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**Comparison of the Concordat Treaties of
Czechoslovakia, respectively the Czech
Republic, and Austria from 1918 up to the
present**

Bachelor Thesis

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I declare that I prepared the bachelor thesis independently and used only the sources and literature mentioned.

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Introduction

The world as we know it today can be divided into approximately 200 countries. Although 200 is not a large number, the word 'approximately' is needed here because, from the point of view of international law, it is important that each state is recognised internationally by other states, which some states are not. The largest international organization, the United Nations (UN), recognizes 206 states, and of these, 193¹ are members of that organization.² Recognition of a state in public international law is a unilateral legal act whereby contemporary states accept a newly created state and recognize it as a sovereign and equal counterpart with which they intend to establish a stable international legal relationship from a sovereignty perspective. Subjects of international law, typically states, can conclude international treaties. In addition to states, international governmental organizations, the International Committee of the Red Cross, the Knights of Malta and the Holy See are also special subjects of public international law. For the sake of completeness, it is appropriate to name also insurgent movements as subjects of international law,³ but there is no unanimous opinion in this case. According to the restrictive interpretation of the law, individuals cannot be subjects of international law; in terms of current doctrine, there is a tendency to include them among the subjects of public international law, which is justified by the rights and obligations arising from international treaties for individuals by direct effect.

The paragraph above implies the State of the Vatican City, as a State, as a subject of international law, but at the same time the Holy See, as a special political entity, is also considered a subject of international law. For the purposes of this thesis, it is useful to mention both terms at the outset and to specify them so that it is clear that both subjects enter into international treaties with other states.⁴ František X. Halas deals with both subjects in detail.⁵ The term concordat, or more specifically concordat treaty, appears in the title of the work. In a broader sense, the term concordat can be defined as any international treaty concluded

¹ United Nations. Member States. *un.org* [online]. 2024 [viewed 5 March 2024]. Available from: <https://www.un.org/en/about-us/member-states>.

² In terms of this thesis, it is important to emphasize that the Vatican City State (*Lo Stato della Città del Vaticano*) is one of the internationally recognised states, but is not a member of the United Nations.

³ DAVID, Vladislav, SLADKÝ, Pavel, ZBOŘIL, František. *Mezinárodní právo veřejné s kazuistikou*. Praha: Leges, 2008, pp. 134–135.

⁴ E.g. https://www.vatican.va/roman_curia/secretariat_state/archivio/documents/rc_seg-st_20091217_santa-sede-ue_it.html

⁵ HALAS, František X. *Fenomén Vatikán: idea, dějiny a současnost papežství, diplomacie Svätého stolce, České země a Vatikán*. Brno: Centrum pro studium demokracie a kultury, 2004, pp. 25–73.

between the Holy See and another state. In a narrower sense, it is a single comprehensive treaty that describes all areas of common interest. Concordat treaties can be classified, namely, into holistic (universal) and partial treaties,⁶ or general and special treaties.⁷ The division is made according to the content of the treaty, whether the treaty regulates the relations between its subjects comprehensively or deals with only one or more areas.⁸ A very comprehensive systematization of concordat treaties can be found in Damian Němec's work, where he divides treaties according to their content, form of conclusion, and form of elaboration.⁹

With regard to the focus of the thesis, the author will refer from legal sources to the Concordat of 1855 between the Holy See and the Austrian Empire on the Catholic Church in Austria, which was formally denounced by Emperor Franz Joseph I in 1870, the Concordat of 1933, which regulates the relationship between Church and State in Austria¹⁰ and the *Modus vivendi* of 1928 concluded between the Holy See and Czechoslovakia.¹¹ Author of this thesis will also refer to the Code of Canon Law of 1917¹² and the Code of Canon Law of 1983.¹³ Among the publications, the thesis will be based on the research of Ronald Němec,¹⁴ Roman

⁶ HRDINA, Antonín. *Kanonické právo: dějiny pramenů, teorie, platné právo*. Plzeň: Aleš Čeněk, Plzeň, 2011, pp. 324–325.

⁷ VALEŠ, Václav. *Konfesní právo: průvodce studiem*. Plzeň: Aleš Čeněk, p. 230.

⁸ GAZÁREK, Jakub. *Vývoj konkordátního práva id roku 1964 do současnosti*, Praha, 2014, Master's thesis. Charles University, Faculty of Law. Thesis supervisor Jiří Rajmund Tretera, p. 9.

⁹ NĚMEC, Damián. *Konkordátní smlouvy Svatého stolce s poskomunistickými zeměmi (1990-2008)*, Bratislava: Ústav pre vzťahy štátu a cirkví, 2010, pp. 19–25.

¹⁰ The Dollfuss Concordat with Secret Supplement, 1933. Available from: <https://www.concordatwatch.eu/the-dollfuss-concordat-with-secret-supplement-1933-text--t1811>.

¹¹ This is the first treaty concluded between the Holy See and Czechoslovakia after the official restoration of diplomatic relations between Czechoslovakia and the Holy See established by a letter dated 23 October 1919.

¹² *Codex Iuris Canonici*, 1917 CIC.

¹³ *Codex Iuris Canonici*, 1938 CIC.

¹⁴ NĚMEC, Ronald. Vztah kanonického práva a práva České republiky. *Bulletin advokacie* [online]. 29 March 2017 [viewed 5 March 2024]. Available from: http://www.bulletin-advokacie.cz/vztah-kanonického-prava-a-prava-ceske-republiky?fbclid=IwAR1wQxUdHDjU7mkEHEAyegWOeWQ398B_1EVWHQ96jPpuWBKR-l6zrIIOuXE.

Dokoupil,¹⁵ Jiří Koníček,¹⁶ Damián Němec,¹⁷ Radek Němec,¹⁸ Eva Zavadilová¹⁹ and others. The current state of research then shifts the focus to the historical development and current state of the Czech Republic²⁰ and the Republic of Austria²¹ in relation to the Holy See in the form of their mutual international treaties. The choice of these two countries is not accidental; they are two neighbouring countries that shared a history together until 1918. They are roughly the same size, have similar populations, are both parliamentary republics, have very similar cultural practices, and have a similar direction in foreign diplomacy.²² Despite many similarities, Austria and the Czech Republic have a different relationship with the Holy See. While Austria has concordat treaties,²³ the Czech Republic had only a *Modus vivendi* with the Holy See between 1928 and 1990.²⁴ One of the hypothesized reasons for this state of affairs is the hypothesis that this difference between the countries being compared was achieved by the long-lasting communist regime in the territory of today's Czech Republic,²⁵ which prevented the establishment of a concordat treaty on the *Modus vivendi*, as it was a strongly anti-Church style of government, the equivalent of which did not exist in the territory of today's Austria. Supporting this hypothesis is the fact that, more than thirty years after the fall

¹⁵ DOKOUPIL, Roman. *Modus vivendi s Československem v komparaci s nejvýznamnějšími konkordáty s německy hovořícími zeměmi v meziválečném období*. Olomouc, 2009, Master's thesis. Palacký University Olomouc, Faculty of Law. Thesis supervisor Damián Němec.

¹⁶ KONÍČEK, Jiří. *Modus vivendi v historii vztahů Svatého stolce a Československa*. 2nd ed. Olomouc: Matice cyrilometodějská, 2005, pp. 308.

¹⁷ NĚMEC, Damián. *Konkordátní smlouvy svatého stolce s postkomunistickými zeměmi (1990-2008)*. Bratislava: Ústav pre vzťahy štátu a cirkví, 2010, pp. 543.

¹⁸ NĚMEC, Radek. *Vztah Československa a Apoštolského stolce v období mezi dvěma světovými válkami*. Olomouc, 2010, Master's thesis. Palacký University Olomouc, Sts Cyril and Methodius Faculty of Theology. Thesis supervisor Damián Němec.

¹⁹ ZAVADILOVÁ, Eva. *Modus vivendi ve vztazích mezi Československem a katolickou církví do roku 1949*. Olomouc, 2013, Master's thesis. Palacký University Olomouc, Sts Cyril and Methodius Faculty of Theology. Thesis supervisor Damián Němec.

²⁰ And previous legal forms: the Czechoslovak Republic (1918-1938), the Czecho-Slovak Republic (1938-1939), the Protectorate of Bohemia and Moravia (1939-1945), the Czechoslovak Republic (1945-1948 and 1948-1960), the Czechoslovak Socialist Republic (1960-1990) and the Czech and Slovak Federal Republic (1990-1992).

²¹ And previous legal forms: the Republic of Austria (1919-1934), the Federal State of Austria (1934-1938), part of the Third Reich (1938-1945) and the Occupation Zone (1945-1955).

²² Both countries are members of the United Nations, the Council of Europe, the European Union and the Schengen area. Austria, unlike the Czech Republic, is not part of NATO due to the declaration of neutrality in 1955, but Austria also cooperates with NATO. See also: North Atlantic Treaty. Relations with Austria. *nato.int* [online]. 22 May 2022 [viewed 5 March 2024]. Available from: https://www.nato.int/cps/en/natohq/topics_48901.htm.

²³ Accordi bilaterali viginti della Santa Sede. *iuscangreg.it* [online]. [viewed 1 April 2024]. Available from: https://www.iuscangreg.it/accordi_santa_sede.php.

²⁴ TRETERA, Jiří Rajmund, HORÁK, Záboj. *Konfesní právo*. Praha: Leges, 2015, p. 368.

²⁵ The communist regime cannot be considered the only reason for the absence of a concordat, given that all the Central European states of the former socialist camp had already concluded concordat agreements. However, according to the author of the thesis, this is an important aspect of diplomatic relations with the Holy See, which the history of Austria lacks.

of the communist regime, a government statement promised to conclude a full-fledged concordat between the Holy See and the Czech Republic. Thus, the author of thesis will also focus on this declaration to see whether concrete steps towards a concordat are underway or whether it remained just a declaration. The work itself is not a comprehensive list of all events that have happened from 1918 to the present, but only lists specific situations that the author considers relevant to the topic of the work.

1. Relations between the Holy See and Austria

The establishment of the First Austrian Republic in 1919 and the First Czechoslovak Republic in 1918, as newly created state formations after the dissolution of Austria-Hungary, separates the common history of these two state formations. And also their common relationship with the Holy See under concordat law. For the newly formed Czechoslovak Republic, this meant taking the initiative in foreign diplomacy, since within the Austro-Hungarian Empire foreign policy was directed by rulers and politicians from Vienna, i.e. from the Austrian part of the monarchy. The history of Austria, or Austria-Hungary, in relation to the Church includes a period of strong antagonism, even secularisation, but also a period of close links between ecclesiastical and secular power. An example of the ongoing changes in relations with the Church can be seen in 1870, just three years after the establishment of Austria-Hungary, when the Austrian side denounced the concordat with the Holy See after the proclamation of papal infallibility. At this time, the state apparatus had anti-Church tendencies and tried to regulate the Church's power by creating 4 new laws, namely:

1. The Act on Relations between the State and the Catholic Church.²⁶
2. The Act on the transfer of patronage rights to religious funds.²⁷
3. The Act on the Legal Recognition of Religious Societies.²⁸
4. The Act on the Legal Status of Religious Communities.

