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THE INTERACTION BETWEEN THE CHURCH AND THE STATE (NOT) TO THE LETTER:

THE TWISTS AND TURNS OF PREPARING AGREEMENTS BETWEEN THE HOLY SEE AND THE REPUBLIC OF LITHUANIA AND SOME ASPECTS OF THEIR IMPLEMENTATION FROM THE PERSPECTIVE OF THE CHURCH¹

ABSTRACT

Soon after the restoration of Independence in 1990, *The Act for the Restitution of the Status of the Catholic Church in Lithuania* was adopted, which declared cooperation between the State and the Church on the basis of parity. A difficult search for consensus between the bishops and changeable negotiations with secular authorities lasted ten years and the process was reinitiated three times until finally, in 2000, three agreements between the Holy See and the Republic of Lithuania were signed. Having been granted access to the current archives of the Lithuanian Bishops' Conference and the archdioceses for the first time, the author of the present article aims to reconstruct the course of preparation of the agreements from the perspective of the Church. It is revealed how the agreement that had to regulate the restitution of Church property was completely rejected. While discussing the fifteen-year experience of the integration of ratified acts into the Lithuanian legal system and administrative practice, the author asserts that they made a wider impact on civic power and the development of democracy than their direct function would allow us to imagine. The understanding

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that the Church and the State had a common aim – welfare of person – led the Catholic community itself to greater openness and a positive interaction with other agents of society.

Keywords: Catholic Church, concordat, agreements, political elite, interest groups

1. At the end of the existence of Soviet Lithuania, its authorities publicly announced a draft of the *Law on the Freedom of Conscience*.² Its logic and spirit, despite the involvement of members of the clergy in its preparation, was close to the *Law on the Freedom of Conscience and Religious Organisations of the USSR* [zakon *O svobode sovesti i religioznych organizacijach v SSSR*], which was under discussion in Moscow since 1988.³ After the restoration of Independence on 11 March 1990 and the adoption of *The Act for the Restitution of the Status of the Catholic Church in Lithuania* on June 12 of the same year at the Parliament,⁴ the draft of the *Law on the Freedom of Conscience* was addressed once again. However, the position of politicians and the Church regarding the draft were identical – it was fundamentally inadequate. According to a commentary of the counsellor to the Government on religious affairs of that time, Rimgaudas Bubelis, *such incomparable things as atheism and religion were mixed together* in the draft.⁵

The document was ultimately rejected when the chairman of the Lithuanian Bishops' Conference, Cardinal Vincentas Sladkevičius, addressed the Parliament with the statement that *a separate law on the freedom of conscience and religious organisations is not needed at this time*. In the opinion of the episcopate, *The Restitution Act* was a sufficient basis for the cooperation of the Church and the State, and the laws regulating the activity of societies, education, social care and taxes could be coordinated with this act *without introducing any privileges or discrimination*.⁶ The legal forms by which this definition of relations was implemented gradually changed, but the Church consistently supported the idea that it conveyed – religious believers and their organisations were equal members of society, and special acts were necessary to define only a small group of specific questions.

Although, taking into account the international experience, the bishops doubted if the State's internal documents would be sufficient to regulate the status of the Catholic Church,⁷ the enthusiasm of the national revival was not a favourable con-

² 'Sąžinės laisvės įstatymas', *Tiesa*, 27 February 1990.

³ The Law in Moscow was adopted on 1 October 1990 only: М. Одинцов, *Вероисповедные реформы в Советском Союзе и в России. 1985-1997 гг.*, Санкт-Петербург 2010, pp. 67-91.

⁴ 'Katalikų Bažnyčios padėties Lietuvoje Restitucijos aktas', 12 June 1990, no. I-283, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

⁵ *Vakarinės naujienos*, 19 October 1990.

⁶ 'Letter of 3 October 1990' in Curia Archives of the Archdiocese of Vilnius, File no. VII.36 'Juridical acts [1988]-1995'.

⁷ Information by rev. Vaclovas Aliulis MIC, April 2014, Authors' private archives.

text to start a more serious discussion with the authorities. Their good will seemed obvious, and the misunderstandings that occurred could be ascribed to the current difficulties of the restoration of the country and the sabotage activity of “the have-beens.” The victory of ex-communists in the parliamentary elections of 1992 brought a sobering realisation that in the conditions of democracy we would have to deal with politicians who were less favourable towards religion and, thus, clear legal mechanisms were necessary. Clause 43 of the Constitution, which was adopted at the same time, also provided that *the status of churches and other religious organisations in the State shall be established by agreement or by law*.⁸ However, there were two circumstances that prevented the urgent advancement of the initiative of negotiations. Firstly, the tension caused by the fiery comments of radical clergymen and secular figures about the backlash of ex-communists had to subside a little. Secondly, all attention, including communication with State institutions, had to be directed to the approaching visit of John Paul II in September 1993. Almost immediately after this visit, the Bishops’ Conference invited the Government to start a dialogue to define relations, but the latter was not in a hurry.⁹

2. The early idea that a concordat between the Holy See and the Republic of Lithuania would allow regulating the status of the Church was determined by the historical tradition and the closest international context. The concordat was signed before the war, on 27 September 1927, and remained in force until the Soviet occupation of 1940. It was known that a renewal of the concordat was discussed in Poland.¹⁰ The Parliament’s *Decision on the Act for the Restitution of the Status of the Catholic Church in the Republic of Lithuania* obliged *the State Commission to prepare a draft of the renewal of the concordat*,¹¹ but it was not put into life. True, in the summer of 1990, the Minister of Foreign Affairs Algirdas Saudargas addressed the bishops asserting that *the most perfect form of regulating the relations* would be the renewed¹² concordat, and requested *setting up a competent commission, which could start consultative discussions*.¹³ The address remained without response¹⁴. We should bear in mind the fact that at that time, the Pope

⁸ ‘Constitution of the Republic of Lithuania (1992-10-25)’, *Parliamentary record*, No. 11 (1 November 1992).

⁹ Cf. ‘Statement of the Lithuanian Bishops’ Conference’, 25 January 1995, in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [Varia. Constitution 1992. Agreements 1993-1999].

¹⁰ The concordat between the Holy See and the Republic of Poland was signed on 28 July 1993, but it was not until 1998 that it was ratified by the Parliament and came into force.

¹¹ ‘Nutarimas dėl Katalikų Bažnyčios padėties Lietuvoje Restitucijos akto’, 12 June 1990, no. I-282, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

¹² The decision of the communist occupational authorities to cancel it in 1940 was null and void from the viewpoint of both the Church and international law.

¹³ ‘Letter of 10 July 1990’, in Curia Archives of the Archdiocese of Kaunas, Current section, File no. 27 ‘Ministry of Foreign Affairs of the Republic of Lithuania’.

¹⁴ Cf. Curia Archives of the Archdiocese of Kaunas, Historical section, File no. 67 ‘Lithuanian Bishops’ Conference (1965-1992)’.

had not appointed an Apostolic Nuncio, and the local episcopate could hardly take responsibility for an inter-state agreement.

