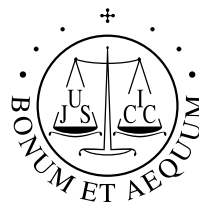


Church Law Society



NEWSLETTER

4/2020

For the English speaking members and friends of the Church Law Society
Prague – Brno – Olomouc – Stříbro

30th April 2020 | Volume 5



U.S. Department of Justice Warns That Government May Not Subject Religious Activities to Coronavirus Restrictions That Are Inapplicable to Comparable Secular Activities

Efforts to prevent the spread of the coronavirus have raised questions about the power of government to restrict constitutionally protected conduct, including religious conduct.

On April 14, in a written statement, Attorney General William Barr cautioned that religious activities generally may not be subject to government restrictions that are inapplicable to comparable secular activities. The Attorney General writes:

[E]ven in times of emergency, when reasonable and temporary restrictions are placed on rights, the First Amendment and federal statutory law prohibit discrimination against religious institutions and religious believers. *Thus, government may not impose special restriction on religious activity that do not also apply to similar nonreligious activity.* For example, if a government allows movie theaters, restaurants, concert halls, and other comparable places of assembly to remain open and unrestricted, it may not order houses of worship to close, limit their congregation size, or otherwise impede religious gatherings. *Religious institutions must not be singled out for special burdens.* [Emphasis added.]

Today [on April 14], the Department filed a Statement of Interest in support of a church in Mississippi that allegedly sought to hold parking lot worship services, in which congregants listened to their pastor preach over their car radios, while sitting in their cars in the church parking lot with their windows rolled up. The City of Greenville fined congregants \$500 per person for attending these parking lot services – while permitting citizens to attend nearby drive-in restaurants, even with their windows open. The City appears to have thereby singled churches out as the only essential service (as designated by the state of Mississippi) that may not operate despite following all CDC [The Centers for Disease Control] and state recommendations regarding social distancing.

As we explain in the Statement of Interest, where a state has not acted evenhandedly, it must have a compelling reason to impose restrictions on places of worship and must ensure that those restrictions are narrowly tailored to advance its compelling interest. While we believe that during this period there is a sufficient basis for the social distancing rules that have been put in place, the scope and justification of restrictions beyond that will have to be assessed based on the circumstances as they evolve.

The Attorney General's statement, which includes a link to DOJ's [U.S. Department of Justice] Statement of Interest in the Mississippi case, is available [here](#).

Taken from the Law Briefs, published by the Office of the General Counsel of the US Conference of Catholic Bishops, Washington, D. C., May 2020, pp. 1–2.

Dr. Richard Buchsbaum Passed Away

The sad news came to Prague. On 20th March 2020, Dr. Richard Buchsbaum from Bonn, honorary member of the Church Law Society, emeritus executive officer of the Federal Ministry of Construction, left for eternity nearly at the age of ninety.

I met Dr. Buchsbaum in the summer 1992, still as a grammar school student. It happened by strange coincidence. On the way by bus from Prague to Bonn, where I headed for a three-week stay aimed at improving my knowledge of German, I met three Slovak students of theology from the Diocese of Spiš. Jozef Hagovský, Marcel Heldák and Michal Hunčaga also went to Bonn, at the invitation of Dr. Buchsbaum. They became acquainted during the visit of Dr. Buchsbaum in the Cathedral of St. Martin in Spišská Kapitula, the seat of the Bishop of Spiš, during his summer vacation in Slovakia.

And as is often the case abroad, I missed home. I called the number provided by the Slovak students. At that time, Czechoslovakia still existed, the common state of Czechs and Slovaks, founded in 1918. At that time, in the summer of 1992, its peaceful division into two independent states was discussed. Personally, like many Czechs and Slovaks, I consider the division of Czechoslovakia to be a negative affair and historical damage for both nations. It is interesting that among ordinary Czechs and Slovaks who met at the time, planned division of the state did not harm their mutual understanding. The fact that families were often mixed and made up of Czechs and Slovaks certainly contributed to this. This is also the case of the family of the author of these lines. On the contrary, I felt at that time that communication improved compared to previous period of common state.