²⁶ Act no. 50/1874 on the External Relations of the Catholic Church. Available from: https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAlt&Bgblnummer=50%2f1874&SkipToDocumentPage=True&BisKundmachungsdatum=09.11.1920&ResultFunctionToken=da8f89ea-452a-4698-bf49-5833f9040e07&Dokumentnummer=rgb1874_0050_00101. This law guaranteed the state power a great influence on the functioning of the Church. It provided the legal basis for the appointment and dismissal of church leaders, the appointment of state agents in the church, the control of the management of church property by the state, and the need for the consent of the ministry to the establishment of orders and monasteries. NĚMEC, Damián. *Mezinárodní smlouvy mezi Apoštolským stolcem a Polskem, Rakouskem a Československem v období mezi dvěma válkami*. In: KOUČKÁ, Ivana, PAPAŽÍK, David (ed.). *Politický katolicismus v nástupnických státech Rakousko-uherské monarchie v letech 1918-1938*. Olomouc: Palacký University, 2001, pp. 49–50 or SCHWENDENWEIN, Hugo. *Österreichisches Staatskirchenrecht*. Beiheft 6 zum Münsterischen Kommentar zum CODEX IURIS CANONICI, herausgegeben von Klaus Lüdicke, Essen: Ludgerus Verlag, Auflage, 1992, pp. 38-39.

²⁷ Act no. 51/1874 on contributions to the religious fund. Available from: https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAlt&Bgblnummer=51%2f1874&SkipToDocumentPage=True&BisKundmachungsdatum=09.11.1920&ResultFunctionToken=8b073d0f-5dc8-469f-9959-08389da35a14&Dokumentnummer=rgb1874_0051_00111+.

²⁸ Act no. 68/1874 on the Legal Recognition of Religious Societies. Available from: https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAlt&Bgblnummer=68%2f1874&SkipToDocumentPage=True&BisKundmachungsdatum=09.11.1920&ResultFunctionToken=0682a60f-2a3e-4feb-bd23-3de6854c6948&Dokumentnummer=rgb1874_0068_00151.

Of these 4 laws, only the first three were finally passed in 1874. With these May Laws the Church was placed under strong state supervision. In August 1879, Count Edward Taaffe became Prime Minister until 1893, and his government adopted a more moderate approach to the churches, thus leading to a renewed rapprochement between church and secular power. In the context of international law, relations with the Holy See deteriorated in 1903, when Austria-Hungary exercised its right of reservation against the election of Cardinal Rampolla as Pope in a conclave.²⁹ This state of affairs, however, cannot be considered long-lasting.

It should be remembered that the Austro-Hungarian monarchy based its political legitimacy on the symbolic traditionalism and affinity of the Habsburg monarchy with the Catholic Church,³⁰ which was presented in practice by the participation of Emperor Franz Joseph I in Catholic ceremonies. This was reflected in the very good relations between Austria-Hungary and the Holy See and in diplomacy. For example, the last Austro-Hungarian ambassador to the Holy See was the Czech-Austrian nobleman Johann Prince Schönburg-Hartenstein, who contributed to the warmth of diplomatic relations before and during World War I.³¹ The last nuncio to Austria-Hungary was Teodoro Valfrè di Bonzo.

1.1 Relations between Austria and the Holy See in the years 1918-1938

After the collapse of Austria-Hungary, the question was how the Holy See would treat the newly created successor states. On the one hand, there was the close coexistence of Church and State, on the other hand, the less than ideal diplomatic relations with Austria. The Holy See reacted very quickly; on 31 October 1918 the dissolution of Austria-Hungary took place and already on 8 November, about a week later, the Secretary of State Pietro Gasparri received a letter from Pope Benedict XV asking for the recognition of the successor states of Austria-Hungary. This led to their *de facto* recognition by the Holy See and the establishment of diplomatic relations between the Holy See and these countries, followed by a gradual *de iure* recognition.³²

²⁹ ENGEL-JANOSI, Friedrich. *Österreich-Ungarn und der Vatikan während des Pontifikats Pius X. und der Wahl Benedikts XV.* Mitteilungen des Österreichischen Staatsarchivs, 5, 1952, p. 295.

³⁰ ŠMÍD, Marek. *Vatikán a Československo ve 20. století.* Prague: Stanislav Juhaňák – Triton, 2022, p. 35.

³¹ SQUICCIARINI, Donato. *Die Apostolischen Nuntien in Wien.* 2nd ed. Vaticano: Libreria Editrice Vaticana, 2000, pp. 293–294.

³² NĚMEC, Damián. *Mezinárodní smlouvy mezi Apoštolským stolcem a Polskem, Rakouskem a Československem v období mezi dvěma válkami...*, pp. 50–51.

The author of this thesis considers the choice of the Ambassador of the Republic of Austria to the Holy See to be very prudent. Ludwig von Pastor was appointed in 1921. Pastor was by then already one of the most prominent Roman Catholic historians, whose expertise won him permission from Pope Leo XIII to access the Vatican Library, including the secret Vatican archives, the first time any scholar had been able to draw on these sources. The pastor conducted his research and published outputs focusing on the pontificates of not only Leo XIII, but also Pius X, Benedict XV and Pius XI. Thus, from the selection of a well-known and appreciated historian and diplomat in the Vatican, the author concludes the Austrian Republic's efforts to have the best possible diplomatic relations with the Holy See. Which is a marked improvement over the cold diplomatic relations between the Holy See and Austria-Hungary. As early as 1929, there had been intense discussions about concluding a concordat between Austria and the Holy See. A common consensus on the wording of the treaty was reached on 5 June 1933, and the Concordat entered into force on 1 May 1934.³³ The greatest change brought about by this treaty was the re-cognition of the civil effects of marriages contracted under canon law.³⁴ Much of the Concordat was incorporated into the Austrian Constitution,³⁵ the source of the highest legal force in the state. At the end of the Concordat are two secret amendments,³⁶ negotiated by the Secretary of State, Cardinal Eugenio Pacelli. Eugenio Pacelli, the future Pope Pius XII, a very experienced diplomat, who concluded several concordats on behalf of the Holy See, and in this one, as in others, he inserted the commitment to accept the 1917 Code of Canon Law with Austria, which he himself had been involved in drafting. This further strengthened the Holy See's influence, since the adoption of the Code gave it, for example, a decisive say in matters of Church policy and doctrine.³⁷ Of the types of concordat treaties mentioned in the introduction to this thesis, this is the main comprehensive concordat, which has been supplemented over the years by successive sub-treaties. On the same day, the Austrian constitution defined Austria as a "*federal state*", officially the Federal State of Austria, thus ending the Republic of Austria.

³³ KOLÁŘ, Petr. Postavení církví ve vybraných zemích Evropy. *psp.cz* [online]. September 2000 [viewed 9 March 2024], p. 41. Available from: <https://www.psp.cz/sqw/text/orig2.sqw?idd=20845&pdf=1>.

³⁴ The Dollfuss Concordat with Secret Supplement, 1933..., Art. 7.

³⁵ Art. 30 § 4, The Austrian Constitution of 1934.

³⁶ The Dollfuss Concordat with Secret Supplement, 1933...

³⁷ BELL, Edward. Catholicism and Democracy: A Reconsideration. *Journal of Religion and Society* [online], 2008, 10 [viewed 10 March 2024], p. 14. Available from: <https://dspace2.creighton.edu/xmlui/bitstream/handle/10504/64352/2008-5.pdf?sequence=1&isAllowed=y>.

The relationship between church and state in Austria changed after the collapse of the Austro-Hungarian Empire. There were better relations, especially thanks to Article 15 of the Basic Law on the General Rights of State Citizens of 1867,³⁸ which was declared a constitutional law in 1920.³⁹ However, the Church was still subject to state supervision.⁴⁰ Moreover, after 1929, diplomatic relations with the Holy See deepened, and this rapprochement resulted in the new Concordat. This has a significant impact on everyday life in Austria, both in the good relations between the independent Church and the state, and in education, where religious instruction in state schools is compulsory for all baptized Catholic children.⁴¹ In addition, in contrast to the earlier dominance of the Roman Catholic Church in the educational system, any church or religious community could organize religious instruction in public schools.⁴²

1.2 Relations between Austria and the Holy See in the years 1938-1945

A new chapter of Austria began to be written after the referendum on the *Anschluss* (annexation) of Austria to the then Nazi Germany on 10 April 1938.⁴³ Although the result was clear, 99.73 % voted for annexation, it was a closed vote under duress, where so-called "enemies of the state", such as communists, socialists, Gypsies and Jews, were deprived of the right to vote.⁴⁴ From the point of view of the Catholic Church, there were different recommendations regarding the vote. While Cardinal Theodor Innitzer, after being intimidated and attacked by Nazi supporters,⁴⁵ was forced to issue a statement urging Catholics to vote for annexation, the Holy See's primary focus was on the fact that voting to annex Germany meant joining and supporting Nazi ideology. For this reason, the Holy See issued a statement opposing

³⁸ "Every church and religious society recognized by law shall have the right to practice religion jointly and publicly, to organize and administer its internal affairs and its powers, and to hold and use constitutions, foundations, and funds for the purposes of religion, instruction, and charity; but it shall, like every society, be subject to the general laws of the state." Article 15, Basic Law on the General Rights of Citizens of the State No. 142, 21 December 1867.

³⁹ Article 149(1) of the Austrian Federal Constitution (i.e. Federal Constitutional Law BGBL. Nr. 1/1920).

⁴⁰ Act no. 50/1874 on the External Relations of the Catholic Church. Available from: https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAlt&Bgblnummer=50%2f1874&SkipToDocumentPage=T rue&BisKundmachungdatum=09.11.1920&ResultFunctionToken=da8f89ea-452a-4698-bf49-5833f9040e07&Dokumentnummer=rgb1874_0050_00101

⁴¹ The Dollfuss Concordat with Secret Supplement, 1933..., Art. 6.

⁴² HAMMER, Stefan, FRANCK, Johannes. Religion in Public Education – Austria. In: ROBBERS, Gerhard (ed.). *Religion in Public Education – La religion dans l'éducation publique*. Trier: European Consortium for Church and State Research, 2011, pp. 46–47.

⁴³ NOHLEN, Dieter, STÖVER, Philip. *Elections in Europe: A data handbook*. Baden-Baden: Nomos, 2010, p. 176.

⁴⁴ NOHLEN, Dieter, STÖVER, Philip. *Elections in Europe: A data handbook*. Baden-Baden: Nomos, 2010, p. 38.

⁴⁵ KRIEGER, Walter. *Kardinal Dr. Theodor Innitzer und der Nationalsozialismus*. *pastoral.at* [online]. [viewed 19 March 2024], pp. 7–8. Available from: https://www.pastoral.at/dl/MtlKJKJKLKKMnJqx4KJK/Theodor_Innitzer_und_der_Nationalsozialismus_pdf.