The bishops began to discuss a possibility of the concordat in late 1993.¹⁵ According to the testimony of Cardinal Audrys Juozas Bačkis,¹⁶ the preliminary document with the subhead *The scheme of a preliminary draft*¹⁷ was presented by the Nuncio Archbishop Justo Mullor García who resided in Vilnius since January 1992. Quite soon the bishops, already having the first variant of the draft,¹⁸ decided to set up an ecclesiastic consultative committee led by Archbishop Bačkis to accelerate the work.¹⁹ From 3 February (the date marked on Draft No. 2 of the concordat) to 31 October 1994, six variants that gained an increasingly wider consensus were prepared.²⁰ From the viewpoint of its scale and, in particular, the failure to include the responsibilities of the Church to the State, which was demanded and obtained by President Antanas Smetona in 1927,²¹ the new drafts of the concordat, which were twice shorter, considerably differed from the pre-war document. However, handwritten notes on their pages reveal that the old document was consulted a great deal during the editing.²² The points under discussion were compared with analogous agreements of Italy (1984) and Poland and draft agreements that were under preparation in other countries, which were received from the Vatican. At this stage the projects were not coordinated with representatives of the state authorities.²³

In the meantime, the political context took a rapid turn for the worse. In June 1994, Archbishop Bačkis initiated the appeal of the bishops to the Government, expressing concern about the increasing anti-religious campaign in the mass media and tendentious statements of some Members of Parliament on the topic of the restitution of Church property.²⁴ The Church hierarchs were particularly worried about the deci-

¹⁵ 'Discourse by Apostolic Nuncio Archbishop Justo Mullor García of 16 December 1994', in Curia Archives of the Archdiocese of Vilnius, Unnumbered file 'Nunciature 1987-...'

¹⁶ January 2014, Authors' private archives.

¹⁷ 'Konkordatas tarp Šventojo Sosto ir Lietuvos' [Project], received in Vilnius Curia on 24 December 1993, in Curia Archives of the Archdiocese of Vilnius, File no. III.8 'The Concordat with Holy See and Agreements'.

¹⁸ 'Konkordatas tarp Šventojo Sosto ir Lietuvos Respublikos' [Draft version no. 1, s.d.], in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [The Concordat].

¹⁹ 'Minutes of Plenary meeting of the Lithuanian Bishops' Conference on 11 January 1994', in Lithuanian Bishops' Conference Archives, File no. A I-1 'LBC meetings (minutes, invitations, agendas) 1989-1996'.

²⁰ 'Konkordatas tarp Šventojo Sosto ir Lietuvos Respublikos' [Draft version no. 6, 31 October 1994], in Curia Archives of the Archdiocese of Vilnius, File no. III.8...

²¹ Cf. S.A. Bačkis, *Lietuvos ir Šventojo Sosto konkordatas*, Vilnius 2007, pp. 259-266, 302.

²² 'Konkordatas tarp Šventojo Sosto ir Lietuvos Respublikos' [Draft versions no. 2, 4 and 5, 3 February 1994 and 14 April 1994], in Curia Archives of the Archdiocese of Vilnius, File no. III.8...

²³ Cf. 'Minutes of Plenary meeting of the Lithuanian Bishops' Conference on 17 February 1994', in Lithuanian Bishops' Conference Archives, File no. A I-1...

²⁴ 'Minutes of Plenary meeting of the Lithuanian Bishops' Conference on 30 June 1994', in Lithuanian Bishops' Conference Archives, File no. A I-1...; 'Statement of the Lithuanian Bishops' Conference of 1 July 1994', in Curia Archives of the Archdiocese of Vilnius, File no. VII.36...

sions of state institutions unilaterally suspending the obligations of *The Restitution Act* to compensate religious communities for the losses caused in the years of the soviet rule, which were included in the publicly announced draft of *The Law on the Procedure for the Restoration of Property of Religious Communities* unilaterally prepared by the Ministry of Justice.²⁵ The bishops appealed to abstain from its discussion until a mutual agreement was reached.²⁶

In the middle of October 1994, the Prime Minister Adolfas Šleževičius, having received a list of persons delegated by the Church,²⁷ established a bilateral working group *to discuss the issues related with the implementation of the Act for the Restitution of the Status of the Catholic Church in Lithuania*. The appointment of the Minister of Construction and Urbanism Julius Laiconas as the head of the working group showed that the Government was above all determined to discuss the issues of the restitution of real estate property.²⁸ At that time it was still unclear what legal form – suggestions for the draft of *The Law on the Procedure for the Restoration of Property of Religious Communities* or an agreement – the result achieved by the working group could take and, thus, the text of the concordat was further elaborated by an internal commission of the Bishops' Conference.

3. In autumn of the same year, the Nuncio was instructed to gear up for the preparation of several different agreements²⁹ – in the future, when the Vatican archives become open, they will probably help reveal the considerations of the Secretariat of State and the fact if the stalled ratification of the concordat in Poland played any role in this case. In general, the majority of the bilateral documents signed on the eve of the 21st century by the Holy See took the form of agreements rather than concordats. The early concordats aimed to put an end to the conflicts between the secular and Church authorities as opposing sides. The Second Vatican Council established the understanding that the Church does not coincide but cooperates with the political community, and each of them is independent in their respective fields.³⁰ The precondition of the new agreements *is not negative – to avoid conflicts, but positive – to build the conditions for cooperation and to provide the best conditions for individuals to exercise their rights in all fields of private and public life*.³¹

²⁵ 'Religinių bendrijų turto grąžinimo tvarkos įstatymas' [Draft, 28 May 1994], in Curia Archives of the Archdiocese of Vilnius, File no. VII.36...

²⁶ 'Letter by Archbishop Audrys Juozas Bačkis to Prime Minister Adolfas Šleževičius of 16 August 1994, No. 19', in Curia Archives of the Archdiocese of Vilnius, File no. VII.36...

²⁷ 'Letter of 29 September 1994, no. 30/94', in Curia Archives of the Archdiocese of Vilnius, File no. VII.36...

²⁸ 'Dėl darbo grupės klausimams, susijusiems su Katalikų Bažnyčios padėties Lietuvoje restitucijos akto įgyvendinimu, nagrinėti sudarymo', 14 October 1994, no. 565p, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

²⁹ Information by Cardinal Audrys Juozas Bačkis, January 2014, Authors' private archives.

³⁰ *Gaudium et spes*, 76.

³¹ V. Ališauskas, 'Trys sutartys', *Naujasis Židinys-Aidai*, No. 7/8 (2000), p. 365.

