

CHURCH REPORTER

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Newsletter for the English-speaking members and friends of the Church Law Society
Prague – Brno – Olomouc – Stříbro – České Budějovice

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English version



Die Wolfsburg Catholic Academy, Mülheim an der Ruhr, 12th March 2024: from the left Záboj Horák (Prague), Harald Tripp (Vienna), Aaron Laun OSB (Munich), Martin Rehak (Munich) and Wilhelm Rees (Innsbruck).



Local group in Prague

The fifth year of Prague Dialogues on Church and State Relations is approaching

From 11th to 16th June 2024, Charles University's Faculty of Law will be hosting the 5th edition of the aforementioned international conference, entitled *Spiritual Care in Public Institutions II*. The organisers are Charles University's Faculty of Law and the Church Law Society.

It follows on from the 4th edition, which was held at the Prague Faculty of Law on 13th – 15th June 2019, also entitled *Spiritual Care in Public Institutions*. It aims to provide new insights into the field of spiritual care in public institutions over the last five years and to also discuss other areas of the churches' outward activities.

The fifth Prague Dialogues on Church and State Relations should originally have been held in June 2021, but were thwarted by the global Covid pandemic.

Leading European confessionalists and canonists will be coming to Prague in June 2024:

Prof. Francis Messner (Strasbourg) for France,
Prof. Mark Hill KC (London) for the United Kingdom,
Prof. Piotr Stanisław (Lublin) for Poland,
Prof. Wolfgang Wieshaider (Vienna) for Austria,
Prof. Stefan Mückl (Rome) for Italy,
Prof. Andreas Kowatsch (Vienna) for Austria,
Prof. Damián Němec (Olomouc) for the Czech Republic,
Prof. Felix Hammer (Tübingen) for Germany,
Prof. Vojtech Vladár (Bratislava) for Slovakia, and
General of the Military Chaplaincy Dr Harald Tripp (Vienna) for Austria.

The leadership of the Church Law Society and the Faculty of Law, Charles University, will be represented by Prof. Jiří Rajmund Tretera and Associate Professor Zábaj Horák.

A group of students from the Faculty of Catholic Theology at Vienna University under the guidance of their teachers (Prof. Andreas Kowatsch and Dr Daniel Tibi) will also be attending the conference.

On the evening of Tuesday, 11th June, the conference will open with a Holy Mass in St. Francis Church at the foot of Charles Bridge, the seat of the Grand Master of the Order of the Knights of the Cross with the Red Star, which acts as the permanent host to the spiritual care of lawyers and law students in Prague. It will be followed by a traditional dinner in the Old Bohemian Restaurant U Supa on Celetná Street, close to the Charles University Hotel, in which most of the lecturing professors will be staying.

The session days will be Wednesday, Thursday and Friday 12th–14th June. At the end of the conference, the participants will be invited to visit some scholarly and church institutions,

whose activities are related to the subject of the conference and of course Prague's monuments, in particular the newly built Marian Column on the Old Town Square. The conference language will be English.

We kindly ask students and PhD students who are willing to help with accompanying foreign guests and organising the conference to send an email to spcp@prf.cuni.cz or to contact Prof. Tretera and Associate Professor Horák in person.



**Local group
in Brno**

Preparing the *Church and State 2024* Conference

The Church Law Society and the Faculty of Law, Masaryk University in Brno, are preparing

the 30th anniversary Church and State International Conference.

This year's conference will be held on **Wednesday, 4th September 2024**. Among the topics will be ecclesiastical criminal law and its changes in recent years. We will be giving information on how to register in future issues of our periodicals.



The 59th Essen conference was devoted to criminal law

From 10th to 12th March 2024, the 59th edition of the Essen Dialogues on the State and the Church was held in Die Wolfsburg Catholic Academy in Mülheim an der Ruhr, North Rhine-Westphalia. The theme was particularly topical: ecclesiastical and secular criminal law. More than one hundred conference participants from all over Germany, Austria, Italy and the Church Republic listened to speakers from German and Austrian universities and church and state authorities. This time a representative of the Apostolic See also attended the conference as a speaker.

The participants were not put off by strikes by German Railway (Deutsche Bahn) employees. As we have seen lately, strikes have become a kind of “hobby” recently, especially in

economically developed countries such as Germany and the Czech Republic. Trains and tractors stand still, but science and society go on.

The conference was opened on 11th March by the diocesan bishop of Essen, *Dr Franz-Josef Overbeck*, who was present on both session days. The conference was chaired by *Prof. Arnd Uhle* from Leipzig.