Nazism and, in logical response, forbade Catholics to vote for the annexation of Austria to Germany in a referendum.⁴⁶ Moreover, the Holy See already had practical experience with Nazi Germany. In 1933,⁴⁷ Cardinal Eugenio Pacelli, who had also negotiated a concordat with the Republic of Austria, signed the so-called Reich Concordat with German Vice-Chancellor Franz von Papen. The agreement worked on the basis of not limiting the influence or challenging the church by the state, and German Catholics would not engage politically in return. Historically, this concordat is controversial as it is seen as facilitating Adolf Hitler's path to power. However, there are also opinions that the signing of the Concordat prevented even more bloodshed.⁴⁸ Shortly after its signing, however, violations of the Concordat occurred, whether through the promulgation of the sterilization law, the banning of Catholic newspapers and magazines, or the inheritance of the state in the functioning of charities and the direction or abolition of Catholic voluntary organizations.⁴⁹ Although Cardinal Pacelli sent many complaints to the German government, especially about the liquidation of Catholic organizations and the confiscation of their property, the German government defended these actions. The Holy See's fears proved to be unfounded, and after Austria's annexation to Germany, the Nazis continued their activities in Austria, where confiscation of church property, dissolution of Catholic organizations, and sending priests to concentration camps took place. Existing church revenues have been significantly reduced.⁵⁰ The implementation in Austria was overseen by the notorious senior Austrian SS officer Odilo Globocnik. After the annexation of Austria to the German Reich on 12 July 1938, the Austrian Concordat was declared defunct,^[4] without extending the Reich Concordat to Austria.⁵¹

⁴⁶ PHAYER, John Michael. *The Catholic Church and the Holocaust, 1930–1965*. Bloomington and Indianapolis: Indiana University Press, 2000, p. 22.

⁴⁷ *The Reichskonkordat* ("Concordat between the Holy See and the German Reich"), 20 July 1933.

⁴⁸ See also: EVANS, Richard, J. *The Third Reich at War: How the Nazis Led Germany from Conquest to Disaster*. London: Penguin, 2008, pp. 245–246. SHIRER, William, L. *20th Century Journey. A Native's Return, 1945-1988*. Little Brown & Co, 1990, pp. 234–235. GILL, Anton. *An Honourable Defeat: A History of the German Resistance to Hitler*. London: Heinemann, 1994, p. 57. O'SHEA, Paul. *A Cross Too Heavy: Eugenio Pacelli, Politics and the Jews of Europe 1917-1943*. Kenthurst: Rosenberg Publishing, 2008, pp. 234–235.

⁴⁹ KERSHAW, Ian. *Hitler: 1836-1945*. Prague: Argo, 2004, p. 199.

⁵⁰ SCHWENDENWEIN, Hugo. *Österreichisches Staatskirchenrecht, Beiheft 6 zum Münsterischen Kommentar zum CODEX IURIS CANONICI*. Essen: Ludgerus Verlag, Auflage, 1992, p. 47.

⁵¹ REES, Wilhelm. *Österreichisches konkordat*. *staatslexikon-online.de* [online]. [viewed 1 April 2024]. Available from: https://www.staatslexikon-online.de/Lexikon/%C3%96sterreichisches_Konkordat.

1.3 Relations between Austria and the Holy See in the years 1945-1955

The Second World War in Europe ended on 8 May 1945 with the surrender of Germany, but by this time it was no longer a state allied with Austria, as Austria declared independence from Nazi Germany on 27 April 1945.⁵² Immediately after the end of the Second World War, Austria and its capital Vienna were divided into four occupation zones by the USA, the USSR, Great Britain and France. However, this was not a consequence of treating Austria as a defeated state, as the Allied powers agreed⁵³ that Austria was the first victim of Nazi aggression, not a direct accomplice. Thus, after the war, Austria was treated as a liberated and independent country.

During this period, Austria was primarily dealing with national issues, including the difficult co-existence of 4 zones on Austrian territory. The presence of the Soviets was particularly problematic, especially their efforts to fill important political positions with people sympathetic to them, and also because of criminal activities committed by Soviet soldiers.⁵⁴ The Soviets also began confiscating and removing property and industrial facilities from Austria, which the Americans opposed.⁵⁵ Austrian historian Günter Bischof even claims that the so-called Cold War between the US and the USSR began in Austria in the spring of 1946,⁵⁶ a year before the global outbreak, precisely because of the heated situation in Austria. Also the Holy See was not diplomatically active, and therefore it can be said that the period from 1945 to 1955⁵⁷ did not bring any changes in the concordat or any improvement or deterioration in diplomatic relations between the two sides.

1.4 Relations between Austria and the Holy See in the years from 1955 up to the present

The Austrian State Treaty dealt with the sovereignty of the Austrian state, but also with the end of the wartime occupation by the Allied armies. Along with independence, diplomatic

⁵² Germany recognized Austria's independence in the Berlin Declaration, coinciding with its surrender.

⁵³ Third Moscow Conference, 18 October to 1 November 1943, Moscow.

⁵⁴ BERG, Matthew Paul. Caught between Iwan and the Weihnachtsmann: Occupation, the Marshall Plan and Austrian Identity. In: BISCHOF, Günter (eds.). *The Marshall Plan in Austria*. New Brunswick: Transaction Publishers, 2000, pp. 161–162.

⁵⁵ The issue of church property seized in the Soviet zone was dealt with by a partial property concordat agreement of 1960, which the author of thesis mentions in the following subsection.

⁵⁶ BISCHOF, Günter. Allied Plans and Policies for the Occupation of Austria, 1938–1955. In: STEININGER, Rolf (ed.). *Austria in the Twentieth Century*. New Brunswick: Transaction Publishers, 2009, p. 177.

⁵⁷ Until 15 May 1955, when the Austrian State Treaty was signed, restoring Austria as a sovereign state.

relations with the Holy See improved. One of the areas addressed in Austria after 1945 was the question of the validity of the Concordat of 1934. That is, whether a new Concordat was needed or whether the Concordat of 1934 was still valid. The final decision was that since the Concordat was never denounced by either party, it is still valid for the present Austrian state. However, there have been changes in national law. While the Concordat was originally applied as a constitutional law in 1934, after 1955 it no longer had the force of law and was stripped of its constitutional character.⁵⁸ After 1955, the Concordat Amendments were also added, which remain in the *Enchiridion dei Concordati* to these days. First of all, there is the property treaty of 1960,⁵⁹ obliging the Republic of Austria to pay an agreed amount to the Catholic Church, on an annual basis, and seven Supplementary agreements, which increased the amount.⁶⁰ Other additions after 1955 include the treaties on educational matters of 1962 and 1972,⁶¹ both of which deal with the regulation of matters relating to school regulations. There have also been agreements between the Holy See and the Republic of Austria in the area of ecclesiastical administration, which regulate certain legal and financial aspects related to this establishment. Specifically, the supplement on the establishment of the apostolic administration of Burgenland,⁶² the establishment of the apostolic administration of Innsbruck-Feldkirch⁶³ and the subsequent supplement on the establishment of the diocese of Feldkirch,⁶⁴ thus creating 2 separate dioceses, namely Innsbruck and Feldkirch.

⁵⁸ SCHWENDENWEIN, Hugo. Aplikace kanonických předpisů v oblasti rakouského státního práva. *Revue církevního práva* [online], 1999, 14(3) [viewed 10 March 2024]. Available from: <http://spspc.prf.cuni.cz/14/schwen.htm>.

⁵⁹ Agreement between the Holy See and the Republic of Austria on the adjustment of property relations of 23 June 1960. AAS 52 (1960) 933-945.

⁶⁰ Supplementary Agreement between the Holy See and the Republic of Austria of 29 September 1969, AAS 62 (1970) 163-164. Second Supplementary Agreement between the Holy See and the Republic of Austria of 9 January 1976, AAS 68 (1976) 422-424. Third Supplementary Agreement between the Holy See and the Republic of Austria of 24 July 1981, AAS 74 (1982) 272-274. Fourth Supplementary Agreement between the Holy See and the Republic of Austria of 10 October 1989, AAS 82 (1990) 230-232. Fifth Supplementary Agreement between the Holy See and the Republic of Austria of 21 December 1995, AAS 90 (1998) 95-97. Sixth Supplementary Agreement between the Holy See and the Republic of Austria of 5 March 2009, AAS 101 (2009) 937-938. Seventh Supplementary Agreement between the Holy See and the Republic of Austria of 12 October 2020, AAS 113 (2021) 305-307.

⁶¹ Agreement between the Holy See and the Republic of Austria on the regulation of matters relating to school regulations of 9 July 1962, AAS 54 (1962) 641-652. Supplementary Agreement between the Holy See and the Republic of Austria of 8 March 1971, AAS 64 (1972) 478-481.

⁶² Agreement between the Holy See and the Republic of Austria on the Establishment of the Apostolic Administration of Burgenland in the Diocese of 23 June 1960, AAS 113 (2021) 305-307.

⁶³ Agreement between the Holy See and the Republic of Austria on the Establishment of the Apostolic Administration of Innsbruck-Feldkirch in the Diocese of 7 July 1964, AAS 56 (1964) 740-743.

⁶⁴ Agreement between the Holy See and the Republic of Austria on the Establishment of the Diocese of Feldkirch of 7 October 1968, AAS 60 (1968) 782-78.

After the Second World War, the Catholic Church had a number of problems, especially in terms of personnel, which resulted from the detached attitude of the Austrians towards the Church, which the Holy See actively tried to solve. Vienna was the most problematic. In January 1985, Cardinal Agostino Casaroli literally wrote: *"The main problem remains Vienna" and "Vienna needs a bishop who can nourish the flame and it in the hearts of the people."*⁶⁵ Thus, more attention was focused on these activities than on any changes in concordat law. Also after 1955, Austria was within the geopolitical division in the so-called Western Bloc, which meant that there was no communist regime on Austrian territory or close state cooperation with the USSR. This greatly influenced the foreign relations of each state with the Holy See. This also made the relations between Austria and the Holy See after World War II visually shorter in this thesis, as there were no significant diplomatic changes, unlike Czechoslovakia, which was just part of the Eastern Bloc.

⁶⁵ ZIEGLER, Jess. Pope Benedict in Austria. *catholicculture.org* [online]. [viewed 1 April 2024]. Available from: <https://www.catholicculture.org/culture/library/view.cfm?recnum=8785>.

2. Relations between the Holy See and the Czech Republic

This chapter will chart the development of relations between the Czech Republic, and the previous state formations on the territory of the present-day Czech Republic, and the Holy See since 1918. Again, this year is deliberately chosen due to the collapse of Austria-Hungary and the need to create its own foreign policy and international treaties. While diplomacy in the newly established 1st Austrian Republic built on the diplomatic relations from Austria-Hungary and good mutual relations, the opposite was true in the 1st Czechoslovak Republic. The Czechs were already so radicalized in the last year of the war that the number of demonstrations trying to get the Czech nation out of Vienna's domination increased. Anti-German songs were sung and the police and army intervened.⁶⁶ As the Austro-Hungarian monarchy was strongly linked to the Catholic faith, there was also anti-Catholic radicalisation.⁶⁷ Political leaders were aware of this and Tomáš Garrigue Masaryk 20 June 1918 spoke at the Catholic Convention in Washington about the peaceful separation of state and church.⁶⁸ With the establishment of the First Czechoslovak Republic, relations between the newly established state and the Church were strained, but not peaceful as in the newly established First Austrian Republic.

