that this nonsense is now being disseminated as a Bundestag printed paper.

However, the representatives of the Evangelical Church in Germany and the Secretariat of the German Bishops' Conference have since remained tight-lipped. They have not responded to inquiries regarding how they interpret the figures from the
"Church report," did not respond.

On a positive note, it can also be observed that in the political arena, the topic "cultural contribution of the churches" has not played a major role in the political arena since then. But that was in 2006/2007.

For one should not assume that the final word on the matter has already been spoken. In June 2010, the Catholic radio station Domradio broadcast a report from the *Evangelical Press Service* (epd):

"Schneider: Religion and culture belong together. Nikolaus Schneider, chairman of the Council of the Evangelical Church in Germany (EKD), views culture and the church as inseparably linked. Religion needs culture, and culture needs religion. Schneider made these remarks in Essen. He acknowledged that the current relationship between art and the church in German society is not always free of tension. On the one hand, it is shaped by the church's mission of proclamation, and on the other hand, by contemporary art's claim to want to remain 'commission-free.' Yet it is the church's task to 'be a muse to the arts.' The EKD estimates the total financial expenditure for cultural promotion by the Protestant and Catholic churches at around €4.4 billion
year."[207]

When asked about this, the EKD's Cultural Office [208]was unable (or unwilling) to provide any information on the matter and stated that the figure in question could only be in the millions (rather than billions), and that, in any case, the EKD's press office was responsible for this, since they were the ones who had issued the press release. But I mused, it could also be a figure provided by the German Cultural Council.

The EKD press office also did not respond to the inquiry regarding the source of this statement by the EKD Council Chair.

So is this old chestnut being trotted out again? Or as the saying goes: The entertainer's capital for his thin jokes is the audience's forgetfulness?

Summary

Even though it was certainly not possible to describe in detail all the financial interdependencies in which religious communities hold the state financially accountable, the kaleidoscope described here is already breathtaking.

There is virtually no area in which the churches actually operate on their own, relying solely on their own financial resources. The argument that a large portion of their own staff is paid for out of church tax revenues overlooks, for example, the extent to which the church tax is supported by government regulations.

The payments, subsidies, and tax breaks listed in this "tour of the parish" (see Overview 3 on p. 259) already total 19.3 billion euros.

If one compares these state subsidies with the revenue generated by the two churches without state aid, the total—taking the Catholic Church into account on an equal footing based on data from the EKD[209]—amounts to church tax plus other revenue, which for both churches totals approximately 20 billion euros. From this revenue, approximately 5 billion euros must be deducted as benefits and subsidies for the church tax, as well as about 20 percent of church revenue (4 billion euros), which consists of public grants and state subsidies. This leaves 11 billion euros in actual own revenue, which is offset by 19 billion euros in state subsidies, grants, tax benefits, and financing. This represents a ratio of 37:63, or roughly one-third church to two-thirds state/tax revenue—in short, 1:2.

If we consider the churches' 11 billion euros in pure revenue in relation to the overall picture—that is, state subsidies (19 billion euros) plus Caritas and Diakonie (45 billion euros)—the figures stand at 11 billion to 64 billion euros, or 15% to 85%, which translates to a ratio of 1 part church to 6 parts state/public funds.

202. Foundation

Based on current costs, German society has provided the churches with the training of church employees free of charge, amounting to at least approximately 150 billion euros.

Government investments in the buildings of Caritas and Diakonie facilities have provided the two organizations with real estate assets valued at approximately 230 billion euros [210], which were also financed by taxpayer funds.

The tax-funded "foundation" of church work rests on this quantifiable figure of 380 billion euros. Additional operating costs associated with the state subsidies, grants, cost coverages, financing, tax breaks totaling 19 billion euros, etc., are separate.

203. Cui bono?

The classic question of "cui bono?" (Who benefits?) can be answered unequivocally for the subject of this book: It benefits only the churches. In most of their activities, the churches are so dependent on state funding that these activities would largely cease to exist if the state were to stop paying for or subsidizing them.

What benefit does the state derive from this? None.

The financial argument that the churches do contribute to general public services with their own funds, thereby easing the financial burden on the state, is only superficially correct. If the state were to take over all social and health care institutions in Germany that are run by churches, it would result in approximately 800 million euros in additional costs for public budgets—costs that have previously been covered by the churches. However, if the state were then to end the tax exemption for church taxes as compensation (current revenue foregone: 3 billion euros), the federal and state governments would have additional revenue of around 2.2 billion euros per year. But it is part of the "Caritas myth" that the German social and healthcare system would collapse if the churches were to give up their institutions.

But the special Christian quality, which is also reflected in the overall—The impact it has on society would be lost! A portrayal that, however, shatters against reality. Anyone who has actually looked into the subject can confirm that there is no "automatic association" that Christian

institutions are the "good ones" and that other institutions are the "not-so-good ones." It depends on each individual institution itself—what mindset do the leaders have, how do they implement it, what is the collegiality like, how is communication among staff, etc.—and there are, on the one hand, exemplary situations and, on the other hand, terrible situations among all institutions.