In the meeting between the Nuncio and the Prime Minister on 21 October 1994, it was decided to set up three government working groups that had to maintain contact with the representatives of the Bishops' Conference.³² The restitution of property that formerly belonged to the Catholic Church, pastoral work of Catholics serving in the armed forces and the role of the Church in the field of education was within their competence.³³ Cardinal Bačkis later acknowledged that it was *very difficult to break* the resistance of the heads of the State with Soviet mentality, when the Church offered to prepare agreements and normalise the relations in this way.³⁴ It soon turned out that the more constructive pragmatic position of the Government clashed with the stance of the faction of the ex-communist Lithuanian Democratic Labour Party (hereinafter referred to as LDLP) in the Parliament,³⁵ which was overtaken by revanchist sentiments. Thus, the representatives of the Government discussed the draft agreements, and the Members of Parliament, in parallel and without mutual co-ordination, discussed *The Law on the Procedure for the Restoration of the Rights of Religious Communities to the Existing Real Property*, which was full of various stipulations and *de facto* stopped the restitution. Its adoption in January 1995³⁶ and the old-fashioned communist-like declaration *On the Relations between the State and the Church* announced soon after by the Council of the LDLP caused the greatest conflict between the Church and those in power during 25 years. The majority of the Parliament openly questioned the ongoing dialogue between the Government and the bishops: *The LDLP considers the attempts of the Church to recover the surviving real estate property through silent and unofficial negotiations with various institutions of the executive power misguided*.³⁷ In its turn, the Bishops' Conference announced that the preparation of the agreements was misleadingly presented to the public: *To speak about 'silent and unofficial' negotiations is a crime against the truth*,³⁸ as the working groups were formed by the Prime Minister's public decrees. In his letter to President Algirdas Brazauskas, Archbishop Bačkis wrote, *Once again we express a wish to take the way of dialogue and continue the negotiations that have started*.³⁹ The president vetoed the above-mentioned law,⁴⁰ and the working groups continued their sessions.

³² 'The list of representatives of Bishops' Conference, 11 November 1994, no. 3-91', in Lithuanian Bishops' Conference Archives, Unnumbered file 'Varia (Ecclesia Universalis) 1971-1994'.

³³ 'Minutes of Plenary meeting of the Lithuanian Bishops' Conference on 17 November 1994', in Lithuanian Bishops' Conference Archives, File no. A I-1...

³⁴ 'Interview with Cardinal Audrys Juozas Bačkis for radio program "Kultūra ir religija" [Culture and Religion]', 16 April 2013, at <http://www.mstudija.lt/laidu_archyvas>, 12 June 2015.

³⁵ Cf. A. Brazauskas, *Penkeri prezidento metai. Ivykiai, prisiminimai, mintys*, Vilnius 2000, p. 142.

³⁶ 'Religinių bendrijų teisės į išlikusį nekilnojamąjį turtą atkūrimo tvarkos įstatymas', 19 January 1995, no. I-756, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

³⁷ 'Dėl valstybės santykio su Bažnyčia', 23 January 1995, in Curia Archives of the Archdiocese of Vilnius, File no. VII.36...

³⁸ 'Statement of the Lithuanian Bishops' Conference', 25 January 1995, in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [Varia. Constitution 1992. Agreements 1993-1999].

³⁹ 'Letter of 27 January 1995', in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [Varia. Constitution 1992. Agreements 1993-1999].

⁴⁰ 'Dėl Lietuvos Respublikos Seimo priimto Lietuvos Respublikos religinių bendrijų teisės į išlikusį

The project of the pastoral care of Catholics serving in the military, prepared after the model of the introduction of army chaplains in the NATO countries, underwent hereafter very few changes from its primary variant dated 20 February 1995.⁴¹ Another simultaneously prepared project was on cooperation in the field of education.⁴² On 14 March 1995, the preparation of the draft project of the restitution of property of the Catholic Church was completed; in this project the issues of nationalised property were distinguished from the wider *Restitution Act*.⁴³ According to the counsellor to the Prime Minister on religious affairs of that time, Petras Plumpa, *Parliament majority seemed particularly threatened by the [draft of] agreement on the restitution of property, as the Church would acquire "all the necessary means for religious, pastoral, educational, charitable and social activity"*.⁴⁴

The ministries responded to the drafts by sending in quite many suggestions,⁴⁵ part of which contradicted the basic positions of the bishops,⁴⁶ and the statement issued by the head of the Ministry of Foreign Affairs, Povilas Gylys, questioned the possibility of such agreements in general: *These issues should be regulated by the laws and other in-*

nekilnojamąjį turtą atkūrimo tvarkos įstatymo grąžinimo Lietuvos Respublikos Seimui pakartotinai svarstyti', 1 February 1995, no. 534, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

⁴¹ 'Susitarimas tarp Šventojo Sosto ir Lietuvos Respublikos Vyriausybės dėl katalikų, tarnaujančių ginkluotose struktūrose, sielovados' [Draft version], in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [The Concordat].

⁴² 'Sutartis tarp Šventojo Sosto ir Lietuvos Respublikos dėl bendradarbiavimo švietimo srityje' [Draft version], in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [The Concordat].

⁴³ 'Lietuvos Respublikos ir Šventojo Sosto sutartis dėl Katalikų Bažnyčios nuosavybės grąžinimo' [Draft version], 28 February 1995, in Curia Archives of the Archdiocese of Vilnius, File no. III.7 'Agreement between Government of Lithuania and Holy See on restitution of property of the Catholic Church. Activity of Bilateral mixed commission'; 'Lietuvos Respublikos ir Šventojo Sosto sutartis dėl Katalikų Bažnyčios nuosavybės grąžinimo' [Draft version], 17 March 1995, in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [The Concordat].

⁴⁴ P. Plumpa, 'Apie bažnytinę nuosavybę ir įstatyminę juokdarystę', *Naujasis Židinys-Aidai*, No. 3 (2000), p. 108.

⁴⁵ '[Remarks of Ministry of Construction and Urbanism]', 28 February 1995, no. 1-10-269, '[Remarks of Ministry of Justice]', 13 March 1995, no. 01-01-361, '[Remarks of Ministry of Economics]', 14 March 1995, no. 74-06-809, '[Remarks of Ministry of Culture]', 14 March 1995, no. 01-12-443, '[Remarks of Ministry of Justice]', 28 March 1995, no. 01-05-440/507, '[Remarks of Ministry of Finance]', 28 March 1995, no. 02-4-02/192, in Lithuanian Bishops' Conference Archives, Unnumbered file 'Agreement on education. Agreement on army chaplain. Agreement on restitution of property of the Church'.