A German voice responded at the other end of the telephone line, which soon switched to Slovak. It was Dr. Buchsbaum, who spoke Slovak, a language very similar to Czech. In his youth, he spent several years with his relatives in Slovakia, so he spoke Slovak both verbally and partly in writing. He immediately suggested whether I would like to visit the Slovak students of theology accommodated by him, he nicknamed them “the three Magi”. He invited other two young priests from Czechoslovakia to visit, who were studying in Bonn at the time, and we formed a small Czechoslovak circle, at least for a while. P. Associate Professor Ludvík Dřimal, a Salesian who teaches catechetics at the Catholic Theological Faculty of Charles University in Prague now, was among them.

Dr. Richard Buchsbaum was born on 11th August 1930 in Brno (Moravia) in the family of an officer of the Czechoslovak army. At home, the family spoke German, but the genealogical tree, displayed in the villa of Dr. Buchsbaum in Bonn, contained German, Slovak, Czech, Jewish and Hungarian names among his ancestors. He was originally the type of man he sometimes humorously referred to as a “Central European mixture” (*mitteleuropäische Mischung*).

After the Second World War, he left due to the forced relocation of the German population from Czechoslovakia to Bavaria. He studied law at the University of Munich and worked as a lawyer at several federal ministries, most recently as a long-time head of the housing allowance department of the Federal Ministry of Construction in Bonn. He is one of the authors of the legislation of the Federal Republic, on the basis of which the state provides housing allowance to tenants, homeowners and people over 55 with lower incomes.

He and his wife, the charming Mrs. Irmgard, had ten children. During my visits to Bonn, I had the opportunity to meet most of his children as well as some of his grandchildren.

Dr. Buchsbaum openly professed Catholic faith, as evidenced by his views and attitudes, he expressed his convictions openly to both state and church authorities, especially on ethical issues. He cared above all about the protection of the unborn life, marriage, family and social issues.

He was a member of the political party Christian Democratic Union of Germany (CDU) from 1967, although at the end of his life he was less and less appealed to by the party's „Christian-Democratic” policies. He was a member of the Community of Catholic Men and Women in the Federation New Germany (Gemeinschaft Katholischer Männer und Frauen im Bund Neudeutschland). This organization was founded during the Weimar Republic and many important representatives of the church, politicians and government officials joined it in the course of time. He regularly attended its conferences and lectures, which always included the celebration of the Holy Mass.

Music was a great passion of his life. He had a small organ built in his villa in Bonn, which he played to his friends. With his broad and musically gifted family, he organized small concerts at home, especially at Christmas and family celebrations.

After the establishment of the Church Law Society in Prague in 1994, we began to meet Dr. Buchsbaum more regularly. In May 1995, I visited him during our trip to the University of Münster. The members of the group were: Chairman of the Society P. Jiří Rajmund Tretera OP, then Associate Professor and now Professor of church law at the Faculty of Law, Charles University in Prague, me and two other law students, members of the operative committee of the Society at the same time, Štěpán Hůlka, today a lawyer-specialist at the European Union institutions in Brussels and Roman Smetka, today the chairman of the District Court in Hodonín (Moravia). At the request of Dr. Buchsbaum, P. Tretera celebrated the Holy Mass in his villa, which is captured in the following photo. In recent weeks, during the state of emergency, the Holy Mass was often celebrated in our country only in the family and resembled the Holy Mass in Bonn at the time.

From 10th to 12th November 1995, the political working section of the Neudeutschland Federation held a scientific religion law conference on the then recent decision of the Federal Constitutional Court on crosses in public schools at the Maria Laach Benedictine convent in Rhineland-Palatinate. Dr. Buchsbaum mediated that members of the management of the Church Law Society, then Jiří Rajmund Tretera, Štěpán Hůlka (a great car driver) and Zábój Horák, were invited to attend the conference.

Prof. Heiner Marré from Gladbeck (1929–2014), emeritus justice official of the Bishopric of Essen and honorary Professor of religion law at the University of Bochum, as well as classmate of Dr. Buchsbaum at the Munich Faculty of Law, gave his lecture at the conference. Dr. Buchsbaum introduced us to him and his wife Katrin. This relationship developed into a fruitful collaboration lasting several decades.