And it is precisely devoutly religious people who are more likely than others to become intolerant of other views if they fail to reflect self-critically on their own "Good News" and instead seek to "bless" others with it.

The assumption inherent in religious self-perception—that religions make the world a more peaceful place—is, moreover, a pious self-delusion. In a survey conducted in Germany (2002) asking whether the world would be more peaceful if there were no religion,[211] 43 percent of respondents said that a world without religion would be more peaceful. Younger people agree this view to a greater extent than average.

In an international survey (1998) conducted in thirty countries around the world[(212),] as many as 60 percent of respondents believe: "Religions bring more conflict than peace." In this respect, the observation by conflict researchers that religious 'interference' in political or economic conflicts acts as a 'fire accelerant' is confirmed.

Nevertheless, the Christian churches in Germany still hold a special position.

204. Unique selling point

Churches in Germany claim and assert a special authority, particularly when it comes to questions of values. However, a look beyond our borders—for example, at attitudes toward the family in Scandinavia (where "patchwork families" are accepted)—makes it clear that there is no single, binding Christian model. And looking at other cultures reveals not only the limitations and contradictions of religious views, but also that religion is not necessary for people to live together peacefully as members of society according to ethical principles.

For that, however, we can also stay "at home," observe how the two major established churches argue over the significance of a small host, and note that the non-religious, agnostics, and atheists are not running through the streets "plundering and pillaging." Dostoevsky's statement, "Without God, everything is permitted!" says only something about his

own fear of becoming normatively groundless without the fear of God, but nothing about the behavior of so-called 'godless' people.

Nevertheless, the view already cited—that the state is based on conditions it cannot create on its own—is propagated as a political creed. Apparently, this assertion also reflects the helplessness of politicians, who feel that there must be something—some set of values—that is not up for debate and need not be discussed. This desire is then projected onto one's own religion. Church lobbyists share this view and have thus successfully secured a special financial status for the churches.

What, then, is the basis for this special status of the churches in Germany? Let us briefly outline a few elements in conclusion.

205. Networking

In monarchies ("by the grace of God"), the churches effectively kept the kings or emperors in check, since the latter derived their legitimacy solely from divine support in the form of the churches. This ensured that the monarchs would not entertain any "foolish notions." In democracies, this doesn't work, since they (in theory) no longer need religion due to popular sovereignty. So, the churches must agree on their demands, wishes, and funding in contracts so that they cannot be relegated to the "private" sphere.

If one looks at the Basic Law, one finds only two exceptions in which the principle of the separation of church and state has been breached under religious constitutional law: in religious education and in the church tax. All other "church-friendly" provisions are laws, agreements, and interpretations formulated and practiced by politicians and lawyers in favor of the churches with which they are affiliated.

206. Preservation of Legal Titles

However, since laws are relatively easy to change, it is important to repeatedly enter into agreements that, at least in theory, can only be amended by mutual consent (state-church agreements). The simmering public discontent—once it becomes clear what financial obligations the state has assumed on behalf of the churches (e.g., Pension payments for the

resigned Bishop Mixa) – this too will soon be forgotten: "Keep your head down, stay silent, and carry on!" Historically questionable agreements (e.g., concordats prior to 1945) have been replaced with new agreements, where politically feasible. And according to the principle "pacta sunt servanda" (contracts must be honoured)—regardless of the conditions under which they were created—these contracts then constitute the applicable "legal basis."

207. Joining Forces

To protect against the termination of subsidies and benefits (example: support for gifted students), it is advisable to share the state's financial pie with other interested parties. The others (political parties, labour unions, and business associations) will, in their own interest, ensure that the churches are not excluded from this alliance.

208. Triple jump

To secure new areas of activity and government funding, one must (using emergency pastoral care as an example) 1. identify a gap—or, if there isn't one, simply create one; 2. enter the field using your own resources, position your work there as a generally recognized need, and articulate it accordingly; and 3. then have it funded as part of government responsibilities (disaster response).

209. Success story?

As the relationship between church and state in the Federal Republic of Germany shows, the funding of the churches has worked excellently so far. And the fact that the church is "on the state's drip" is irrelevant as long as it doesn't become too widely known.

In this respect, one could therefore view this funding as a success story at first glance, were it not for the significant negative consequences: the churches' *dependence* on state and public funds.

210. External and Internal Religious Freedom

Given this financial dependence of the churches—which goes far beyond the "fiscal captivity" of the church tax as a surtax on income tax—the churches face a constant risk of losing part of their religious freedom.

Since the churches depend on the goodwill of their political allies when it comes to state funding, they must be very careful to comment with restraint whenever criticizing political decisions, so as not to upset those who support them. Contrary to their own portrayal—for example, as advocates for the poor—which should have led them to adopt very different critical stances on the social policies of past decades, their actual statements were strikingly moderate.