⁴⁶ The lawyer Kazimieras Valančius who was a member of the working group from the side of the Church later wrote that *it would have been possible to coordinate* many of these remarks (K. Valančius, 'Sutartys su Šventuoju Sostu: retrospektyva ir dabartis', *LKMA Metraštis*, Vol. 21 [2002], p. 290), but an argument can be given that without a fundamental change of the Government's position, the problem repeated in the letters of the ministers that one or another clause of the drafts impermissibly *distinguished the Catholic Church from other religious communities and citizens of the Republic of Lithuania* ('[Remarks of Ministry of Economics]', 14 March 1995, no. 74-06-809, in Lithuanian Bishops' Conference Archives, Unnumbered file 'Agreement on education...') could not be solved.

ternal legal acts of the Republic of Lithuania.⁴⁷ In his address to the head of the government working group, Laiconas, Bishop Juozas Tunaitis expressed his surprise that the views of the Prime Minister and the Minister of Foreign Affairs were fundamentally different.⁴⁸ A more straightforward expression of Gylys's position was the reappearance in the press of the propaganda motif of *the Vatican interfering in the internal affairs of Lithuania*, which was frequently heard in the years of the soviet rule and sought to instigate naive nationalists against religious members of the same society.⁴⁹

There was less and less hope to sign the agreements, which the episcopate saw as a single complex. Without waiting for the outcome of the negotiations, the ruling party in the Parliament voted for the edition of *The Law on the Procedure for the Restoration of the Rights of Religious Communities to the Existing Real Property*, which was revised by the President, but was still unfavourable to the Church, in the middle of March 1995.⁵⁰ The bishops could only express their *regret that the Seimas [...] has unilaterally adopted already the third law at the time when attempts are being made to solve the same problems, which involve the issues of both juridical and moral nature, by way of negotiations. It shows disrespect for participating in the negotiations.*⁵¹ After the announcement of this letter the Prime Minister's office assured that the agreement with the Nuncio *on the preparation of three bilateral agreements is not cancelled from the side of the Government of the Republic of Lithuania.*⁵² In its turn, at exactly the same time the board of the LDLP group in Parliament did not approve of the draft agreements prepared by the representatives of the government and the Church in principle.⁵³ It was stated at a plenary meeting of the Bishops' Conference that the preparation of the agreements was stalled.⁵⁴

Can it be explained from the historical viewpoint that at the time when the social atmosphere was electrified by the imperative to restore justice and eliminate the consequences of the soviet regime, ex-communists dared to protect the idea of non-restitution of property, which they placed as the basis of their political programme and thus won the loyalty of a large part of voters? There are three arguments: the position of the

⁴⁷ '[Remarks of Ministry of Foreign Affairs]', 13 March 1995, no. 06-1438, in Lithuanian Bishops' Conference Archives, Unnumbered file 'Agreement on education...'; '[Note on remarks of Ministry of Foreign Affairs, 12 June 1995]', also see: K. Valančius, 'Sutartys su Šventuoju Sostu...', pp. 291-292.

⁴⁸ 'Letter of 14 July 1995, no. 1-252/95', in Curia Archives of the Archdiocese of Vilnius, File no. III.8...

⁴⁹ In more detail see: P. Subačius, 'Lietuvos Respublikos ir Šventojo Sosto santykių visuomeninė refleksija po Nepriklausomybės atgavimo', *LKMA Metraštis*, Vol. 23 (2003), pp. 402-403.

⁵⁰ 'Religinių bendrijų teisės į išlikusį nekilnojamąjį turtą atkūrimo tvarkos įstatymas', 21 March 1995, no. I-822, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

⁵¹ 'Statement of the Lithuanian Bishops' Conference', 30 March 1995, in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [Varia. Constitution 1992. Agreements 1993-1999].

⁵² 'Letter of 5 April 1995, no. 28-3870', in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [Varia. Constitution 1992. Agreements 1993-1999].

⁵³ Transcript of Radio Free Europe: Lithuanian program, 5 April 1995, Authors' private archives.

⁵⁴ 'Minutes of Plenary meeting of the Lithuanian Bishops' Conference on 12 November 1996', in Lithuanian Bishops' Conference Archives, File no. A I-1...

LDLP was formed by (1) purely ideological anti-clericalism, (2) manipulation of sympathy for the poor and (3) cynical pragmatism seeking to eliminate real or imaginary rivals in the struggle for the redistribution of wealth on the way to capitalism. In my opinion, the way of thinking characteristic of both those attached to the communist social system and those who idealised the pre-war nationalist Republic probably played the decisive role. The State as a guardian of all citizens and direct subordination of national wealth to the authorities was the common structural premise of their thinking. The de-nationalisation of any valuable item was understood as taking it away from the nation and, on the contrary, the priority of the nation as the owner, identified with state property and state administration, as if justified the restrictions of justice for individual subjects that were opposed to the common interest.

There was a refusal to acknowledge that valuable objects privately owned by the citizens of Lithuania are valuable objects of Lithuania. We can even more straightforwardly compare the attitude to religious communities and non-governmental organisations. The refusal to return the property of the restored societies, unions and associations that they had before the occupation in 1940 was sanctioned by silent agreement with the opinion that the state administration and an anonymous people represented Lithuania more than communities of the same citizens of Lithuania united on any basis. While seeking the restitution of property taken away in the years of soviet rule and exposing the delusion of thinking or the ill will of the opposing politicians and offering a way of agreement, the Church was building a fundamental counterbalance to the erroneous presumptions about national property and its owners.

4. Soon after the parliamentary elections of 1996, in which the right-wing parties won a majority, the Nuncio met with the Prime Minister Gediminas Vagnorius regarding the renewal of the preparation of agreements. In their conversation, they openly spoke about anti-church moods in the secular mass media, the difficult economic situation and the growing pragmatism of voters as the context of negotiations. Presumably the agreements would have been more favourably received if they had reflected the use of the returned Church property for social, health, educational and cultural needs, and the use of state compensations for the unreturned property for the needs of parochial old people's homes and orphanages, which were highly esteemed in society.⁵⁵ As if led by good will, the State began to give advice ahead of time what the owner should do with the property to be returned.

Having exchanged opinions about the future prospects of the negotiations, both the State and the episcopate experienced a shift in the thinking about their priorities. The agreement on the restitution of property, which once served as the starting point of the negotiations,⁵⁶ was completely rejected, and instead, a more general document

⁵⁵ P. Plumpa, '[*Pro memoria* for Nuncio García on meeting with Vagnorius]', 14 January 1997, in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [Varia. Constitution 1992. Agreements 1993-1999].

⁵⁶ 'Lietuvos Respublikos ir Šventojo Sosto sutartis dėl Katalikų Bažnyčios nuosavybės grąžinimo' [Draft version, s.d. [1995]], in Curia Archives of the Archdiocese of Vilnius, File no. III.7...

establishing the legal principles of the relations between the Catholic Church and the State was put under discussion. The statements regarding the restitution of rights included in the former draft agreement on the restitution of property were transferred to the *Agreement on Cooperation in Education and Culture*, only in a much narrower form, as statements regarding the status of the archives that formerly belonged to the Church and movable and immovable objects of cultural value.⁵⁷ This status had to be specified in separate covenants on specific objects.