2.1 Relations between the Czech Republic and the Holy See in the years 1918-1939

The first Czechoslovak Republic was the successor state to Austria-Hungary on the territory of the present-day Czech Republic. It included both Czech and Slovak territory, but for the purposes of this thesis the author will focus only on events in Prague and the territory corresponding to the territory of today's Czech Republic. In this chapter it is important from the point of view of the thesis to map the newly established relations between the state and the Holy See, the national mood towards the Catholic Church and their mutual relations.

The first steps toward establishing diplomacy were taken by the Holy See as early as 8 November 1918, when Pope Benedict XV recognized the legitimacy of successor states.

⁶⁶ ŠMÍD, Marek. *Vatikán a Československo ve 20. století*. Prague: Stanislav Juhaňák – Triton, 2022, p. 81.

⁶⁷ The author of the thesis sees this connection of the Catholic faith with Austria-Hungary in the perception of the Czechs in the demolition of the Marian Column on Old Town Square on 3 November 1918. Although it was a religious column, it was demolished because the Czechs in Prague considered it a symbol of the Habsburg monarchy. A secular symbol.

⁶⁸ ŠMÍD, Marek. *Vatikán a Československo ve 20. století...* p. 53.

Concurrently, he called upon representatives of these states to establish contact through the aforementioned Apostolic Nuncio, Teodoro Valfrè di Bonzo. Valfrè di Bonzo arrived in Czechoslovakia at the end of February 1919 and, on 3 March 1919, met with President Tomáš Garrigue Masaryk.⁶⁹ The focus of their meeting was not only the establishment of diplomatic relations between the Czechoslovak Republic and the Holy See but also current questions of a religious nature, considering the prevailing anti-church sentiments. In late September 1919, the Holy See appointed Clemente Micara as its representative to the Czechoslovak episcopate for religious matters.⁷⁰ This was requested for the unofficial establishment of diplomatic relations between the Holy See and the Czechoslovak Republic, but the official date is on 24 October 1919, when Teodoro Valfrè di Bonzo and Clement Micara met in Prague with Foreign Minister Edvard Beneš. A day later, they presented the President of the Czechoslovak Republic, Tomáš Garrigue Masaryk, with the official recognition of sovereign and independent Czechoslovakia by the Holy See.

Even so, the relations between the Holy See and the Czechoslovak Republic cannot be described as ideal. For example, Clement Micara, the first apostolic nuncio, in his correspondence describes the Prime Minister, Karel Kramář, as an enemy of Catholicism and an enemy of the Church.⁷¹ Also, the occupation of bishop's chairs was preceded by negotiations between Czechoslovakia and the Holy See. Negotiations in 1920 on the appointment of the bishop of České Budějovice took place for a year. However, the author would also like to mention one very positive case. In January 1921, Antonín Cyril Stojan was appointed Archbishop of Olomouc by consensus. He and his successor, Leopold Prečan, were very popular and had a positive influence on the perception of the Catholic Church.⁷² Despite these partial positive steps, however, the relationship between the state and the church was still not problem-free. Left-wing politicians were strongly represented in the political representation, and on June 2, 1920, they proposed a radical secularization based on the

⁶⁹ *Acta Apostolicae Sedis. Commentarium officiale* [online]. 1918, X(1), pp. 478–479. Available from: <https://www.vatican.va/archive/aas/documents/AAS-10-1918-ocr.pdf>.

⁷⁰ ŠMÍD, Marek. *Apoštolský nuncius v Praze: Významný faktor v československo-vatikánských vztazích v letech 1920-1950*. Brno: Centrum pro studium demokracie a kultury, 2015, p. 41.

⁷¹ ŠMÍD, Marek. *Apoštolský nuncius v Praze...* p. 442.

⁷² AMBROS, Pavel. *Antonín Cyril Stojan. Apoštol všeobecného kněžství*. Olomouc: Refugium Velehrad-Roma, 2021. Or JÓNOVÁ, Jitka. *Jednání o obsazení arcibiskupského stolce v Olomouci po rezignaci arcibiskupa Lva kardinála Skrbenského z Hříště z pohledu Svatého stolce*. *Studia Theologica*, 2013 15(3), pp. 129–149.

French model.⁷³ However, the Holy See advocated a much more conciliatory separation of the North American model. After strong opposition to the proposal by the deputies, the Parliament did not deal with the proposal itself.

Due to the strained relations between the state and the Church, respectively the Holy See, in 1924 the papal nuncio Francesco Marmaggi began to work on an international treaty in the form of a *modus vivendi*. The latter was understood as a transitional form to the future concordat. But it was already necessary to adjust the influence of the state on the occupation of bishop's chairs, the comparison of the borders of dioceses with the borders of the new state, the sequestration of church property, the question of church education or the status of theological faculties and many others.⁷⁴ However, the following year, in 1925, came probably the biggest crisis in the relations between Czechoslovakia and the Holy See. In response to the pastoral letter of the Slovak bishops,⁷⁵ the Czechoslovak government amended the national holidays.⁷⁶ And introduced new national holidays⁷⁷ and mainly canceled some church ones.⁷⁸ It was the addition of the Jan Hus holiday to the national holidays and the official government participation in the celebrations of this holiday in 1925 that the Holy See saw as a hostile step and recalled the apostolic nuncio from Prague. National Socialist MPs called this appeal an attack on the president and the Czechoslovak Republic and demanded a complete break in diplomatic relations.⁷⁹ Historian Emília Hrabovec even states that even President Tomáš Garrigue Masaryk tried to disrupt diplomatic relations with the aim of achieving a sharp religious rift with the Catholic Church.⁸⁰

Since 1926, anti-Catholic behavior on the part of state representatives can be seen to be limited, on the Jan Hus Day that year the president did not make a speech, and no significant figure in political life officially took part in the celebration. In addition, Hus was depicted from

⁷³ Archives of the Chamber of Deputies of the Parliament of the Czech Republic. Fund *Stejnoprotokoly a tisky Národního shromáždění Republiky československé 1918-1938*. Jednání poslanecké sněmovny 2. června 1920.

⁷⁴ SUCHÁNEK, Drahomír. *Modus Vivendi*. *Revue církevního práva*, 2002, 23 (3), pp. 208–211.

⁷⁵ HRABOVEC, Emília. *Slovensko a Svätá stolica 1918-1927 vo svetle vatikánskych prameňov*. Bratislava: Univerzita Jana Amose Komenského, 2012, p. 74.

⁷⁶ Act no. 65/1925, on Holidays and Memorial Days of the Czechoslovak Republic, as amended on 5 May 1945.

⁷⁷ Sv. Václava, sv. Cyrila a Metoděje, Jana Husa.

⁷⁸ Neposkvrněné početí Panny Marie, Božího těla, sv. Petra a Pavla.

⁷⁹ Archives of the Chamber of Deputies of the Parliament of the Czech Republic. Fund *Národní shromáždění 1920-1939*, parlamentní tisk č. 5.259 (I. volební období).

⁸⁰ HRABOVEC, Emília. *Slovensko a Svätá stolica 1918-1927 vo svetle vatikánskych prameňov*. Bratislava: Univerzita Jana Amose Komenského, 2012, p. 74.

a historical and spiritual point of view, not as a pretext for anti-Catholic attitudes.⁸¹ However, the attitude of the Holy See did not change, which the author of the work attributes mainly to his poor insight into Czechoslovakian realities.⁸² This too was signed during the debates on *modus vivendi*, when the representatives of the Czechoslovak Republic did not agree to the final compromise until 31 January 1928, and the Holy See on 2 February 1928. *Modus vivendi*, in its full name *Modus vivendi inter Sanctam Sedem et Rempublicam Cecoslovacam*, thus addressed only the most current problems and was therefore narrower in content than the concordat. Although it was not a concordat treaty, but rather a treaty on a future treaty,⁸³ the signing was considered a success from the Czechoslovak point of view. The country thus achieved maximum sovereignty, both in internal and foreign policy.⁸⁴

2.1.1 Modus vivendi

The temporary treaty between the Czechoslovak Republic and the Holy See contained only 6 points and dealt with the relationship between the state and the Holy See, the administration of church property, religious orders, the appointment of archbishops, bishops and other prelates.⁸⁵ The official language was French.⁸⁶

After the signing of the *Modus vivendi*, the crisis in the relationship between the Czechoslovak Republic and the Holy See comes to an end. A visible sign was the participation of President Masaryk, Prime Minister Udržal and members of the National Committee at the St. Wenceslas Millennium celebrations.⁸⁷ The President gave a peaceful speech, but after fulfilling his duty as a statesman, he left Prague as a demonstration of his personal attitude towards the Catholic Church.⁸⁸ Overall, however, relations improved and until 1937⁸⁹ focused on the implementation of *Modus vivendi*. However, the agreement on the transfer of the

⁸¹ AAV, fond Apoštolská nunciatura v Československu, bust 53, fascicle 454, f. 184, Arata Gasparri 6.7.1926.

⁸² Similarly, see DEJMEK, Jindřich. Československo-vatikánská jednání o *modus vivendi* 1927-1928. *The Czech Historical Review*, 1994, 92 (2), p. 270.

⁸³ *Pactum de contrahendo*.

⁸⁴ NĚMEC, Damián. *Mezinárodní smlouvy mezi Apoštolským stolcem...*, p. 63.

⁸⁵ KAPLAN Karel, JANIŠOVÁ, Milena (eds.). *Katolická církev a pozemková reforma 1945-1948. Dokumentace*. Brno: Doplněk, 1995, pp. 410–411.

⁸⁶ HALAS, František X. *Fenomén Vatikán: idea, dějiny a současnost papežství, diplomacie Svatého stolce, České země a Vatikán*. Brno: Centrum pro studium demokracie a kultury, 2004, p. 554.

⁸⁷ HAJDINOVÁ, Eva. Patron české země svatý Václav. In: HÁJKOVÁ, Dagmar (ed.). *Sláva republice! Oficiální svátky a oslavy v meziválečném Československu*. Praha: Academia, 2018, p. 369.

⁸⁸ *Ibid.*, p. 371.

⁸⁹ On 6 September 1937, the ecclesiastical division of the dioceses was published in the *Acta Apostolicae Sedis*.

property was already reached on 14 May 1935.⁹⁰ The fact that the Holy See and the Czechoslovak Republic had to focus on their own problems could also play a role in this. At the Holy See it was the so-called Kordač affair from the summer of 1931. Pope Pius XI. quite surprisingly, he accepted the resignation of the almost 80-year-old Archbishop of Prague, František Kordač. However, the real reason for this abdication was disputes with the apostolic nuncio Pietro Ciriaci, which was also communicated by František Kordač.⁹¹ This was enough for the public, especially the Czech Socialist and German Christian parties, to attack the Catholic Church. On the contrary, Czechoslovak representatives had to deal with strong national tensions in 1935, especially with regard to minorities. On these issues, the good relations between the Holy See and Czechoslovakia can be presented again, because in not a single case did they express themselves critically towards each other.