In the internal sphere of parish work and community cohesion, a pastor's reliance on government subsidies
e.g., for the renovation of the church building with urban development funds, leads to a devaluation of the congregation and a loss of pride in having achieved something as a community. The feeling that "together we are strong" fades. The church becomes a patient hanging on a drip of state subsidies. This cannot be in the spirit of a pluralistic civil society that needs self-confident actors.

211. Secular Positions

At a conference held by the *Humanist Academy* in Berlin on the topic "Non-denominationalism and Constitutional Law"[213] in September 2009, the legal scholar Eric Hilgendorf[214] summarized expectations for an ideologically neutral state that sees itself as a "home for all citizens" as follows:

1. Church tax is to be collected by the churches themselves, and accordingly, there must be no indication of religious affiliation on the income tax card.
2. The healthcare system is a state responsibility and must be organized accordingly.
3. Hidden funding of religious communities must be disclosed.
4. Religious instruction as a denominational subject should be replaced by religious studies.
5. Religious and ideological communities should not be granted corporate status.
6. Laws must be formulated without privileges for religious communities.
7. There must be no religious symbols whatsoever in state institutions.

8. All employees have the same rights.
9. All state-church agreements should be reviewed and, if necessary, amended (e.g., abolition of concordat chairs).
10. State subsidies should be phased out.
11. Theological faculties should be separated from the church.
12. Appointments to public office are made without regard to religion.
13. Military and institutional chaplaincy are purely ecclesiastical duties.
14. The state must ensure that legal norms are consistent with legal reality .

Hilgendorf is also concerned with a revival of criticism of religion and clarifying the question of religion and morality.

15. Criticism of religion should also be seen as self-criticism on the part of state institutions,
    e.g., in matters concerning denominational daycare centres and the denominational environment. Likewise, constitutional concerns regarding religions must be addressed, e.g., the ban on the ordination of women in the Catholic Church. If the pluralization of religions leads to a rise in fundamentalist movements, this must be countered by strengthening criticism from outside religious circles. Enlightenment and criticism must be defended (even against the churches, if necessary). While large segments of the churches in Germany are supporters of humanism and the Enlightenment, the situations in the U.S. or Poland are significantly different.
16. The claim that “without religion, there is no morality” must be countered by the fact that it is a shared responsibility of the state to impart values. Religion and its values are not automatically compatible with the fundamental values of the Constitution. The state must limit religious disputes over values.

212. Privileges Not Addressed

Beyond the collaborations described in the preceding text, there are still a multitude of regulations and agreements between the two partners, the Church and the state. Although they have no directly measurable economic value, they nevertheless contribute to granting the churches a special social status in many respects and thus making them more dependent on state action.

The following brief overview is certainly incomplete. It is based on an initial compilation by Johannes-Albrecht Haupt, which has been supplemented by various sources and is sorted in alphabetical order.

To clarify: In addition to the church taxes, the state collection of church taxes, state subsidies, and tax and fee exemptions, which have already been discussed in detail in the text of this book, theological faculties

and church-affiliated universities of applied sciences, church-sponsored talent development programs, daycare centres, religious education, denominational schools, military chaplaincy, institutional chaplaincy, and emergency chaplaincy, church-sponsored international work, relief and mission organizations, construction grants, church conventions, cultural funding, and labour law should also be mentioned as privileges:

Church office titles and clerical vestments: Special protection under criminal law. (German Criminal Code [StGB] § 132a III and Law on Administrative Offenses [OwiG] § 126)

Archaeological finds: If objects are found during excavations that suggest prior liturgical use (e.g., in worship services), these must be made available to the churches as permanent loans upon request. (Rhineland-Palatinate Monument Protection Act [DSchG]: Section Four: Special Provisions for Churches and Religious Communities)

Funeral Law: Funeral services, memorial services, and the design of gravesites must not offend the religious sensibilities of the church or religious community. (Funeral Act [BestG] of Bavaria, Art. 8, 4)

Building law: Rooms dedicated to worship are exempt from regulations governing places of assembly (e.g., Baden-Württemberg Ordinance on Places of Assembly, § 1 III 1)

Confessional secrecy: Clergy are entitled to refuse to testify regarding matters entrusted to them in the course of their pastoral duties. (Code of Criminal Procedure [StPO] § 53 I 1 and Code of Civil Procedure [ZPO] § 383 I 4). This also applies to the failure to report knowledge of planned criminal offenses, whether high treason, murder, or other crimes. Such conduct remains exempt from criminal liability for clergy. (Penal Code [StGB] § 139,2)

Federal Review Board for Media Harmful to Minors: Representation on the advisory board. (Youth Protection Act [JSchG] § 19)

The Bundeswehr is permitted to use Christian religious symbols during the Grand Tattoo ("Helm off for prayer"). (OVG Münster 9/19/2005 NJW 2006, 1228)

Data Protection: Federal and state data protection laws do not apply to public-law corporations (KdöR), but they do apply to other religious communities (e.g., Federal Data Protection Act [BDSG] § 1(2); Lower Saxony Data Protection Act [NdsDSG] § 2); however, the latter may, pursuant to Art. 137(3) WRV (right of self-government of religious communities) "seek exemption from state data protection law" (Lorenz*, Civil Status, Registration, Data Protection,* in: HStKR Vol. 1, 2nd ed. 1994, p. 737 et seq.), a remarkable case of free creation of law.