This shift was determined by a complex of motifs. Firstly, a significant part of churches and parochial buildings had already been returned *de jure* or were *de facto* administered by dioceses. Certain complications arose regarding many unreturned buildings, but it was impossible to solve them by applying a common legal formula. Although criticised by the episcopate, the laws regulating restitution and the government's decision were actually in force, and were understood by the public as a certain compromise. Secondly, the politicians who escalated the topic of wild capitalism turned the sympathies with the tenants who were being evicted from the returned buildings into one of the dominant motifs of public discussion. This encouraged presenting the principle of restitution of justice to the public in a form that would not give a pretext for further symbolic confrontation. Thirdly, the restrictions of the Constitution and the complicated progress of the land reform put the restitution of nationalised land of agricultural purpose under question, the raising of which would have definitely doomed the negotiations to failure. Fourthly, it became clear that the identification and restitution of nationalised movable property that was held in public repositories required complicated all-inclusive decisions and could hardly be subject to a single model. Finally, the economic situation and the priorities set by the authorities determined that the idea of a compensatory mechanism was postponed for better times. (The mechanism was modelled after the example of other countries (Hungary), according to which the Church would regularly receive compensations for the unreturned property, constituting a certain percentage of the national budget.) This statement was included in the list of negotiation positions confirmed by the Bishops' Conference,⁵⁸ but was gradually rejected.

The Nuncio wrote a preliminary outline of agreements based on the new conception in January 1997,⁵⁹ and in March the bishops who discussed it set up a working group for preparing draft agreements.⁶⁰ The principles approved by the episcopate

⁵⁷ 'Sutarties tarp Šventojo Sosto ir Lietuvos Respublikos dėl bendradarbiavimo švietimo ir kultūros srityse projektas' [Draft, s.d. [1997]], in Curia Archives of the Archdiocese of Vilnius, File no. III.8...

⁵⁸ 'Minutes of Plenary meeting of the Lithuanian Bishops' Conference on 7 March 1997', in Lithuanian Bishops' Conference Archives, File no. A I-2 'LBC meetings (minutes, invitations, agendas) 1997'. As testified Vytautas Ališauskas, a member of Bishops' Conference *ad hoc* commission for negotiations with Government, restitution of nationalised land for agricultural purpose wasn't discussed in commission at all, April 2015, Authors' private archives.

⁵⁹ 'Minutes of Plenary meeting of the Lithuanian Bishops' Conference on 9 January 1997', in Lithuanian Bishops' Conference Archives, File no. A I-2...

⁶⁰ 'Minutes of Plenary meeting of the Lithuanian Bishops' Conference on 7 March 1997', in Lithuanian Bishops' Conference Archives, File no. A I-2...

sought to coordinate the relations between the Church and the State taking into account the understanding of Church service as a mission, advanced by the Second Vatican Council, to stop seeking privileges and to respect the secular nature of the State established by the Constitution and the freedom of faith applied to different religious denominations. As is evident from the document *Suggestions* by Archbishop Mullor García⁶¹ and the titles and structure of later draft agreements, the compilers referred not so much to the former projects, but rather to three agreements between the Holy See and the Republic of Croatia, which came into force in February 1997.⁶²

Having arrived in Lithuania in October of the same year, a new Nuncio, Archbishop Erwin Josef Ender, upon presenting his credentials to the President was assured that *in the nearest future an agreement between Lithuania and the Holy See will be signed, which will satisfy the needs of both sides and will foster a dialogue between the State and the Church*.⁶³ The bishops were encouraged to make an active contribution to the negotiations, which were to start after the New Year. However, the process did not take place as rapidly as the Nuncio expected. In the spring of 1998, a draft of the *Agreement between the Holy See and the Republic of Lithuania concerning the pastoral care of Catholics serving in the Army* was prepared,⁶⁴ to be followed by the draft of the *Agreement between the Holy See and the Republic of Lithuania on co-operation in education and culture* in summer,⁶⁵ and untitled drafts that served as the basis for the *Agreement between the Holy See and the Republic of Lithuania concerning the juridical aspects of the relations between the Catholic Church and the State* in autumn and winter.⁶⁶ They were presented and revised during the sessions of the Bishops' Conference and subsequently sent to the Holy See.⁶⁷ Archbishop Ender urged to accelerate the process, although he recognised

⁶¹ 'Pasiūlymai dėl projektų susijusių su sutartimis tarp Šventojo Sosto ir Lietuvos', s.d. [January 1997], in Curia Archives of the Archdiocese of Vilnius, File no. III.8...

⁶² 'Agreement between the Holy See and the Republic of Croatia on legal matters', 'Agreement between the Holy See and the Republic of Croatia about the religious assistance to Catholic faithful, members of the armed forces and the police of the Republic of Croatia', 'Agreement between the Holy See and the Republic of Croatia regarding their collaboration in the fields of education and culture' (originals in Italian and Croatian), at <http://www.vatican.va/roman_curia/secretariat_state/index_concordati-accordi_en.htm>, 10 March 2015.

⁶³ 'Minutes of Plenary meeting of the Lithuanian Bishops' Conference on 26 November 1997', in Lithuanian Bishops' Conference Archives, File no. A I-2...

⁶⁴ 'Susitarimas tarp Šventojo Sosto ir Lietuvos Respublikos dėl katalikų, tarnaujančių ginkluotose struktūrose, sielovados' [Draft, 6 April 1998], in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [The Concordat].

⁶⁵ 'Sutartis tarp Šventojo Sosto ir Lietuvos Respublikos dėl bendradarbiavimo švietimo ir kultūros srityse' [Drafts, 22 June 1998 and 3 July 1998], in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [The Concordat].

⁶⁶ [Untitled drafts], 30 November 1998 and 14 December 1998, in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [The Concordat].

⁶⁷ 'Minutes of Plenary meeting of the Lithuanian Bishops' Conference on 29 December 1998', in Lithuanian Bishops' Conference Archives, File no. A I-3 'LBC meetings (minutes, invitations, agendas) 1998'.

that the procedures in Latvia and Estonia⁶⁸ were also belated in comparison with the previously imagined schedule of the preparation of agreements.

In March 1999, the Holy See officially presented the draft agreements to the Lithuanian Government and suggested setting up delegations for negotiations.⁶⁹ In October, the President granted the authorisation for negotiations and the right to initial the agreements to the Deputy Minister of Foreign Affairs Gediminas Šerkšnys.⁷⁰ In parallel, from October 1999 negotiations for Lithuania's membership in the EU were taking place, which implied that a large amount of national laws had to be harmonised with multilateral acts. Due to this fact, the political elite was inclined to assume the obligations that could not be changed according to the local conjuncture. This global-scale process, along with bilateral agreements signed between the Holy See and other Central European countries (Poland, Croatia and Hungary) due the same decade, undoubtedly created a favourable context.