Every year, religion law scholars from Prague come to the *Essener Gespräche zum Staat und Kirche* congress in Mülheim an der Ruhr, founded and long-time organized by Prof. Marré. Professor Marré lectured in Prague at the first Prague Dialogues on Church and State Relations, organized by the Church Law Society at the Faculty of Law, Charles University, on 6th September 1996, on models of financing religious communities. He and his wife Katrin

also visited the second Prague Dialogues on Church and State Relations in September 1998. We established contacts with leading German religion law scholars at the Essener Gespräche, attended by representatives of religion law science, representatives of Catholic and Protestant church authorities and the state administration. The world-class religion law scholar *Prof. Gerhard Robbers* from Trier was one of them. Prof. Robbers honoured us twice with his visit and a lecture for the Church Law Society: in 2000 and 2019. At the fourth Prague Dialogues on Church and State Relations, held from 13th to 15th June 2019, he gave a lecture on spiritual care in public institutions in Germany.



The visit of representatives of the Church Law Society to Dr. Richard Buchsbaum, May 1995 in Bonn. Preparation for Holy Mass. From left: Roman Smetka, Dr. Richard Buchsbaum, P. Jiří Rajmund Tretera OP and Záboj Horák

Photo Štěpán Hůlka

In April 1996, Dr. Buchsbaum, together with his four sons, visited Prague and on 24th April 1996, he was elected the honorary member of the Church Law Society. On the same day, as part of the 11th Evening Event within the series *Influence of Law in Society and in Church* organized by the Church Law Society, he gave a lecture on the topic *Economic provision of adequate housing in the Federal Republic of Germany – the law on financial housing allowance*. The lecture took place at the Dominican priory in Prague. An article on the same topic was published in the same year in the magazine *Všehrd*, published by the Association of Czech Lawyers in Prague.

Our contacts continued. We had always our “base” in Bonn, and we could count on a hospitable reception with him, his wife and family. This was also the case at the time when the author of these lines studied law at the University of Münster in 1999/2000; a year later, Štěpán Hůlka also studied there. Meetings with Dr. Buchsbaum were always kind and empowering.

We also used his hospitality on the way from Prague to Cardiff in June 2000, when the three of us (J. R. Tretera, Š. Hůlka, Z. Horák) drove to this Welsh town at the invitation of Prof. Norman Doe, also on the way back to Prague.

The last visit of Dr. Buchsbaum and his wife Irmgard in Prague took place in 2005. They were again accommodated at the Prague Dominican monastery of St. Giles. We last met him in Bonn in the spring of 2017, where he invited me and Prof. Tretera. We also met his daughters Christel and Stefanie, his wife Irmgard had deceased earlier. We actually said goodbye to him. He cried when he accompanied us to the train station at the end of our visit.

In one of his last letters, he wrote that he was looking forward to seeing us here, or at the latest in eternal life. I wish we meet there. Dr. Buchsbaum is most likely already there.

Záboj Horák

Ecumenical Agreement on Police Force Spiritual Care Concluded

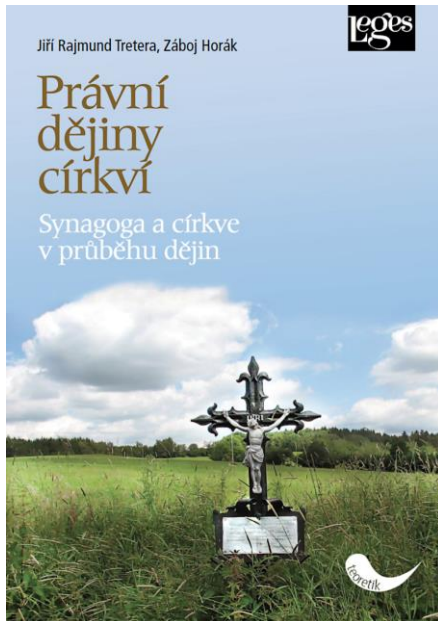
On 14th April 2020, the *Agreement on the conditions for the establishment and operation of the spiritual care in the area of the Police of the Czech Republic and other security forces* was signed in Prague between the Czech Bishops’ Conference and the Ecumenical Council of Churches. The agreement regulates mutual cooperation between the churches associated in the Ecumenical Council of Churches and the Catholic Church in providing spiritual care in the Police and other security forces.