Historic Preservation (I): In historic preservation measures, the liturgical concepts of the churches must be taken into account. (Historic Preservation Act)

Historic Preservation (II): Special Status of Churches, and Occasionally Other Religious Communities: Special veto or participation rights of church authorities. (e.g., Historic Preservation Act of Baden-Württemberg § 11, Historic Preservation Act of Rhineland-Palatinate § 23, or Historic Preservation Act of Schleswig-Holstein § 38)

Doyen of the Diplomatic Corps: The spokesperson for the ambassadors (of the Diplomatic Corps) and their representative at ceremonial occasions is the Doyen. He also mediates in conflicts within the Diplomatic Corps. In Germany, Austria, and Switzerland, the respective Apostolic Nuncio (envoy of the Vatican, "Holy See") serves as Doyen (since the "Congress of Vienna," 1815).

Oath formula: In official oaths, the religious closing formula "...so help me God" may be omitted. In criminal proceedings, the judge addresses the believing witnesses with the words: "You swear by God Almighty and All-Knowing that you have spoken the pure truth to the best of your knowledge and have concealed nothing," and the witness then responds with the words: "I swear it, so help me God." (Code of Criminal Procedure [StPO] § 64) In practice (e.g., the swearing-in of civil servants), the religious oath formula is often presented first, and only upon request is a formula without God offered.

Consecration: Even today, public buildings are routinely "consecrated" by the church—as if by automatic procedure—during official state ceremonies, involving religious rituals such as blessings and holy water.

Expropriations: The following may not be expropriated for compensation in land: properties that, by their use, directly serve or are intended to serve the purposes of churches, religious or ideological communities under public law, or their institutions. (Lower Saxony Expropriation Act [NEG] § 6 II 2 e)

Alternative instruction: In most federal states, if a student is exempted from attending religious instruction in school, , most federal states provide for alternative instruction "Philosophy" or "Ethics." In Lower Saxony, this class is called "Values and Norms" and cannot deny its role as a substitute for religion: "The subject Values and Norms is intended to impart knowledge of religion, an understanding of the values and norms operative in society, and an introduction to philosophical, ideological, and religious questions." (Lower Saxony School Act [NSchG] § 128 II)

Protection of Religious Holidays: On religious holidays, particularly "quiet holidays" (such as Good Friday), public music (in restaurants, theaters, fairs, etc.) is prohibited. (Art. 139 WRV and state holiday laws) The following are not permitted: public outdoor gatherings and public processions not related to religious services (the fundamental right to freedom of assembly is restricted in this respect); events intended for entertainment or amusement that do not serve a higher

interest in art, science, or public education; as well as events and actions to the extent that they disrupt religious or ideological celebrations or hinder access for visitors to such celebrations. (Lower Saxony Law on Public Holidays [NFeiertagsG] § 5)

Tax Courts: In matters of church tax law, the state tax court summons the religious community whose interests are directly affected by the decision as the party entitled to collect the tax. (e.g., Act on the Implementation of the Tax Court Rules in Baden-Württemberg [AGFGO] § 3)

Cemeteries: Churches, church parishes, and associations of church parishes, as well as other religious communities and ideological associations that are public-law corporations, may establish, expand, and re-establish their own cemeteries, as well as construct mortuaries. Burial sites within churches must be approved as burial grounds provided there are no health risks. (Rhineland-Palatinate Burial Act [BestG] § 3)

Fire Safety: The strict regulations of the federal states regarding safety with regard to visitors to an event (fire safety, escape routes, etc.), the following applies: , among other things, does not apply to rooms used primarily for religious services, i.e., all churches, even if non-liturgical concerts or conferences take place there. (Assembly Venue Regulations [VStättV] of the federal states).

Exemptions: "On religious holidays of their denomination, members of a church or religious community who are in a training or employment relationship shall be granted unpaid leave upon request, provided that operational necessities do not preclude this." (Law on Sundays and Holidays of Saxony-Anhalt [FeiertG LSA] § 6)

Jurisdiction: In Germany, in addition to state courts, there is also ecclesiastical jurisdiction, so that churches can organize and administer their own affairs under their own legal authority. (Basic Law [GG] Art. 140 in conjunction with 137.3 WRV) A distinctive feature of ecclesiastical court proceedings is, among other things, that judges are bound not only "by law and justice" but also by "Scripture and confession."