As during the preparation of the draft agreements and the negotiations, the laws of Lithuania were meticulously taken into account, and the agreements generalised the State's existing practice with regard to religious communities, more serious conflicts were avoided in the talks of the delegations.⁷¹ During their meeting with the Prime Minister Andrius Kubilius in April 2000, the bishops requested to speed up the drawing of the agreements,⁷² and before long, on May 5, Archbishop Ender and the Minister of Foreign Affairs Saudargas signed them.⁷³ The agreements were successfully ratified in the Parliament on July 20 of the same year. During the voting, the typical manners of politicians manifested itself: the minimum required number of Members of Parliament registered for the session, as many others probably sought to avoid voting against the ratification and, on the other hand, did not want to appear favourable to the Church. More Members of Parliament voted for the approval of pastoral care in the military

⁶⁸ Estonia was the second former Soviet republic to sign an agreement with the Holy See 'On juridical status of the Catholic Church' after the restoration of Independence in late 1998 (came in force on 12 March 1999); the first one was Kazakhstan ('On mutual relations', 24 September 1998), at <http://www.vatican.va/roman_curia/secretariat_state/1998/documents/rc_seg-st_19981223_santa-sede-estonia_en.html>, 10 March 2015; <http://www.vatican.va/roman_curia/secretariat_state/1998/documents/rc_seg-st_19980924_sede-ap-kazakistan_en.html>, 10 March 2015; 'Agreement between the Holy See and the Republic of Latvia', the one document covered the same questions as in Lithuanian three agreements, signed on 8 November 2000, but ratified and came in force two years later, at <http://www.vatican.va/roman_curia/secretariat_state/2000/documents/rc_seg-st_20001108_santa-sede-lettonia_en.html>, 10 March 2015.

⁶⁹ The Church was represented by Nuncio, Archbishop Audrys Juozas Bačkis, Archbishop Sigitas Tamkevičius SJ, Bishop Jonas Boruta SJ, rev. Adolfas Grušas and laymen Vytautas Ališauskas, and the Government – by deputy ministers, ministry specialists and Members of Parliament (quite possibly with the aim to avoid the tension between the Parliament and the Government that reigned in 1994-1995).

⁷⁰ *Bažnyčios žinios*, 31 October 1999.

⁷¹ V. Ališauskas, 'Trys sutartys', p. 366.

⁷² '[*Pro memoria* on meeting with Andrius Kubilius]', 24 April 2000, in Curia Archives of the Archdiocese of Vilnius, File no. III.6 'Church and State relations. President Office. Government'.

⁷³ *Bažnyčios žinios*, 16 May 2000.

than for the other two agreements⁷⁴ – probably the argument that the military units of the NATO countries had chaplains and spiritual help to the military was considered an important factor of the strength of the army, appeared more important than laicist convictions.

The first clause of the *Agreement between the Holy See and the Republic of Lithuania concerning juridical aspects of the relations between the Catholic Church and the State* stated:

1. *The Holy See and the Republic of Lithuania agree that the Catholic Church and the State shall be independent and autonomous each within their field and, adhering to the said principle shall co-operate closely for the spiritual and material welfare of every individual and of society.*
2. *The competent authorities of the Republic of Lithuania and the competent authorities of the Catholic Church shall co-operate in ways acceptable to both Parties on educational, cultural, family and social issues and, in particular, in the field of protecting public morals and human dignity.*⁷⁵

This formulation expresses the basic principle of the relations of the both sides in agreement – the Church and the State are neither subordinate to one another nor separated from one another (as was in the Soviet Union).⁷⁶ In the above-mentioned declaration of the Council of the LDLP of 1995, *On the Relations Between the State and the Church*, the principle of the separation of the Church and the State was declared,⁷⁷ which is sometimes still reiterated not only by politicians and journalists, but also by academic researchers. Although there are those who think that a terminological opposition marking the relation of *separation* as hostile and *disparateness* as positive partnership is a mere verbal juggling, the legal distinction of both concepts was substantiated by the Constitutional Court.⁷⁸ From today's viewpoint, the pre-war concordat contained mutual exceptions and privileges. The current agreements showed the modernisation and openness of both sides, and most importantly, revealed a new relation with citizens and members of the Church community based on the primacy of personal freedom. No longer considered person the property or asset of the State, the formulations of the agreements could be understood as helping people to better exercise their rights and fulfil their rightful expectations rather than limiting the powers of secular or Church authorities in any field.

⁷⁴ '[Vote results on] VIII-1883, VIII-1884, VIII-1885', 20 July 2000, Lietuvos Respublikos Seimas, at <http://www3.lrs.lt/posedziai/3/fakt_pos_400.htm>, 10 March 2015.

⁷⁵ 'Šventojo Sosto ir Lietuvos Respublikos sutartis dėl santykių tarp Katalikų Bažnyčios ir Valstybės teisinių aspektų', *Valstybės žinios*, 9 August 2000, no. 67-2022.

⁷⁶ V. Ališauskas, 'Trys sutartys', p. 366.

⁷⁷ 'Dėl valstybės santykio su Bažnyčia', 23 January 1995, in Curia Archives of the Archdiocese of Vilnius, File no. VII.36...

⁷⁸ Cf. 'Ruling on certain provisions of the Law on Education', case no. 23/98, 13 June 2000, The Constitutional Court of the Republic of Lithuania, at <<http://www.lrkt.lt/en/court-acts/search/170/ta1161/content>>, 10 March 2015.

5. *The Agreement concerning the juridical aspects of the relations between the Catholic Church and the State*, the clause No. 17 unambiguously obliged: *A Mixed Commission comprised of representatives of both Parties shall be set up for the implementation of the provisions of the present Agreement*;⁷⁹ however, the authorities took their time. On 7 March 2001, the Bishops' Conference addressed the Government with the notice that it had appointed its representatives and proposed twelve questions to be discussed.⁸⁰ It was not until June 18 that the Government's decision about the structure of the commission formed at the level of deputy ministers was adopted,⁸¹ and the names of the members of the commission were confirmed even later. In *Pro memoria* written in the autumn of 2001, Cardinal Bačkis expressed his anxiety about the fact that the legal acts that were bound to have a direct impact on religious communities were adopted or revised without informing the Bishops' Conference. And it was done at the time when negotiations for the implementation of the agreements were started. Having given five examples of revised laws and government decrees, among them imposing the value-added tax on liturgical wine, the Cardinal stated that it was incompatible with the statements of the agreements establishing mutual cooperation.⁸²

At the very end of 2001, the first session of the Bilateral mixed commission finally took place.⁸³ Suggestions presented by six working groups (in the fields of education, culture, social care, legal regulation, pastoral care in the military and archives⁸⁴) were discussed. As pastoral care in the military was already defined in great detail in a separate agreement, and there were quite many examples of other NATO countries, the preparation of the *Regulation of the Ordinariate of the Lithuanian Army* took place very smoothly,⁸⁵ and after less than a year it was adopted.⁸⁶ Similarly, an agreement with the Migration Department on the arrival of Church members who were foreign nationals was quickly achieved; the agreement provided for the granting of temporary residence permits on the basis of the Bishop's mediation.⁸⁷ The appropriated archives also caused

⁷⁹ *Valstybės žinios*, 9 August 2000, no. 67-2022.

⁸⁰ 'Letter on 7 March 2001, no. 1-122/01', in Curia Archives of the Archdiocese of Vilnius, Unnumbered file 'State'.

⁸¹ 'Dėl komisijos, atstovausiančios Lietuvai, sudarymo', 18 June 2001, no. 735, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

⁸² '[*Pro memoria*]', 22 October 2001, in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [Varia. Constitution 1992. Agreements 1993-1999].