However, the international situation also began to interfere with the relationship between the Holy See and Czechoslovakia. After the Anschluss of Austria, Czechoslovakia came to the fore of the Holy See's interest.⁹² He followed closely the events in Czechoslovakia thanks to the reports of the secretary of the apostolic nunciature, Guisepp Burzio. The religious and priests in the border region subscribed to the ideology of Nazism, which was a negative surprise for the Holy See. During the cession of the border territories of Czechoslovakia to Germany, the Holy See stood on the side of Czechoslovakia. The Czechoslovak ambassador Vladimír Radimský nevertheless criticized the Holy See for not opposing the anti-state activities of some clergy. Pope Pius XI was also watching the situation, and on the opening day of the Munich Conference⁹³ he delivered a speech in which one of the few foreign supports for Czechoslovakia was heard.⁹⁴ Even after the end of the Munich Conference, the Holy See considered the resulting act, i.e. the Munich Agreement, to be invalid. Also, the relations between the Holy See and Czechoslovakia dealt with personnel changes of clergy in the ceded territories. The political representation was about maintaining good relations with the Holy See even after the change of government on 5 October 1938. While relations with the Holy See were good, Slovaks became dissatisfied with national politics. Therefore, on 22 November

⁹⁰ ŠMÍD, Vatikán a Československo..., p. 162.

⁹¹ HEJRET, Jan. U arcibiskupa dr. Kordače. *Národní politika*, 17.7.1931, 49, p. 3. Available from: <http://kramerius.nkp.cz/kramerius/handle/ABA001/11106073>.

⁹² ŠMÍD, Marek. *Vatikán a Československo...*, p. 205.

⁹³ 29 September 1938.

⁹⁴ HRABOVEC, Emília. Pio XI e la Cristi di Monaco. *Archivum Historiae Pontificae*, 2019, 53, p. 174.

1938, the Act on the Autonomy of Slovakia was approved, and the name of the state changed from "Czechoslovak Republic" to "Czecho-Slovak Republic". Catholic priest Jozef Tiso became the Prime Minister of Slovakia. In response to the question of how the Holy See will react to this, State Secretary Eugenio Pacelli said that *"The Holy Father cannot do anything but note that priest Tiso has accepted the office of Prime Minister and Minister of the Interior."*⁹⁵ However, the Holy See received the information about the election of Emil Háchy Czecho-Slovak president. The conservative Catholic president and the Christian program of the Czech government served to deepen good relations. However, this state establishment lasted only until 15 March 1939.

2.2 Relations between the Protectorate of Bohemia and Moravia and the Holy See in the years 1939-1945

In 1939, a situation again occurred when relations between the Czech lands and the Holy See were affected by the intervention of a foreign power. It was Germany that occupied Bohemia and Moravia on 15 March 1939, and the following day, 16 March 1939, declared the protectorate of Bohemia and Moravia on this territory.⁹⁶ And also, again with the intervention of Germany, the diplomatic relations between the Holy See and Czechoslovakia were interrupted. In March 1939, the Czechoslovak envoy Vladimír Radimský ended his work at the Holy See. In the same year, the Germans expelled the apostolic nuncio Saverio Ritter from Prague.⁹⁷ Between 1939 and 1942, the nunciature in Prague was managed by the secretary of the nunciature, Raffaele Forni. He commuted to Prague several times a month from Berlin. However, in 1942 the Germans prevented him from traveling to Prague and in 1945 the nunciature was abolished by Germans.⁹⁸ Germany also had good relations with Slovakia, which was pushing for independence. It became independent on 14 March 1939 as the Slovak State. It was also recognized by the Holy See on 25 March 1939.⁹⁹

⁹⁵ AA, EE. SS. Fond Československo, IV. Period, fascicle 198, f.11 Mglione to Pacelli 7.11.1938.

⁹⁶ Protektorat Böhmen und Mähren.

⁹⁷ NĚMEČEK, Jan. *Soumrak a úsvit Československé diplomacie*. Praha: Academia, 2008, p. 248.

⁹⁸ KUKÁNOVÁ, Zlataše. *Od tolerance k nepřátelství. Diplomatické vztahy Československa s Vatikánem v letech 1945-1950. Semper paratus*, 2014, 3, p. 53.

⁹⁹ PETRUF, Pavol. *Zahraničná politika Slovenskej republiky 1939-1945*. Bratislava: Historický ústav SAV, 2011, p. 178.

On the contrary, anti-Nazi resistance was more noticeable in the territory of Bohemia and Moravia. Just as the Holy See opposed Nazi ideas in Austria¹⁰⁰ and considered them invalid during the Munich era, so did the Catholic Church in the protectorate. Priests issued false baptismal certificates, helped the persecuted with collections of clothing and food, hid them in parishes and distributed illegal printed materials. The Nazi leadership knew about these moves and thus acted hostilely against the Church. Already at the end of 1939, the first wave of mass arrests of priests took place. Church representatives, however, continued their anti-Nazi activities. The effort to persecute the church continued until the end of II. world war, i.e. until 1945. The greatest enemy of the protectorate was the church during the so-called Heydrichiads.¹⁰¹

However, even this did not stop church activities. For example, the Dominican Jiří Maria Veselý helped several thousand members of the government army to emigrate to Italy at the beginning of 1944. Apostolic Nuncio Saverio Ritter was also involved in the success of the event. The Holy See also steadfastly refused to appoint bishops proposed by the Germans in the territory of the protectorate. He argued for the formal independence of the protectorate, i.e. that the territories of Bohemia and Moravia are not part of the Third Reich. However, Nazi Germany considered this territory *de iure*¹⁰² and *de facto*¹⁰³ its own. This dispute was followed by the exiled president Edvard Beneš, who appreciated this defiance of the Holy See against the Nazi regime.¹⁰⁴ This delaying tactic lasted until the end of World War II. Only then were proper bishops appointed. The České Budějovice diocese was thus "*temporarily*" managed for five years by the vicar of the chapter, Jan Cais.¹⁰⁵

Meanwhile, the government-in-exile sought to establish diplomatic relations with the Holy See. President Edvard Beneš was active in this, who as foreign minister participated in the negotiation of *Modu vivendi*. He tried to establish the first contact already at the end of 1940, when he requested an official visit to the London apostolic nuncio William Godfrey. However, this was rejected, as was Beneš's offer to establish confidential diplomatic relations in January

¹⁰⁰ PHAYER, John Michael. *The Catholic Church and the Holocaust, 1930–1965*. Bloomington and Indianapolis: Indiana University Press. 2000, p. 22.

¹⁰¹ See also: AMORT, Čestmír. *Heydrichiáda*. Praha: Naše vojsko, 1965, pp. 319.

¹⁰² According to the law.

¹⁰³ In Fact.

¹⁰⁴ ŠEBEK, Jaroslav. Papežská politika a české země 1938-1945. *Revue pro teologii a duchovní život*, 2008, 18 (3), p. 28.

¹⁰⁵ BLET, Pierre. *Pius XII. a druhá světová válka ve světle vatikánských archivů*. Olomouc: Matice cyrilometodějská, 2001, p. 115.

1941.¹⁰⁶ Beneš repeatedly tried to establish diplomatic relations in June 1941, May 1943 and September 1943.¹⁰⁷ However, there was not a single positive response from the Holy See. The Holy See showed greater friendliness until the end of the war, when in September 1944 it requested a visit from the head of the government-in-exile, Jan Šrámek. Here, however, the Holy See was rejected for the first time, which was asked to answer the memoranda from 1941 and 1943.¹⁰⁸ The situation did not improve even in 1945, when the Holy See wanted to restore diplomatic relations through the Apostolic Nuncio Saverio Ritter, who would return to Prague, but The Czechoslovak side refused to renew Ritter's original mission.¹⁰⁹

2.3 Relations between Czechoslovakia and the Holy See in the years 1945-1960

The tense situation between the state and the church before 1945, manifested from the point of view of the illegal regime¹¹⁰ by the illegal activities of church representatives and the persecution of church dignitaries by the Nazi regime, indicates that there was no possibility or effort to improve relations between the state and the Holy See, i.e. not even the negotiation of a concordat treaty. However, the situation at the end of II. world war in 1945 did not improve, on the contrary, the time period of this sub-chapter, specifically 1949-1960, is referred to as a period of open persecution of religions and churches. In addition to the torture and execution of Catholics and church leaders, there was condemnation and internment for a total of 42,763 years.¹¹¹

Right after the end of the Second World War, however, one can see the Holy See's efforts to establish diplomatic relations, the chargé d'affaires of the Holy See Raffaele Forni traveled to Prague immediately in September 1945. This can be interpreted as the will of the Holy See to continue diplomatic relations. From 1945 to 1948, the third Czechoslovak Republic existed on our territory. As part of its operation, it was strongly influenced by foreign actors, especially in foreign policy, as in the period II. world war. While Nazi Germany had a strong influence on this territory during the Second World War, from 1945 there was a strong

¹⁰⁶ MACHULA, Jaromír. *Vatikán a Československo (1938-1948)*. Praha: Ústav pro soudobé dějiny AV ČR, 1998, p. 63.

¹⁰⁷ Ibid.

¹⁰⁸ ŠMÍD, Marek. *Vatikán a Československo...*, p. 242.

¹⁰⁹ NĚMEČEK, Jan. *Úsvit a soumrak československé diplomacie*. Praha: Academia, 2008, p. 254.

¹¹⁰ Not from the perspective of democratic law or canon law.

¹¹¹ SKALICKÝ, Karel. *Církev v Evropě, Evropa v církvi. Teologický vhled do dějin Evropy prismaticem svobody a revoluce*. Svitavy: Trinitas, 2019, p. 265.

influence of the communist Soviet Union. The origin of this influence can be traced back to 1943. The Treaty on Friendship, Mutual Assistance and Postwar Cooperation between Czechoslovakia and the Union of Soviet Socialist Republics signed on 12 December 1943 between the Czechoslovak government-in-exile and the Soviet Union became the legal basis.¹¹² According to the author of the thesis, this strongly anti-German treaty contained, in particular, points on military cooperation with the Soviet Union, the nationalization of the Czechoslovak military industry and the reorganization of banks. And also, the author of the work believes that the signing of this treaty was one of the variables that determined the political direction of the country until 1989, i.e. for 46 long years after the signing of the Treaty of Friendship. The Czechoslovak Republic was oriented towards the East, not the West. In July 1947, after Stalin's intervention, she did not participate in the Marshall Plan. An alliance treaty with France was also not implemented due to the rejection of Benes' concept of a bridge between East and West.