GEMA Fees: The churches have flat-rate agreements with GEMA stipulating that all music played at church events (worship services, concerts, gospel music, as well as at parish gatherings, summer festivals, and youth events) is billed at a flat rate. This means that individual church congregations do not have to independently report and settle copyright-related matters, thereby avoiding significant financial and administrative burdens. (Copyright Act [UrhG] § 52 and, for example, "Copyright in the Protestant Church")

Bell Ringing: The ringing of church bells is permitted as liturgical/sacred ringing (for church services, weddings, funerals). (Basic Law Art. 4,2 freedom of

religion) “Noise emissions from the liturgical ringing of church bells within customary limits do not constitute a significant nuisance within the meaning of Art. 3(1) of the Federal Noise Abatement Act (BlmSchG), but rather a reasonable and socially acceptable impact.” (Federal Administrative Court, BVerwGE 68, 62) The striking of the church tower clock (time signal), on the other hand, is subject to noise protection regulations. (Technical Guidelines on Noise Protection [TA Lärm] 6:00 a.m. to 8:00 p.m., max. 55 dB[A] in general residential areas)

B**lasphemy Provision**: Special protection against public defamation of religious or ideological beliefs that may disturb the public peace. (German Criminal Code [StGB] § 166)

Real Estate Transactions: Public-law corporations do not require approval for the transfer of ownership or encumbrance of real estate. (Real Estate Transactions Act [GrdstVG] § 4 No. 2)

Youth welfare committees and state youth welfare committees, representatives on these bodies. (Social Code Book VIII [SGB VIII – Youth Welfare] §§ 71, 75)

Withdrawal from a church: Members of public-law religious corporations may leave them (unlike members of private-law religious communities or other associations) only in a prescribed form (personal appearance before an authority or a notarized declaration) and by paying a state fee (up to €60) incurred as a result (in most federal states). Approved by the Federal Constitutional Court. (Decision of July 2, 2008, NJW 2008, 2978)

Concordat schools: Alternative schools under church sponsorship that have emerged from public schools and receive better state funding than other private schools (Lower Saxony School Act [NSchG] §§ 154 et seq.)

Bankruptcy: Public-law corporations (KdöR) are not subject to bankruptcy (BVerfG Decision of Dec. 13, 1983, BVerfGE 66,1) and are therefore not required to contribute to the funding of the insolvency allowance (formerly: bankruptcy compensation) under § 358(1) SGB III (Employment Promotion).

Anti-Corruption: The “Act on Improving the Fight Against Corruption and on the Establishment and Maintenance of a Public Procurement Register in North Rhine-Westphalia” (Anti-Corruption Act – KorruptionsbG) applies to all state institutions and authorities, to members of the state government, etc. Paragraph (2): “The provisions do not apply to churches, religious communities, and ideological communities.”

Crosses/Crucifixes: Contrary to the decision of the Federal Constitutional Court (BVerfG) dated May 16, 1995 (BVerfGE 93,1), crucifixes are displayed in public schools and, in some cases, in other state or municipal buildings; in Bavaria, they are even displayed in schools pursuant to a law in every classroom. (Bavarian Law on Education and Instruction [BayEUG] § 7(3))

Registration Law: Special Data Transfers to Public-Law Religious Corporations under the Registration Law (Framework Act on Registration Law [MRRG] § 19). The state registration authority may transfer the following data regarding its members to a public-law religious corporation: 1. Last names, 2. First names, 3. Former names, 4. Doctoral degree, 5. religious names or stage names, 6. date and place of birth, 7. gender, 8. Nationalities, 9. Current and most recent previous address, primary and secondary residence; for those moving in from abroad, also the most recent previous address within the country, 10. Date of moving in and moving out, 11. Marital status, limited to indicating whether married or in a civil partnership or not; additionally, for spouses or civil partners: Date of marriage or establishment of the civil partnership, 12. Number of minor children, 13. Data transfer restrictions, 14. Date and place of death. (Registration Act [MG] of Baden-Württemberg, § 30) And not only for the purpose of collecting church tax: "The church's right to information and thus the transfer of data to the churches pursuant to § 19 MRRG is also permissible for pastoral, charitable, cultural, and missionary purposes." (D. Lorenz, Civil Status, Registration, Data Protection, in: HStKR Vol. 1, 2nd ed. 1994, pp. 717/732)

State of emergency and defense: No obligation to provide services for public-law corporations under the Federal Services Act (BLG), § 4 II 4.

Civil Status Registers: Special rights of access for KdöR. (Civil Status Act [PersStG] § 65)

Auditing: If state grants or subsidies are awarded, the state courts of audit do not audit the budgetary and financial management of the churches and their institutions (e.g., Caritas and Diakonie). (Act on the Principles of Federal and State Budgetary Law [HGrG], § 55; disputed in detail).