⁸³ 'Minutes of the session of the Bilateral mixed commission on 11 December 2001', in Curia Archives of the Archdiocese of Vilnius, Unnumbered file 'State'.

⁸⁴ Premier Minister, Decree 'Dėl darbo grupių sudarymo', 9 August 2001, no. 183, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

⁸⁵ 'Minutes of the session of the Bilateral mixed commission on 19 February 2002', in Curia Archives of the Archdiocese of Vilnius, Unnumbered file 'State'.

⁸⁶ 'Lietuvos Vyskupų Konferencijos ir Krašto apsaugos ministerijos susitarimas dėl Lietuvos kariuomenės Ordinariato reglamento', 2 August 2002, no. 140, in Lithuanian Bishops' Conference Archives, Digital collection, Unnumbered folder 'Church-State covenants'.

⁸⁷ 'Lietuvos Vyskupų Konferencijos ir Migracijos departamento prie Lietuvos Respublikos Vidaus reikalų ministerijos susitarimas dėl katalikų Bažnyčios narių užsieniečių atvykimo į Lietuvos Respubliką,'

little discussion, as the Church did not require their physical return, and the representatives of the Government agreed to restrict the use of potentially sensitive documents (personal files of live priests etc.), and after the digitisation of the files return the copies to the former owners. However, the difficult practical implementation of the State's obligation to present to the dioceses detailed lists of documents of the Catholic Church held in public archives determined that it was not until seven years later that the Archive Department signed an agreement with the Bishops' Conference.⁸⁸

It was more difficult to achieve mutual understanding in other fields. It took four years to coordinate with the Ministry of Culture the agreement providing for the setting up of the Permanent bilateral commission to solve the issues of cultural heritage.⁸⁹ Alongside, the principles that had to build the basis for the law regulating the restitution of movable objects of value to the Church were established.⁹⁰ This special *Law on the Restoration of the Right of the Catholic Church to the Movable Cultural Heritage* was indeed adopted⁹¹ and provided possibility for the ordinaries to present the lists of objects of value liable for restitution. In particular, a lot of specific solutions were needed in the field of education – agreement was sought regarding the publishing of textbooks and teaching aids on religious education, the involvement of specialists in catechetics in a commission of experts in ethics training and the joint certification of teachers of religious education by public education departments and catechetical centres.⁹² The complications in making amendments to *The Labour Code* was the reason why it took ten years to achieve agreement on the procedure of dismissing teachers of religious education who have lost their canonical assignment.⁹³

Upon a closer look it turned out that in the context of the Bologna Process (harmonisation of the standards and quality of higher education in the EU countries), it was

25 July 2002, in Lithuanian Bishops' Conference Archives, Digital collection, Unnumbered folder 'Church-State covenants'.

⁸⁸ 'Lietuvos Respublikos įgaliotos institucijos ir Lietuvos Vyskupų Konferencijos susitarimas dėl Lietuvos Respublikos ir Šventojo Sosto sutarties Dėl bendradarbiavimo švietimo ir kultūros srityje 13 straipsnio 3 dalies įgyvendinimo', 12 August 2008, in Lithuanian Bishops' Conference Archives, Digital collection, Unnumbered folder 'Church-State covenants'.

⁸⁹ 'Lietuvos Respublikos įgaliotos institucijos ir Lietuvos Vyskupų Konferencijos susitarimas dėl Lietuvos Respublikos ir Šventojo Sosto sutarties Dėl bendradarbiavimo švietimo ir kultūros srityje 13 straipsnio 4 dalies įgyvendinimo', 2 July 2004, in Lithuanian Bishops' Conference Archives, Digital collection, Unnumbered folder 'Church-State covenants'.

⁹⁰ [Draft of covenant with Ministry of Culture], 2 July 2004, in Curia Archives of the Archdiocese of Vilnius, Unnumbered file [Varia. Constitution 1992. Agreements 1993-1999].

⁹¹ 'Katalikų Bažnyčios nuosavybės teisės į kilnojamąsias kultūros vertybes atkūrimo įstatymas', 15 February 2005, no. X-117, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt/>>, 17 June 2015.

⁹² 'Minutes of the session of the Bilateral mixed commission on 11 December 2001', in Curia Archives of the Archdiocese of Vilnius, Unnumbered file 'State'.

⁹³ 'Lietuvos Vyskupų Konferencijos ir Lietuvos Respublikos Švietimo ir mokslo ministerijos susitarimas dėl informavimo apie siuntimo mokytį tikybos netekimą', 6 November 2009, in Lithuanian Bishops' Conference Archives, Digital collection, Unnumbered folder 'Church-State covenants'.

complicated to harmonise the nostrification of academic degrees granted by Church universities in Lithuania and the accreditation of programmes of theological studies by amendments to national legal acts. Therefore, the *Agreement between the Holy See and the Republic of Lithuania on the recognition of qualifications concerning higher education* was signed on 8 June 2012 and before long was ratified.⁹⁴ Among other things, the agreement solved the problem of adequate comparability between a licentiate's degree and qualifications granted in Lithuania. Due to this problem, in the first decade after Independence a number of Church licentiate diplomas were nostrified as doctoral degrees, thus unfoundedly raising their value, and later, in some cases it was refused to compare a licentiate even to a master's degree.

Favourable conditions for pastoral care in prisons had already been created, and in the agreement with the Ministry of Justice, the position of a pastoral care coordinator and the involvement of lay people in the pastoral care of prisoners was legitimised.⁹⁵ However, the agreement with the Ministry of Health Care for pastoral care in hospitals was very vague,⁹⁶ and it was not until 2009 that the minister finally issued a decree allowing the heads of health care institutions *to establish the position of a chaplain and/or spiritual assistant*.⁹⁷ It took time for politicians to realise that the salary assigned to the chaplain from the funds of a public institution was not support for the Church, but the implementation of the subsidiarity principle, whose systemic element was religious communities. Bearing in mind the large number of people who express a wish to see a clergyman in critical moments of life, by granting a room and a possibility of quick access to the chaplain, the State performs one of its characteristic functions of redistribution of resources for the basic needs through its subordinate health care institutions.

Other questions that were raised – to simplify the statistics of Church volunteers, to coordinate the legal acts regulating charity and support with the Canon Law, to facilitate the forms of accounting documents and financial reports of religious communities – were progressively solved along with the dynamically improved requirements of the Tax Office and other similar institutions. In discussing cooperation in the field of social care, the state apparatus gradually realised that consultations with the Church allowed achieving a wider consensus in law making and better efficiency in implementing the programmes. While talking about the charitable, educational and cultural activity in the context of the Bilateral mixed commission, the following definition was

⁹⁴ 'Šventojo Sosto ir Lietuvos Respublikos sutartis dėl kvalifikacijų, susijusių su aukštojo mokslo, pripažinimo', *Vaišybės žinios*, 11 October 2012, no. 118-5945.

⁹⁵ 'Susitarimas dėl Katalikų Bažnyčios sielovados kardomojo kalinimo ir laisvės atėmimo vietose', 23 April 2003, in Lithuanian Bishops' Conference Archives, Digital collection, Unnumbered folder 'Church-State covenants'.