The Soviet influence also manifested itself in the relationship with the Holy See and the Church. The prestige of the Vatican legation was reduced from nunciature to internunciator. There was a Czechoslovak envoy to the Holy See, but only until 1948. The new draft of the Education Act¹¹³ suppressed religious freedom and education, and the state demanded a monopoly in education. This was not the only, but significant reason why relations between the state and the Holy See were considerably strained. Here, the Holy See correctly assessed the current diplomatic situation, which it may have expected to worsen. And that is why he very soon began to deal with the occupation of episcopal chairs. This changed the situation drastically, as he moved from obstructionist negotiations during the Second World War to a rapid proactive occupation policy. On this occasion, important episcopal personalities were appointed, such as Josef Beran (Archbishop of Prague) or Štěpán Trochta (Bishop of Litoměřice). Together with them, the bishop of České Budějovice, Josef Hlouch, and the archbishop of Olomouc, Josef Karel Matocha, were appointed.¹¹⁴ All this led to the communist

¹¹² Smlouva o přátelství, vzájemné pomoci a poválečné spolupráci mezi Československou republikou a Svazem sovětských socialistických republik z 12. prosince 1943. In: GRÓNSKÝ, Ján. *Komentované dokumenty k ústavním dějinám Československa I. (1918–1945)*. Praha: Karolinum, 2005, pp. 450–453.

¹¹³ Act no. 95/1948, on the Basic Regulation of Unified Education (Education Act), as amended on 1 September 1948.

¹¹⁴ It is interesting that both, Josef Hlouch and Josef Karel Matocha (and later František Tomášek), were teachers at the theological faculty in Olomouc.

coup in 1948, which the author of the thesis considers to be a very prudent action of the Holy See from the point of view of history.

The combination of weak Catholic political representation and the growing influence of the Communist Party, which had been preparing to take over political power since 1945,¹¹⁵ together with a fragmented opposition, created the conditions for the transition from the already severely limited so-called people's democracy to a totalitarian regime. While the Holy See acted cautiously, the Czech church representation greatly underestimated this threat, according to the author of the paper. Prague Archbishop Josef Beran, who was trying to find a diplomatic solution with the communist regime, assured Pope Pius XII as early as February 1947 on the observance of religious freedom in Czechoslovakia.¹¹⁶ Already at the end of 1947, however, it became clear that this was a bad prognosis. And when Archbishop Beran wrote a pastoral letter on 24 February 1948 against totalitarian behavior *Don't be silent, Archbishop, you must not be silent!*, his call against the lawlessness and political persecution of the Church was sounded too late and thus remained without effect.¹¹⁷

However, February 1948 did not have much of an effect on diplomatic relations, as these relations had already been at a bad level since 1946, as was written above. There were still contentious issues regarding the school law, confiscated property, and the state's efforts to control church administration. An amendment to the modus vivendi, which would have resolved the disputed points, did not work either.¹¹⁸ The author of the thesis here agrees with the assumption of Marek Šmíd, who claims that the Czechoslovak representative at the Holy See was commissioned to monitor, comment and report in detail on the activities of the Holy See because the Czechoslovak communists were also looking for a pretext for a diplomatic rift with the Holy See.¹¹⁹ After all, this would fit into the narrative of behavior in the other allied countries of the USSR. The communist regime never legally cut ties with the Holy See, rather it resigned to maintaining them.¹²⁰

The domestic situation in relation to the Church was also quite hostile. And not only in Czechoslovakia, but in the entire bloc of Central and Eastern Europe, where the USSR had

¹¹⁵ KAREL, Kaplan. *Pět kapitol o únoru*. Praha: Doplněk, 1997, p. 11.

¹¹⁶ ŠMÍD, Marek. *Vatikán a Československo...*, p. 286.

¹¹⁷ KAPLAN. *Stát a církev v Československu 1948-1953*, pp.22-24.

¹¹⁸ ŠMÍD, Marek. *Vatikán a Československo...*, p. 288.

¹¹⁹ ŠMÍD, Marek. *Vatikán a Československo...*, p. 295.

¹²⁰ PEHR, Michal. Slovenský diplomat Ilja Rath v československých službách u Svatého stolce. *Historický časopis: vedecký časopis o dejinách Slovenska a strednej Európy*, 2017, 65(2), p. 341.

influence. The communist regime saw the church as political competition that needed to be destroyed. In the spring of 1949, there was the internment of archbishops and bishops¹²¹ and the establishment of *hnutí pokrokových katolíků* (The Movement of progressive Catholics), which was supposed to be a new partner for the state instead of the Holy See in matters of religion. Pastoral letters and circulars were subject to state approval, church gatherings had to be reported and authorized by the State Office for Church Affairs,¹²² based on a law from October 1949.¹²³ The most significant intervention in church self-government, from the author's point of view, is the need for state approval to perform clerical service.¹²⁴ Those who did not behave in accordance with the vision of the communists had their consent withdrawn. In this way, the state apparatus effectively controlled the official life of the church. On 14 October 1949, the state approved other anti-church laws, which, among other things, regulated the relationship between the state and the church and effectively terminated the *modus vivendi*.¹²⁵ Despite all this, however, the communists failed to achieve their goal, i.e. the creation of a church dependent on the state, not Rome.¹²⁶ And that also thanks to an exception from canon law, which was called the so-called *Mexican faculties*.¹²⁷ The Church secretly educated in theology, consecrated bishops and priests, celebrated masses not authorized by the state, baptized, confirmed and more.¹²⁸

2.3.1 The Church as an enemy of the state

Although relations between the church and Nazi officials were strained, the communist regime came up with a deliberate strategy of violence as part of its goal of liquidating the Catholic Church. Apart from coercion under threats of violence, physical liquidation or negative effects on loved ones, he led several anti-Church actions. Among the largest is "Action K", which in two waves in 1950 liquidated 144 religious houses, 1,164 religious were transferred to centralizing monasteries and 76 to internment. In total, however, the action affected 219

¹²¹ Forced to cut off contact with the outside world.

¹²² KAPLAN, Karel. *Nekrvavá revoluce*. Praha: Mladá fronta, 1993, p. 206.

¹²³ Act no. 217/1949, establishing the State Office for Ecclesiastical Affairs, as amended on 17.10.1949.

¹²⁴ CUHRA, Jaroslav. KSČ, stát a římskokatolická církev (1948-1989). *Soudobé dějiny*, 2001, 8(2-3), p. 275.

¹²⁵ PŘIBYL, Stanislav. Vládní návrh mezi ČR a Svatým stolcem. In: LOUŽEK, Marek (eds.). *Vztah církvi a státu*. Praha: Centrum pro ekonomiku a politiku 2004, p. 64.

¹²⁶ BALÍK, Stanislav, HANUŠ, Jiří. *Katolická církev v Československu, 1945-1989*. Brno: Centrum pro studium demokracie a kultury, 2013, pp. 26–33.

¹²⁷ VYBÍRALOVÁ, Eva. Mimořádné fakulty v Československu v letech 1948-1989. *Revue církevního práva*, 2019, 75 (2), pp. 43–62. Or VYBÍRALOVÁ, Eva. Pokroky v bádání o papežských mimořádných fakultách. K dějinám církve ve střední a jihovýchodní Evropě. *Revue církevního práva*, 2021, 84 (3), pp. 29–45.

¹²⁸ VYBÍRALOVÁ, Eva. Mimořádné fakulty v Československu v letech 1948-1989...pp.43-62.

religious houses with approximately 2,500 religious. In subsequent politically manipulated trials, 360 religious were convicted with a total of 2,108 years in prison.¹²⁹ This was followed by "Action Ř", also in two waves, which aimed to eliminate women's religious orders. As part of it, 4,262 religious sisters were transferred to concentration centers. It was to be followed by "Action B", which was to liquidate all women's monasteries and religious orders. However, it was stopped in July 1953, a few days before the start. The communist regime realized that if implemented, there would be a collapse of the economy, as the nuns performed educational, charitable and hospital vocations and there were no substitutes for them.¹³⁰ Vojtěch Vlček deals with this topic in great detail, including a comparison with other countries of the Eastern bloc.¹³¹

However, the persecution of the church did not only take place through widespread actions, but also against individuals. The most famous victim of communist brutality is the Číhošť parish priest Josef Toufar. He was martyred on 25 February 1950.¹³² As part of the subsequent monster trial, other church officials were indicted, Abbots Vít Bohumil Tajovský and Augustin Machalka, the Provincial of the Jesuits František Šilhan and the editors-in-chief of the magazine *Katolík* Adolf Kajpr and the revue *Na hlubinu* Silvestr Maria Braitó. Again, this rigged process worked against the Vatican and the West.¹³³ Another monster trial was the accusation of Olomouc auxiliary bishop Stanislav Zela, Jan Anastáz Opasek, Josef Čihák and 6 other "accomplices" who were found guilty as Vatican agents.¹³⁴ Especially in the 1950s, however, there were several trials against Catholic representatives.¹³⁵ In the period 1949-1960, at least 56 Catholics were martyred or executed.¹³⁶

¹²⁹ KAPLAN, Karel. *Nekrvavá revoluce*. Praha: Mladá fronta, 1993, p. 206.

¹³⁰ ŠMÍD, Marek. *Vatikán a Československo...*, p. 303.

¹³¹ VLČEK, Vojtěch. *Perzekuce mužských řeholí komunistickým režimem 1948-1964. V českých zemích a v kontextu jejího vývoje v zemích sovětského bloku*. Ostrava: Ostravská univerzita, 2023, pp. 556.

¹³² See also: DOLEŽAL, Miloš. *Jako bychom dnes zemřít měli: drama života, kněžství a mučednické smrti číhošťského faráře P. Josefa Toufara*. Pelhřimov: Nová tiskárna Pelhřimov, 2012, pp. 446.

¹³³ ŠABO, Martin. *Perzekucia katolíkov a zvlast reholníkov v komunistickom Československu s prihladením na vtedajšie právo*. In: JAKUBČIN, Pavol (eds.). *Likvidácia reholí a ich život v ilegalite v rokoch 1950-1989: zborník z vedeckej konferencie Bratislava 5.-6. mája 2010*. Bratislava: Ústav pamäti národa, 2010, p. 26.

¹³⁴ VAŠKO, Václav. *Dům na skále. 2, Církev bojující: 1950 – květen 1960*. Kostelní Vydří: Karmelitánské nakladatelství, 2007, p. 271.

¹³⁵ He lists them e.g. ŠMÍD, Marek. *Vatikán a Československo...*, pp. 319-326.

¹³⁶ Of these, 2 canons, 26 priests, 13 religious, 2 nuns and 13 laics.