The first speaker was *Prof. Stephan Dusil*, a canonist and legal historian from the Faculty of Law at the University of Tübingen. In his lecture on the relationship between ecclesiastical and civil criminal law in a historical perspective, he highlighted the great development of canon law in the High Middle Ages. He recalled that at that time civil law drew on highly sophisticated ecclesiastical canon law and adopted from it the principle that *a crime must not go unpunished*, first formulated in a papal letter in the 13th century. Secular criminal law, which is governed by the rule of formalism, is based on this principle.

Prof. Dusil drew attention to a six-volume work that describes the influence of canon law on civil law. It was published under the title *Der Einfluss der Kanonistik auf die europäische Rechtskultur* and its publishers are Orazio Condorelli, Franck Roumy and Mathias Schmoeckel. The work is written in Italian, French and German and the individual volumes cover the influence of canon law on substantive civil law and civil procedure, public law, substantive criminal law and criminal procedure, procedural law, economic law and international law.

The author of these lines would just like to add that a translation into English would help the worldwide dissemination of this excellent scholarly endeavour. And somewhere at the bottom of the soul smoulders the patriotic idea of the author of these lines, a Czech boy from the oldest university in Central Europe, to also translate the work into Czech. After all, for many decades after it was founded in 1347/1348 only canon law was taught at the Faculty of Law of Charles University in Prague.

The second speaker was *Prof. Sabine Konrad*, head of the Institute of Canon Law at the Theology Faculty in Graz. She explained the principles of ecclesiastical criminal law of the Latin Catholic Church, which were formulated in the fundamental amendment to the Code of Canon Law, the 2021 Apostolic Constitution *Pascite gregem Dei*.

Dr Christoph Thiele, the Chief Ecclesiastical Counsellor and head of the legal department of the Church Office of the Evangelical Church in Germany (EKD) in Hannover, spoke about the penalties that sanction the unlawful conduct of ministers and other persons in ministerial relation to the churches affiliated in the EKD.

On the afternoon of 11th March, a lecture was given by Dr Manfred Bauer from Rome, a member of the Disciplinary Section of the Dicastery for the Doctrine of the Faith. The topic of his presentation was the sexual abuse of minors and vulnerable persons in the Church. Dr Bauer is a German priest, originally trained as a civil lawyer, who has been working in Rome for a long time and has been prosecuting serious crimes in the Church for ten years. There was a somewhat *sombre atmosphere* in the hall, full of seasoned lawyers, during his talk, which described the ever-tightening legislation in this area.

The author of these lines experienced a similar atmosphere a few years ago at a scholarly canon symposium in Spiš (eastern Slovakia), where a specialist on prosecuting sexual offences in the Church also gave a lecture. In the words of the diligent officials from Rome it seemed in both cases that sexual abuse is the main problem of the Church or, if I may say

with some exaggeration, that the audience members themselves could soon find themselves the subject of prosecution.

During the discussion devoted to the practical procedures of the Disciplinary Section of the Dicastery for the Doctrine of the Faith, the atmosphere fortunately became somewhat more relaxed. In particular, when it became clear that legislators have been floundering somewhat and rather unjust in their treatment of the retroactive effect of the law and the excessive extension of limitation periods. These are a danger to all innocent priests who tend to be accused of acts that they did not commit after a huge lapse of time. As lawyers know well, excessive limitation periods reduce legal certainty in society. The result could be a further reduction in interest in the priestly vocation when it is additionally dangerous for the reasons given above. It seems that the affect that leads to the reckless prosecution of wanted offenders is an emotional response and has little to do with cool legal reason.

The well-known specialist on the social doctrine of the Church, Prof. Manfred Spieker from Osnabrück, spoke in the discussion and recalled the case of Cardinal George Pell from Sydney, wrongly convicted by the Australian courts, who spent over a year in prison for alleged sexual abuse. Prof. Spieker raised the interesting question of why the Church authorities had not stood by Cardinal Pell. After all, the accusations of sexual abuse which he was supposed to have committed many years before were unbelievable from the start and the witch-hunt in his case was whipped up by the media, which delights so much in scandal.



From the left Christoph Thiele, Sabine Konrad, Stephan Dusil, Arnd Uhle.