Practice of Religion: Anyone who intentionally and grossly disrupts a religious service or a religious act of a church or other religious community existing within the country shall be punished. (Criminal Code [StGB] § 167 "Disruption of the Practice of Religion")

A religious designation on the income tax card that conflicts with the principle that no one is obligated to disclose their religious beliefs to non-governmental bodies, let alone to an employer. (Basic Law [GG] Art. 140 in conjunction with Art. 136,3 WRV)

Broadcasting and Television Councils: Representatives on the broadcasting and television councils of ARD and ZDF, as well as on the supervisory boards of private radio and television stations. (e.g., § 17 of the NDR State Treaty, § 21(1) of the ZDF State Treaty, or § 21 of the Lower Saxony State Media Act)

Collections: Exemption from licensing requirements for church collections, provided that the collection have not been generally repealed.

Protected Area: The protected area serves to protect and maintain the effectiveness of defense installations. Special consideration is given to church-owned properties. (Law on the Restriction of Land Ownership for Military Defense [Protected Area Act] § 7)

Broadcasting times on radio and television. (e.g., Art. 4(2)(3) of the Bavarian Broadcasting Act. Here—as is occasionally the case in laws—the term "recognized religious communities" is used. What this means is unclear, as there is no recognition procedure for religious communities in Germany) Also on private radio and television (e.g., § 19(4) of the North Rhine-Westphalia Broadcasting Act).

Special leave: Participation of public servants in committee meetings of religious communities, provided these are public-law corporations, and in church and Catholic conventions (similarly also for sports associations, political parties, and trade unions) (Special Leave Regulation § 7 No. 7), but not, for example, for conventions of the Jehovah's Witnesses (OVG Koblenz 19.6.2009, DÖD 2009, 262).

Sunday Protection: Sundays and state-recognized holidays remain legally protected as days of rest and spiritual refreshment. (Basic Law [GG] Art. 140 in conjunction with Art. 139 of the Weimar Constitution)

Social Assistance: Special status of churches and religious societies under public law, as well as associations of independent social welfare organizations. (Social Code Book XII [SGB XII – Social Assistance] § 5)

"Flight, Expulsion, Reconciliation" **Foundation**: Representation of the two churches. (§ 19 of the Act Establishing the "German Historical Museum" Foundation of December 21, 2008, Federal Law Gazette I, p. 2891)

Foundations: Church foundations are subject to the supervision of the respective church. The issuance of general regulations regarding the name, location, purpose, representation, administration, and supervision of church foundations is the responsibility of the churches. (e.g., Bavarian Foundation Act [BayStG], Art. 22)

Exemption from classes: Participation in a retreat or spiritual retreat in preparation for Protestant confirmation or Catholic confirmation must be granted, upon the parents' request, up to twice for two school days. (Thuringian School Regulations [ThürSchulO] § 7 (1) sentence 1)

Copyright: Published texts may be used in collections for church use without requiring the copyright holder's consent (as is the case with school textbooks). However, a statutory right to remuneration exists. (Law on Copyright and Related Rights (Copyright Act – UrhG) Section 6: Limitations on Copyright, § 46)

Assemblies: No registration or approval requirement under the Assembly Act for church assemblies, open-air worship services, church processions, prayer walks, and pilgrimages, ordinary funerals, wedding processions, and traditional folk festivals (Assembly and Procession Act [VersG] § 17), insofar as this provision continues to apply for the time being following the federalism reform.

Military service: Exemption of Catholic and Protestant clergy, as well as comparable full-time clergy of other denominations, from military and civilian service. Theology students are to be deferred from military service upon application. (Military Service Act [WehrPflG] §§ 11.1–3 and 12.2, as well as Civil Service Act [ZivilDG], §§ 10.1 and 12.2)

Enforcement measures: Under administrative enforcement law, enforcement measures may not be used against public-law corporations. (e.g., Section 17 of the Federal Administrative Enforcement Act [VwVG])

Enforcement: Special protection for public-law corporations regarding monetary claims under the Code of Civil Procedure (ZPO) § 882a and regarding tax arrears (Code of Fiscal Procedure [FGO] § 151).

213. "These are not privileges"

From the churches' perspective, however, none of this constitutes special privilege. At the end of January 2010, the 4th Berlin Talks on the Relationship between State, Religion, and Worldview took place on the topic "The Privileges of the Churches and the Basic Law." The event was hosted by the *Friedrich Naumann Foundation* and the *Humanist Union*.[215]

The invited panellists from the Catholic and Protestant churches had declined to participate. This was not a disadvantage, however, since three of the panellists—regardless of their professional titles—explicitly represented the positions of their respective religious communities.

One could say that the Catholic position was represented by retired Federal Judge Hans-Jürgen van Schewick, the Protestant position by an FDP member of the Bundestag, theologian and pastor Pascal Kober, and the Muslim position by Islamic studies scholar and lawyer Nahed Samour. The *Humanist Union* was represented on the panel by Johann-Albrecht Haupt. The event was moderated by Alfred Eichhorn of *rbb Inforadio*.