2.4 Relations between Czechoslovakia and the Holy See in the years 1960-1989

After the election of the new Pope John XXIII there is a change in the foreign policy of the Holy See towards the countries of the Eastern Bloc, the so-called *Ostpolitik*. It can be seen as a paradigm shift. The Holy See once again tried to find a way out of the current situation so that the countries in the Eastern bloc would not be isolated. Instead of condemning the communist regime, the Holy See thus focused on sub-questions related to spiritual life, e.g. the filling of episcopal chairs, recognition of the competences of the Holy See, pastoral activities, etc. The Holy See, thanks to a more moderate foreign policy, also in 1962, during the so-called Cuban crisis, served as a mediator in negotiations between the USA and the USSR. A certain indication of better relations may be compliance with the request of the Holy See that at II. At the Vatican Council held in 1960-1965, at least one bishop could arrive to represent Czechoslovakia. All publicly consecrated bishops received the invitation. A twelve-member delegation arrived from Czechoslovakia for the first session of the council, including three bishops František Tomášek, Ambróz Lazík and Eduard Nécsey. The rest of the delegation formed an entourage whose task was to obtain information and influence the bishops. However, some of them completely discredited themselves by their actions.¹³⁷ Despite the permission to go to the council, the communist regime tried not to implement the conclusion of the council in practice, because it was afraid that the appeal of the reforms would bring more citizens to the churches.¹³⁸

The relationship between the Holy See and Czechoslovakia was greatly helped by the diplomatic relations between the Holy See and the Soviet Union. Soviet Union wanted to use this opportunity to promote communism, which is why Czechoslovakia also received permission to conduct negotiations with the Holy See.¹³⁹ The Holy See made a proposal for a dialogue on mutual relations in 1962.¹⁴⁰ However, it was only an effort on the part of Czechoslovakia to gain foreign prestige, not a real effort to get closer to the Holy See. This was also reflected in the style of negotiations of the Czechoslovak side, which tried to drag out the negotiations and did not consider these negotiations to be a priority. For Czechoslovakia, the

¹³⁷ BALÍK, Stanislav, HANUŠ, Jiří et al. *Letnice dvacátého století*. Brno: Centrum pro studium demokracie a kultury, 2012, pp. 54–57.

¹³⁸ CUHRA, Jaroslav. *KSČ, stát a římskokatolická církev (1948-1989) ...*, p. 278.

¹³⁹ ŠMÍD, Marek. *Vatikán a Československo...*, p. 341.

¹⁴⁰ HALAS, František X. *Fenomén Vatikán: idea, dějiny a současnost papežství, diplomacie Svatého stolce, České země a Vatikán*. 2nd edition. Brno: Centrum pro studium demokracie a kultury, 2013, pp. 425–427.

main thing was to resolve the position of Archbishop Josef Beran. In addition, the urgency of the solution was increased by the intended creation by the cardinal. The Czechoslovak party preferred his seclusion and the Holy See proposed a transfer to Rome.¹⁴¹ This actually happened, thanks to the active action of both parties involved and to the great disappointment of Josef Beran, who took it as a great personal sacrifice for the good relations of Czechoslovakia and the Holy See. A tangible result of better relations was also the release of the bishops from the Zela case, i.e. Stanislav Zela, Ladislav Hlad and Ján Vojtáššák from prison to internment. However, where the Czechoslovak side was unwilling to negotiate or make concessions, the negotiations between the Holy See and Czechoslovakia did not progress. It was mainly about the occupation of bishop's chairs.

The so-called "*Prague Spring*" at the beginning of 1968 was a great opportunity to improve diplomatic relations. Helpful steps were also taken by the Communist Party, for example the return of 3 persecuted bishops to their dioceses. This encouraged the hope of the faithful, and František Tomášek and Ambroz Lazík were full of hope during their audience with the Pope. However, the Holy See recommended not to place too much hope in the current situation, and this was also recommended to all Czechoslovak bishops.¹⁴² In addition, the Holy See feared that excessive demands for reforms would lead to the collapse of negotiations or the intervention of Soviet troops.¹⁴³ This passivity of the Holy See is criticized by historians, as there is an assumption that it was during this period that the Holy See could significantly shift diplomacy in its favor. But this potential advantage was lost by passivity of the Holy See.¹⁴⁴ However, the Holy See initiated the negotiations with Czechoslovakia, and it worked on a 2-3 year schedule of negotiations, so even from the state's side it was a planned long-term situation.¹⁴⁵ However, the situation changed very quickly on the night of August 20 to 21 with the invasion of Warsaw Pact troops into Czechoslovakia in order to stop the planned reforms. Pope Paul VI, even with regard to the relations between the Holy See and Czechoslovakia, reacted rather reservedly, but mentioned the parallel with 1938.¹⁴⁶ However, the occupation

¹⁴¹ BALÍK, Stanislav, HANUŠ, Jiří. *Katolická církev v Československu, 1945-1989...* p.42.

¹⁴² PEŠEK, Jan. Rokovania Československa a Svätej stolice v rokoch 1963-1989 a ich slovenské aspekty. In: DOBROTKOVÁ, Marta, KOHÚTOVÁ, Mária (eds.). *Slovensko a Svätá stolica*. Trnava: Trnavská univerzita v Trnave, p. 393.

¹⁴³ CUHRA, Jaroslav. *Československo-vatikánská jednání 1968-1989...*p. 50.

¹⁴⁴ ŠEBEK, Jaroslav. *Papežové moderního věku*. Řitka: Čas, 2015, p. 153.

¹⁴⁵ CUHRA, Jaroslav. *Československo-vatikánská jednání 1968-1989...*p. 50.

¹⁴⁶ ŠMÍD, Marek. *Vatikán a Československo...*, p. 369.

was condemned by the Italian bishops' conference on August 30, and at the end of August by the World Council of Churches.¹⁴⁷ Even in the 1970s, negotiations between the Holy See and Czechoslovakia took place, but after the events of August, the communist regime was quite self-confident and approached the negotiations lazily and purposefully dragged them out. At the same time, it was necessary to address the occupation of bishop's chairs, because only two of the 13 dioceses had residential bishops.¹⁴⁸

In addition, the communist regime continued to persecute church leaders and restrict religious life. All activities beyond the scope of religious activities were a pretext for various manifestations of bullying,¹⁴⁹ which was also reflected in the decreasing number of baptisms, church marriages and funerals, and religious teaching.¹⁵⁰ By coercion and blackmail, he also tried to force the clergy to join the *Sdružení katolických duchovních Pacem in terris* (Association of Catholic Clergy Pacem in Terris), which followed the Peace Movement of the Catholic Clergy already mentioned. This situation suited the state, as it could control religious events in the country through an organization that had no ties to the Holy See.

While August 1968 strengthened the confidence of the Communist Party, October 1978, when John Paul II was elected Pope, greatly strengthened the confidence of the Catholic Church in Czechoslovakia. The new pope from Poland, who was familiar with the conditions of the communist regime of the Czechoslovak communists, was surprised. As part of the meeting of the Presidency on 20 November 1978, they chose a waiting passive position, which will be reactionary to the active steps of the Pope and the Church.¹⁵¹ The only significant controversy was the 1982 decree of the Sacred Congregation for the Clergy, *Quidam episcopi*. The latter banned the *Pacem in terris* movement, which the regime perceived as its pro-regime structure in the church. In these conditions, the influence of not only the Pope, but also Cardinal František Tomášek, who actively took advantage of the situation, grew. He became the most prominent personality of Czech Catholics and was perceived as one of the most important representatives of the resistance to the communist regime. This change was also reflected in

¹⁴⁷ ARV. *Fond Česká sekce Vatikánského rozhlasu*, 29.8.1968.

¹⁴⁸ CUHRA, Jaroslav. *Československo-vatikánská jednání 1968-1989...*p. 94-95.

¹⁴⁹ ŠEBEK, Jaroslav. *Kardinál Tomášek v období normalizace*. Praha: Středisko společných činností AV ČR, 2021, p. 3.

¹⁵⁰ CUHRA, Jaroslav. Nejen ze života církvi. Vznik Sdružení katolického duchovenstva Pacem in terris. *Historický obzor*, 1999, 10 (5-6), pp. 128–131.

¹⁵¹ National Archive. *Fond KSČ – Ústřední výbor 1945-1989*, Praha – předsednictvo 1976-1981, Informační zpráva o současné církevně politické situaci v ČSSR, 20.11.1978.

the negotiations between the Holy See and Czechoslovakia, where, unlike in the 1970s, the state, and not the church, began to make concessions in negotiations.¹⁵² Even in this period, however, the persecution of the church continued, for example in the context of the "Vír" action against the Franciscans. Two Catholic priests working with the secret church were murdered and the reasons remain unclear.¹⁵³

Religion was also prescribed in public life. In 1985, on the occasion of the 1100th anniversary of the death of St. Metoděje presented it on the national pilgrimage to Velehrad. Cardinal Tomášek and the other 22,000 signatories invited the Pope to this pilgrimage. However, the communist regime rejected the Pope's arrival.¹⁵⁴ Even though the communist regime tried to limit the number of participants at the event through various obstructions, intimidation and arrests and presented the pilgrimage itself as a cultural-political peace celebration, communists were surprised by the participation of more than 100,000 pilgrims.¹⁵⁵ He also failed to erase the religious image of the event, as the chanting crowd of believers repeatedly demanded religious freedom and permission to visit John Paul II. in Czechoslovakia.¹⁵⁶ The pilgrimage thus reflected the awakening of the Catholic Church, which Václav Benda also admits in his work published shortly after the pilgrimage.¹⁵⁷

Aware of the growing respect, Archbishop Tomášek sent a letter to Prime Minister Lubomír Štrougal in April 1988, in which he also condemned the violent intervention of the security forces in Bratislava. He also called on the government to dialogue. The already self-confident Tomášek repeated this in January 1989, when he sent a complaint to Prime Minister Ladislav Adamac about the violence committed during the so-called *Palach week*. On 21 November Tomášek supported *the protests against the injustice perpetrated against us for four decades*¹⁵⁸ in response to the violence of 17 November 1989. It was Tomášek's behavior that was unacceptable to the Czechoslovak party, but its request for Tomášek's retirement was rejected by the Holy See.¹⁵⁹ By the end of the year, the Holy See also succeeded in appointing

¹⁵² CUHRA. *Československo-vatikánská jednání 1968-1989*, s. 118-222.

¹⁵³ VLČEK, Vojtěch. Františkáni v ilegalitě i před soudem. Trestní stíhání členů řádu a soudní procesy s nimi v 70. a 80. letech. *Securitas Imperii*, 2017, 30 (1), p. 270.

¹⁵⁴ BENDA, Václav. Znovu křesťanství a politika: jak dál po Velehradě?. In: BENDA, Patrik (ed.). *Noční kádrový dotazník a jiné boje: texty z let 1977-1989*. Praha: Agite/Fra, 2009, pp. 158–220.

¹⁵⁵ Some sources report as much as double the estimate of participants.

¹⁵⁶ ŠEBEK, Jaroslav. *Kardinál Tomášek v období normalizace...*p. 12.

¹⁵⁷ BENDA, Václav. Znovu křesťanství a politika: jak dál po Velehradě?... pp. 158–220.

¹⁵⁸ OPATRŇÝ, Aleš. *Pastýřské listy 1945-2000*. Kostelní Vydří: Karmelitánské nakladatelství, 2003, p. 535.