Photo Zábaj Horák

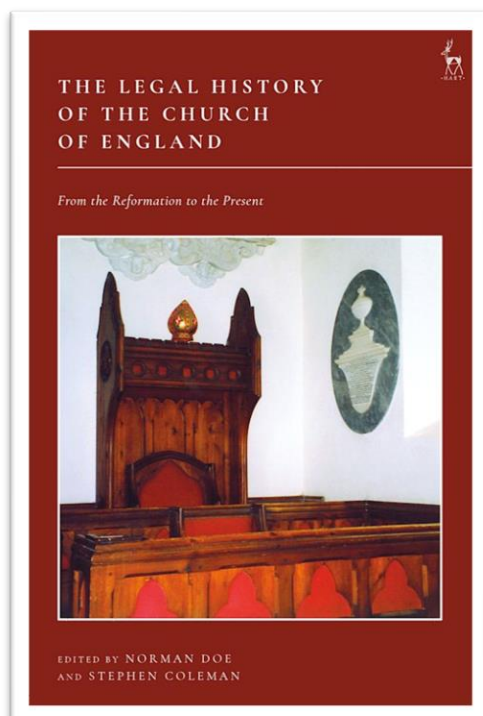
At the end of the first day, Prof. Alexander Ignor from Berlin, a lawyer specialising in German criminal law, took the floor. He talked about his experience with the relationship between ecclesiastical and civil criminal law and eloquently described a case, in which he successfully defended a German bishop wrongly accused of embezzlement. The audience was enthralled by his talk.

The programme on Tuesday, 12th March was devoted to German criminal law. Firstly, Prof. Martin Heger, head of the Department of Criminal Law in the Faculty of Law at the Humboldt University of Berlin, gave a talk on religiously motivated civil disobedience and civil criminal law. He was followed by Dr Barbara Rox, a judge at the Federal High Court in Braunschweig, with a talk on the criminal law protection of religions and religious communities under German criminal law.

During the discussion, Prof. Christian Hillgruber from the University of Bonn, a well-known expert on confessional contract law, took the floor. He brought up the question of how to ensure actual protection of religions against abusive language (Beschimpfung), which the German Criminal Code regulates in Section 166. According to him, only abusive language that demonstrably disturbs public order counts. He expressed the concern that too narrow a definition of public order means insufficient protection for religion.

Záboj Horák

New Book on the Legal History of the Church of England



The Legal History of the Church of England: From the Reformation to the Present edited by Norman Doe and Stephen Coleman, has recently been published by Hart Publishing.

This book provides the first comprehensive analysis of the principal legal landmarks in the evolution of the law of the established Church of England from the Reformation to the present day.

To mark this significant publishing event, there will be a book launch on Thursday 16th May 2024 at the Grosvenor Chapel in London. The event begins with Evening Prayer with hymns at 6pm. This will be followed by the book launch and a drinks reception. The book launch is free to attend but please register here: <https://ecclawsoc.org.uk/events/legal-history/>.

This event is being organised by the Centre for Law and Religion at Cardiff University and is hosted by the Grosvenor Chapel.

Hart Publishing will be in attendance and will be selling copies with a 20 % discount.

Course on Canon Criminal Law

The Faculty of Canon Law of the Pontifical Urban University in Rome, Italy, invites you to an *Intensive course on crimes reserved for the Dicastery for the Doctrine of the Faith*, which will take place in Rome from 13th to 14th May 2024.

More information here:

<https://consociatio2.wordpress.com/wp-content/uploads/2024/04/xii-corso-delitti-riservati.pdf>

From New Publications

Communicationes, Rivista semestrale edita dal Dicastero per i Testi Legislativi, Roma, Vol. LV N. 2/2023.

PALUMBO, Paolo, FODERARO, Antonio (eds.), *Diritto canonico: persone, comunità, missione. A 40 anni dalla promulgazione del Codice per la Chiesa latina*, Editoriale Scientifica, Napoli, 302 p., ISBN 9778-12-5976-892-6.

Ius Canonicum, Edificio Biblioteca de Humanidades, Universidad de Navarra, Pamplona, 2024, ISSN 0021-325X, ISSN-e 2254-6219, Vol. 64 Núm. 127,

Artículos aceptados / Accepted articles:

D'AURIA, Andre, *La presunción de inocencia en el derecho penal canónico. Cuestiones problemáticas abiertas*,

DOMINGO-OSLÉ, Rafael, *Multidimensionalidad del derecho canónico y principios jurídicos globales*,

ERRÁZURIZ, Carlos-José, *Derechos fundamentales del fiel y derechos humanos*.

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Photo on the front page: Die Wolfsburg Catholic Academy, Mülheim an der Ruhr, 12th March 2024: from the left Záboj Horák (Prague), Harald Tripp (Vienna), Aaron Laun OSB (Munich), Martin Rehak (Munich) and Wilhelm Rees (Innsbruck).

Photo Catholic Academy

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