The positions became clear very quickly. In response to the moderator's opening question about what would constitute an "ideological sham" at this conference, the lawyer and Catholic emphasized that the entire

theme of the conference was a sham, because "what privileges does the Church actually have?" The Protestant member of the Bundestag and pastor reinforced this view, stating that "all religious communities can organize themselves in such a way that they receive the same rights as the churches." The civil rights activist's objections and his initial list of the most important privileges were politely ignored. In summary, this means, first: What is not organized does not exist. Second: Everyone has the freedom to organize themselves within the existing legal and political structures, and everyone has the freedom *not* to do so.

All of this is based on properly agreed-upon democratic laws and treaties, and in that sense, the church has no privileges either. All organizations that organize themselves in the same way as the churches receive the same rights and funding. And every organization has the freedom *not* to "become church-like." So, if, for example, Muslims did not want to organize themselves into membership-based societies like the Christian churches, then that would simply be their free choice. Only a mischievous person would think ill of it.

Appendix

1. State subsidies from the federal states in 2009
2. Religious Education in the Federal States 2008/2009
3. Summary of State Subsidies

1. State subsidies from the federal states in 2009

State	Catholic Church	Protestant Church	Total
	in 1,000 EUR		
Baden-Württemberg	49,341	49,628	98,969
Bavaria	65,247	21,434	86,682
Berlin	2,889	7,694	10,583
Brandenburg	1,000	10,100	11,100
Bremen	0	0	0
Hamburg	0	0	0
Hesse *)	12,437	30,041	42,479
Mecklenburg-Western Pomerania	355	9,312	9,667
Lower Saxony	7,653	30,496	38,149
North Rhine-Westphalia	12,417	8,290	20,707
Rhineland-Palatinate	26,743	21,098	47,841
Saarland	605	65	670
Saxony **)	773	18,553	19,327
Saxony-Anhalt	4,339	21,081	25,420
Schleswig-Holstein	202	11,798	12,000
Thuringia	4,500	14,600	19,100
Total	**188,500**	**254,190**	**442,691**

Research: Johann-Albrecht-Haupt
*) Information from the Hessian Ministry of Culture; not apparent from the budget.
**) Own calculation: Of the total budget, 725,000 euros are allocated to the Jewish communities; the remainder is distributed, with approximately 96% going to the Protestant churches and approximately 4% to the Catholic Church. (Information from the Saxon State Ministry of Culture)

2. Religious Education in the Federal States 2008/2009

Federal State	Students in religious education	VZE 1)	Conscription 2) in 1,000 €	corresponding to church VZE	equivalent to state FTE	Costs for state teachers	Total cost in 1,000 €
1	2	3	4	5	6	7	8
Baden-Württemberg	934,853	3,561	38,400	640	2,921	175,281	213,681
Bavaria	1,431,131	5,452	80,125	1,335	4,117	246,991	327,116
Hamburg 3)	146,800	559			559	33,554	33,554
Hesse	547,831	2,087	20,052	334	1,753	105,167	125,219
Mecklenburg-Western Pomerania	53,567	204	686	11	193	11,558	12,244
Lower Saxony	621,395	2,367	13,090	218	2,149	128,943	142,033
NRW 4)	1,849,310	7,045	29,100	485	6,560	393,599	422,699
RLP	465,211	1,772	19,355	323	1,450	86,979	106,334
Saarland	84,200	321	3,110	52	269	16,136	19,246
Saxony	87,263	332	6,500	108	224	13,446	19,946
Saxony-Anhalt	30,927	118	2,612	44	74	4,457	7,069
S-H.5)	308,000	1,173	3,200	53	1,120	67,200	70,400
Thuringia	59,584	227	3,353	56	171	10,266	13,619
Total	6,620,072	25,219	219,583	3,660	21,560	1,293,576	1,513,159
			To churches				
Berlin 6)	110,151	647	33,660	(647)			33,660
Brandenburg 7)	36,194	121	4,266	(121)			4,266
Total	**6,766,417**	**25,987**	**257,509**	**4,428**	**21,560**	**1,293,576**	**1,551,085**

Sources: (Column 2) Students in religious education: State Ministries of Education (Column 4) Allocation funds: State budgets

1) Conversion formula: Participating students divided by (student-class ratio) multiplied by 21 (weekly subject hours) divided by 25 (teaching hours per full-time teacher unit) equals xx full-time teacher units (FTE). Annual funding of 60,000 euros was allocated for one full-time teacher unit.
2) The budgeted amounts for these payments, divided by 60,000 euros, yield the number of full-time teaching units for church-appointed teachers.
3) In Hamburg, no participant numbers are recorded, so the estimate is 60% of all students. Furthermore, Hamburg does not have traditional religious education but rather "religious education for all." The separate Catholic religious education program is currently in the "pilot phase."
4) In North Rhine-Westphalia, information on secondment contracts is not found in the budget but in State Parliament Document 14/2806 (Explanatory Notes)
5) In Schleswig-Holstein, no participation figures are recorded. The total number was calculated by subtracting the number of students in ethics/philosophy classes from the total number of students.
6) In Berlin, religious and philosophical instruction is optional, so no attendance allowances are paid. The funding formula is also calculated differently based on class size: Number of students / 15 (class size) = xx (number of classes). For each learning group: 2 class periods / 25 mandatory teaching hours per teaching position = number of teaching positions × 90% of BAT III (West) in 2002 (€50,346).
7) In Brandenburg, the placement contracts are very complicated and calculated on a different basis than in Note 2). In addition, the regional church pays about half of the FTE for religious education itself, as the minimum participation numbers are often not met.