⁹⁶ 'Lietuvos Vyskupų Konferencijos ir Lietuvos Respublikos Sveikatos apsaugos ministerijos susitarimas dėl Katalikų Bažnyčios sielovados teikimo sveikatos priežiūros įstaigose', 16 September 2002, no. 3/115, in Lithuanian Bishops' Conference Archives, Digital collection, Unnumbered folder 'Church-State covenants'.

⁹⁷ 'Dėl sielovados patarnavimų teikimo sveikatos priežiūros įstaigose', 24 July 2009, no. V-639, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

used: the issues *in which the Catholic Church partly performs the functions assigned to the State*.⁹⁸ Thus, in this respect the agreements should be assessed as permanently effective. In the 2010s, along with society's growing dissatisfaction with public orphanages and the need for palliative care and other social services, it was frequently recalled in public that families taking care of orphans, community homes for old people, temporary shelters for victims of violence or the programmes of integration of former prisoners first appeared in Lithuania as initiatives of the *Caritas* organisation. Legal clarity achieved by means of the agreements and the ensuing arrangements allowed civil servants to regard subsidiarity, whose most important catalyst were religious communities that assumed *part of the functions of the State*, with less caution than before.

The changing understanding of the political elite about the meaning of the Bilateral mixed commission and the level of decision making necessary for its successful work was revealed by the rank of representation. In the first stage of its activity, the chairman of the commission from the side of the State was the Deputy Minister of Culture, from 2003 – the Minister of Culture, from 2007 – the Government Chancellor,⁹⁹ and after 2008, the Prime Minister himself sometimes chaired the sessions together with Cardinal Bačkis or his deputy, Archbishop Tamkevičius; in 2011, the Government decided that the part of the commission representing the State would be chaired by the Prime Minister.¹⁰⁰

6. The Bilateral mixed commission usually discussed legal issues, but some symbolic decisions were made as well – on the eve of the twentieth anniversary of the restoration of Independence, both sides undertook mutual obligations to hold Church services dedicated to the anniversary in dioceses and to emphasise the role of the Catholic Church in Lithuania's way to Independence during the celebrations.¹⁰¹ We can at least preliminarily summarise the contribution of the preparation and implementation of the four international agreements presented here to the development of the restored State. In the years of the social shift, the atheist separation of the Church and the State rapidly gave way to the opposite extreme of enthusiastic blending. It was sought to subordinate religion to political institutions and use it for power games. However, the formula of institutional disparateness and social community of the Church has slowly become not only the letter of the law, but also a constant of political and legal action.

⁹⁸ '[*Pro memoria* on working groups]'; 24 May 2002, in Curia Archives of the Archdiocese of Vilnius, Unnumbered file 'State'.

⁹⁹ 'Dėl Lietuvos Respublikos Vyriausybės 2001 m. birželio 18 d. nutarimo Nr. 735 "Dėl komisijos, atstovausiančios Lietuvai, sudarymo" pakeitimo', 5 September 2007, no. 921, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

¹⁰⁰ 'Dėl Lietuvos Respublikos Vyriausybės 2001 m. birželio 18 d. nutarimo Nr. 735 "Dėl dvišalės mišrios komisijos tarptautinių sutarčių su Šventuoju Sostu nuostatomis vykdyti dalies, atstovausiančios Lietuvai, sudarymo" pakeitimo', 5 October 2011, no. 1153, in *Teisės aktų registras* [Register of Legal Acts], at <<https://www.e-tar.lt>>, 17 June 2015.

¹⁰¹ 'Minutes of the session of the Bilateral mixed commission on 14 December 2009', in Lithuanian Bishops' Conference Archives, Digital collection, Unnumbered folder 'Bilateral mixed commission'.

While showing an example of subsidiarity by charity, support and implementation of cultural and educational projects, which was recognized by the State on the highest level in the form of agreements, the Church became an exemplary representation of the principle of subsidiarity. Gradually it built a model of the subsidiarity-based relation of the authorities to other communities lacking such a strong institutional identity and structures, and “accustomed” the authorities to the horizontal and partner-like relation with these communities as integral collective members of society. In its turn, this relation strengthened the democratic mechanisms and increased the potential of civic power. On the other hand, the agreements made an impact on the Church itself – not only by granting it legal protection, but also by transforming the mentality of the clergy. The involvement of religious communities in the network of formalised interactions did not threaten the uniqueness of the Church, but blocked its claims to exceptionality in those cases when its institutions acted in the customary field of social-economic relations rather than the sacral sphere. Gradually the Church began to understand that it was necessary to observe the rules of acting in the environment of the secular State established by bilateral acts. This contributed to the modernisation of Catholics by rejecting clericalism and the persistent feudal habits to manage affairs, e.g., by playing on the respect for the clerical robe shown by officials or employees rather than by legal means.

Some religious communities and commentators were indignant at the fact that by these agreements, the Catholic Church acquired a special status, which could be a precondition for the discrimination of other confessions. In response, the episcopate stressed that it would not object to the granting of identical guarantees to all denominations according to the model of these agreements and would even welcome it. However, officials refused to discuss the way of agreement with the heads of other communities pointing out that only the Catholic Church was a subject of international law. Unofficially it meant that the State did not intend to create a precedent opening the prospect of negotiating the status of the Lithuanian Eastern Orthodox Archdiocese with the Moscow Patriarchate, to which it was subordinate. Such an approach has been the cause of the Church condition in Russia and the Patriarchate dependence on Kremlin’s political leadership. On the other hand, many statements found in the agreements *mutatis mutandis* came into force with regard to other denominations, as while revising the legal acts to make them compatible with the agreements, the State referred to traditional religious communities¹⁰² in general rather than the Catholic Church. The Government even more meticulously observes the equal treatment of traditional religious communities after the model of the status of the Catholic Church in the field of business activities.

Being international and thus not easily subjected to revisions, the agreements made a positive influence on ensuring the stability of legal acts regulating the most sensitive

¹⁰² By the ‘Law on Religious Communities and Associations’ from 4 October 1995, *The state recognises nine traditional religious communities and associations existing in Lithuania, which comprise a part of the historical, spiritual and social heritage of Lithuania: Roman Catholic, Greek Catholic, Evangelical Lutheran, Evangelical Reformed, Russian Orthodox, Old Believer, Judaistic, Sunni Muslim and Karaite*, see *Parliamentary record*, No. 4, 1 April 1996.

internal issues. In democracies, the laws regulating social causes often tend to be revised according to the political conjuncture. The political system of Lithuania also lacked functioning according to stable rules and the experience of long-term balance of interest groups. Therefore, the implementation of clear agreements, which did not depend on temporary interests, in one segment of society accustomed the political elite to respect the continuity of the established conventions with regard to various communities, organisations and social groups. Thus, the influence of the agreements between the Church and the State far exceeded the sphere of their direct application and had the potential power of positive transformation of the political community.

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