The spiritual care in the Police was established on 7th June 2019 by order of the Police President. The spiritus agens of the Police force spiritual care, Catholic deacon and the head of the Training Department of the Rapid Deployment Department of the Police of the Czech Republic, Dr. Jiří Ignác Laňka, a member of the Church Law Society, informed the participants of the fourth year of the international conference Prague Dialogues on Church and State Relations on the topic of Spiritual Care in Public Institutions at the Faculty of Law about establishment of the Police spiritual care.

Spiritual service will be provided on an ecumenical basis by chaplains commissioned by individual churches and authorized jointly by the Czech Bishops’ Conference and the Ecumenical Council of Churches. The service is not of a missionary nature and will be provided by chaplains to police officers, their families and relatives upon request.

Chaplains must be employed by the Police, have theological education and pastoral experience of at least three years. At the end of the quarantine measures, the first two chaplains will be authorized, one from the Catholic Church and the other from the Old Catholic Church.

New Book on Legal History of Churches



These days, a new book by Jiří Rajmund Tretera and Zábój Horák, *Legal History of Churches, Synagogue and Churches Yesterday and Today*, in the range of 288 pages, is published by the Prague law publishing house Leges. It summarizes the history of the relationship between the secular and religious community, Jewish law until the completion of the Talmud and church law from its beginning to the present.

Memory of Viennese Canonist Prof. Ludger Müller



We have received the sad news that Prof. Dr. Dr. Ludger Müller, M.A. (1952–2020), long-time canon law teacher at the Catholic Theological Faculty of the University of Vienna, left for eternity on 20th April 2020. Prof. Müller was an ordinary of church law at this faculty in the years 2000–2017. He was an internationally recognized canon law scholar who greatly contributed to the good relations between the University of Vienna, the authorities of the Apostolic See and the Austrian dioceses. We were informed by his successor in the management of the department of canon law and religion law, Prof. Dr. Dr. Andreas Kowatsch, LL.M., who wrote a fond [memory](#) of his life and work.

The management of the Church Law Society still remembers the enthusiastic lecture of Prof. Müller on the current development of Roman Catholic canon law and the canon law science given at the Consociatio Internationalis Studio Iuris Canonici Promovendo congress in September 2001 in Budapest.

Associate Professor Zábój Horák was the last member of the Church Law Society's management who met Prof. Müller during his study stay at the University of Vienna in the summer of 2017, when Prof. Müller provided a consultation.

Requiescat in Pace.

From New Publications

PADEVĚT, Jiří, *Komunistické lágry, Tábory nucené práce, nápravně pracovní tábory, pracovní útvary vězňů a internační místa duchovních 1948–1962 [Communist Concentration Camps. Forced Labour Camps, Correctional Labour Camps, Prison Labour Units and Internment Sites of Clergy 1948–1962]*, Academia, Praha, 2019, 310 p., ISBN 978-80-200-2977-5.

Journals, periodicals

Ius Canonicum, Vol. 60 Núm. 119, Edificio Biblioteca de Humanidades, Universidad de Navarra, Pamplona, 2020, ISSN 0021-325X, ISSN-e: 2254-6219,

including:

LLORÉNS, Inés, *A diez años de la publicación del Motu Proprio Omnium in mentem*,
ESPOSITO, Bruno, O.P., *La Costituzione Apostolica Veritatis gaudium e le sue Norme applicative, Istruzione Gli studi di Diritto Canonico alla luce della riforma del processo matrimoniale*,

GHERRI, Paolo, *Note teoriche intorno all'utilizzo del can. 1733 CIC*,

DEL POZZO, Massimo, *Il ruolo del Difensore del vincolo nel 'processus matrimonialis brevior'*,

RUBIO-LÓPEZ, José-Ignacio, *Crónica Judicial de Derecho Eclesiástico en los Estados Unidos de Norteamérica (2017–2019)*.

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Photo on the front page: The visit of representatives of the Church Law Society to Dr. Richard Buchsbaum (1930–2020), honorary member of the Society, May 1995, in Bonn. Preparation for Holy Mass at home. From left: Roman Smetka, Dr. Richard Buchsbaum, P. Rajmund Tretera OP and Záboj Horák. Photo Štěpán Hůlka.

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