3. Summary of State Subsidies

Annual subsidies from tax revenues for the benefit of the churches, their institutions, and their members (excluding Caritas and Diakonie). (2009) In. Mio. Euros.

Revenue foregone (by KiSt as a special expenditure)	3,000,000
Savings from state collection of the church tax	1,800,000
Employer payroll deduction for KiSt	280,000
State subsidies	442,000
plus State administrative costs (approx.)	8,000
Church building costs	101,000
Tax exemptions	2,270,000
Tax deductibility of donations, etc.	600,000
Training of young talent	509,000
Childcare facilities	3,915,000
Religious education	1,700,000
Religious schools	2,264,000
Family and Youth Services	357,000
Adult education, cultural activities	100,000
Military chaplaincy	31,000
Prison ministry, etc.	12,000
Police chaplaincy	1,800
Churches' international work	270,000
Media broadcasting rights	83,000
Historic preservation	18,800
Construction grants	270,000
Municipal payments	61,000
Church conventions	7,100
Fines	5,300
Civilian service, volunteer services	522,000
Church cultural work (2003)	662,000
Total	19,290,000

Afterword

This book has a predecessor: the non-fiction work *Finances and Assets of the Churches in Germany*,[216] published in January 2002. Over the years, it became increasingly urgent to update the figures.

The present *Violet Book* is not an update of that comprehensive book, which is considered a standard work. Rather, it is a "exploratory journey" through the most diverse aspects of the topic of church and state in Germany, sometimes in great detail, at other times more sketchily. The book is intended as a readable and factual introduction to the topic of the financial interdependence of church and state in Germany—a subject whose multifaceted nature is scarcely known.

This work also appears at a time when debates over federal budget cuts and the emerging discussions on municipal finances are stirring up emotions. Perhaps these issues will also raise awareness of which actors have long been calling on the state to foot the bill.

Books of this scope are rarely written in isolation, as was the case with the first book. Thanks to the network of connections that has developed since then, this book contains a wealth of information, suggestions, and corrections from colleagues and friends who are not individually named in the text. For this reason, I would like to take this opportunity to give special mention to Gerhard Czermak, Corinna Gekeler, Johann-Albrecht Haupt, Matthias Krause, and Johanna Paul, whose expertise helped ensure that this book is factually accurate. The same goes for Heike Jackler, Frank Navissi, Oliver-Martin Rapsch, and last but not least Elke Schäfer, who sorted through some of my tangled thoughts and proofread the manuscript for factual, stylistic, and technical accuracy. Evelin Frerk patiently accompanied and supported the months of work with encouragement, conversations, and constructive criticism.

My heartfelt thanks go to all of them, as well as to the press offices of the state ministries of culture and the staff of the Federal Statistical Office, who always answered my questions in a friendly and professional manner.

Berlin, late summer 2010 Carsten Frerk

Notes

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20 http://hpd.de/node/655 . There is also a detailed account of the development of the relationship between state and church in the GDR.
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29 Paper by Artur Osenberg, in: http://ibka.org/artikel/miz81/kirchensteuereinzug.html
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37 Wolfgang Böckenförde: The State as a Moral State, Berlin: Duncker & Humblot 1978, pp. 22, 31; cited in Bernd Jeand'Heuer/Stefan Korioth: Grundzüge des Staatskirchenrechts, Stuttgart: Boorberg, 2000, p. 53. On the instrumental nature of the short quotation and its significance, see Gerhard Czermak at http://hpd.de/node/8543
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39 See Gerhard Czermak: The Crucifix as a Subject of Constitutional Dispute, or: Christian Schools in an Ideologically Neutral State?; in: Materials and Informationen zur Zeit (*MIZ)* 1/92. The quote from H. Rupp is from: H. H. Rupp, in: *ANSTÖSSE.* Report on the Work of the Evangelical Academy Hofgeismar, Issue 1/2 (1969), p. 9ff.
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48 Der Spiegel 13/1969, p. 57.

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Art. XIII: "His Holiness, for the sake of peace and the happy restoration of the Catholic religion, declares that neither he nor his successors shall in any way disturb the purchasers of alienated ecclesiastical property, and that, consequently, the ownership of such property, together with the rights and revenues attached thereto, shall remain inalienable in their hands or those of their successors."

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