¹⁵⁹ PEŠEK, Jan. Rokovania Československa a Svätej stolice v rokoch 1963-1989 a ich slovenské aspekty... pp. 406–407.

František Vaňák as Archbishop of Olomouc and Karel Otčenášek as Bishop of Králové Hradek, who took office in 1990.¹⁶⁰

2.5 Relations of Czechoslovakia, or of the Czech Republic and the Holy See in the years from 1990 up to the present

It was the violence of November 1989 that significantly activated the church in public affairs. With the exception of the active František Tomášek, who also met with communist representatives, the theologians from Litoměřice also sent a letter of protest to the Prime Minister of the Czechoslovak Federal Government, Ladislav Adamec. František Tomášek also signed *Všemu lidu Československa* (To all people of Czechoslovakia), thereby visibly siding with the disaffected public. An interesting fact is that Cardinal Tomášek was so popular and respected that some saw him as a suitable candidate for the presidency.¹⁶¹ However, other Catholic representatives were also seen as part of the civic demonstrations, for example Václav Malý, who was also the founder of the *Občanské fórum* (Civic Forum).¹⁶² *L'Osservatore Romano* followed the whole situation and reported on it daily.¹⁶³ Everything culminated in a change of political regime and the period of totalitarianism ended at the end of 1989.¹⁶⁴ This also meant great hope for the spiritual life of the country, since as early as December 1989, crimes related to religion were abolished,¹⁶⁵ and in January 1990, restrictions on the freedom of the church were abolished.¹⁶⁶ Pope John Paul II also congratulated the newly elected president through the archbishop of Prague. and Secretary of State Agostino Casaroli.¹⁶⁷

Diplomatic relations between the Holy See and Czechoslovakia were also re-established, at a very high level. This was seen not only in the Pope's congratulations to President Havel. Immediately in the spring of 1990, the apostolic nuncio for Czechoslovakia, Giovanni Coppa,

¹⁶⁰ CUHRA, Jaroslav. *Československo-vatikánská jednání 1968-1989...*p. 219.

¹⁶¹ OPATRŇ, Aleš. *Kardinál Tomášek a pokoncilní proměna pražské arcidiecéze*. Kostelní Vydří: Karmelitánské nakladatelství, 2002, p. 116.

¹⁶² Ibid.

¹⁶³ Archiv *L'Osservatore Romano*, 19.11.1989 – 26.11.1989.

¹⁶⁴ Formally, however, only in 1990 with the dissolution of the Czechoslovak Socialist Republic and the establishment of the Czech and Slovak Federal Republic.

¹⁶⁵ Act no. 159/1989, amending and supplementing the Criminal Act, the Offences Act and the Criminal Procedure Code, as amended.

¹⁶⁶ Act no. 16/1990, amending Act No. 218/1949 Coll., on the economic security of churches and religious societies by the State, as amended on 23 January 1990.

¹⁶⁷ ŠMÍD, Marek. *Vatikán a Československo...*, p. 425.

was appointed. Since the end of 1990, Czechoslovakia has been represented by church historian František X. Halas.¹⁶⁸ The author sees the visit of Pope John Paul II as the greatest proof of good relations, or the effort to establish them. in Czechoslovakia on 21 April 1990. Although the official delegation of Czechoslovakia invited him for a visit in January, the Pope's travels are planned over a longer time horizon, which is why his arrival immediately after 3 months is unique. Even though the Pope spent only two days here, this visit was of great importance not only for the state, but also for the faithful. In Prague, in the cathedral of St. He met Vit, Wenceslas and Vojtěch with priests and religious, and then celebrated mass on the Letenská plain, where, according to estimates, there were approximately 750,000 believers. The following day, he participated in the national pilgrimage to Velehrad, 5 years after the 1100th anniversary of the death of St. Methodists. While at that time the communist representatives were surprised by the number of participants, which was in the range of more than 100 thousand,¹⁶⁹ according to estimates there were even more than 300,000 on the pilgrimage with the Pope.¹⁷⁰¹⁷¹

Still in a euphoric environment, the issue of concluding a concordat with the Holy See was also brought up, which was also the goal of Copp's diplomatic mission. In order to conclude a concordat, however, two parties are needed who have clarified the relationship between the state and the church. And it was precisely this clarification that was missing immediately after the fall of the communist regime. A positive aspect was the occupation of all bishop's chairs, which was a significant change compared to the Second World War or the communist regime.¹⁷² The Catholic orders in the country were also restored, and Acts No. 298/1990¹⁷³ and No. 338/1991¹⁷⁴ transferred the former church property listed in the appendices of the aforementioned laws back to the Church. The religious in particular had a higher average age due to the communist repression, as the number of new religious and

¹⁶⁸ The thesis's author would like to mention the interesting fact that after his diplomatic mission František X. Halas became an associate professor (2000) and later professor (2006) of history at the Faculty of Theology of Palacký University in Olomouc, the author's *alma mater*.

¹⁶⁹ Some sources report at least 200,000 participants.

¹⁷⁰ ŠMÍD, Marek. *Vatikán a Československo...*, p. 427.

¹⁷¹ Pope John Paul II visited the Czech Republic twice more, in 1995 and 1997.

¹⁷² For example, Vojtěch Cikrle became the Bishop of Brno and the later Cardinal Miloslav Vlk became the Bishop of České Budějovice.

¹⁷³ Act no. 298/1990, on the regulation of certain property relations of religious orders and congregations and the Archbishopric of Olomouc, as amended.

¹⁷⁴ Act no. 338/1991, amending and supplementing Act No. 298/1990 Coll., on the regulation of certain property relations of religious orders and congregations and the Archbishopric of Olomouc, as amended.

priests decreased considerably during the communist totalitarianism. In the case of the restoration of Catholic orders, it was therefore a necessary legal change. And this is where probably the biggest problem arose. The condition of the returned property was catastrophic, moreover, it was only a partial restitution, so the church had no funds for salaries or repairs. The state therefore financed the salaries of the clergy, but at a very low level, approximately between the minimum wage and the salary of a civil servant.¹⁷⁵ Some dioceses had to start renting or selling the returned property because of the unbearable financial burden. Property restitution, or repayments as compensation for property that can no longer be returned, will continue until 2043.¹⁷⁶

2.5.1 The possibility of a concordat treaty after 1989

As the author of the thesis wrote in the chapter above, one of the goals of the diplomatic mission of the apostolic nuncio Giovanni Coppa was the concordat treaty. On the part of the Holy See, one can thus see an effort to close it. In the case of the Czech and Slovak Federative Republics, or the Czech Republic since 1993, where the state establishment is a parliamentary democracy, the parliament in particular must be similarly inclined. In the years 1990 to 1993,¹⁷⁷ state-church relations were primarily concerned with the introduction of religious freedom, the occupation of bishops' chairs, the restoration of religious orders, the restoration of charitable activities, the creation of religious media, partial restitution and others. However, the question arises why even today, almost 35 years after the revolution, the Czech Republic still does not have a concordat agreement with the Holy See. So it is necessary to focus on the key moments from 1993, i.e. the creation of the Czech Republic, until today. Alternatively, try to outline the outlook for the near future. According to the author, the first important factor is the lack of political Catholicism, or the weak Christian faith of the population in general.

While the fall of the communist dictatorship marked an imaginary peak in the number of people professing Christianity, since 1990 the curve of Christians in the country shows a fall. Until 2013, either the Civic Democratic Party (ODS) or the Czech Socially Democratic Party

¹⁷⁵ TRETERA, Rajmund, Jiří. *Stát a církev v České republice*. Kostelní Vydří: Karmelitánské nakladatelství, 2002, p. 53.

¹⁷⁶ Act no. 428/2012, on Property Settlement with Churches and Religious Societies and on Amendments to Certain Acts (Act on Property Settlement with Churches and Religious Societies), as amended.

¹⁷⁷ The Diocese of Plzeň was established in 1993, and the Diocese of Ostrava-Opava in 1996.

(ČSSD) had the decisive say in the parliament. Under the more right-wing ODS government, there was no political will to conduct a debate on the concordat treaty, moreover, the church's financial claims were considered excessive. Under the government of the left party, specifically in 1998, there was a willingness to act, which resulted in the final version of the international treaty with 21 articles in 2002.¹⁷⁸ Both sides recognized their subjectivity, the maintenance of the papal nunciature,¹⁷⁹ the freedom to exercise the apostolic mission,¹⁸⁰ or the recognition of the validity of church marriage at the state level.¹⁸¹ There was also an obligation to settle the property settlement.¹⁸² In May 2003, however, the Chamber of Deputies refused to ratify this treaty, without further explanation to the public or the Holy See.¹⁸³ The author of the thesis believes that the primary reason was a change in the political will of the ČSSD during the change of top representatives. The contract was worked on during the time of Miloš Zeman (ČSSD), who supported the agreement. Subsequently, Vladimír Špidla took office, under whose leadership the coalition was rejected for ratification, but some members of the ČSSD voted against and some for, so the party was not united. The author also believes that Špidla himself either did not understand the issue or was anti-Church-minded, which was reflected in his statement.¹⁸⁴ He was succeeded by Jiří Paroubek, who claimed that the ČSSD was not invited to the beginning of the negotiations and, similarly to the ODS, claimed that the church's financial demands were too high.¹⁸⁵ Despite this, however, diplomatic relations between the Czech Republic and the Holy See are at a good level.

After the non-ratification of the treaty, this topic fell out of the public domain for a long time, although an article on the topic was published in the Journal of Legal Science and Practice in 2007,¹⁸⁶ but it was only a type of annual report with no added value. However, from the

¹⁷⁸ Treaty between the Czech Republic and the Holy See on the regulation of mutual relations. Available from: <http://spcp.prf.cuni.cz/dokument/sml-cr-v.htm>.

¹⁷⁹ *Ibid*, art. 2.

¹⁸⁰ *Ibid*, art. 6.

¹⁸¹ *Ibid*, art. 9.

¹⁸² *Ibid*, art. 17.

¹⁸³ KIRSCHNER, Jan. Odmítnutí smlouvy je neuvěřitelné. *christnet.eu* [online]. 30 July 2003 [viewed 18 March 2024]. Available from: https://www.christnet.eu/clanky/2854/odmitnuti_smlouvy_je_neuveritelne.url.

¹⁸⁴ KAHANEC, Julius, KAHANCOVÁ, Monika. Křesťanství – nepronásledovanější náboženství. *Teologické texty* [online]. 2014, 4 [viewed 18 March 2024]. Available from: <https://www.teologicketexty.cz/casopis/2014-4/Krestanstvi-nejpronasledovanejsi-nabozenstvi.html>.

¹⁸⁵ UHLÍŘ, Jan. Jsem jednoznačně pro kooperativní model. *christnet.eu* [online]. 6 July 2009 [viewed 18 March 2024]. Available from: https://www.christnet.eu/clanky/4236/jsem_jednoznacne_pro_kooperativni_model.url.

¹⁸⁶ ZDENĚK, David. Konkordát pro XXI. století. *Časopis pro právní vědu a praxi* [online]. 2007, 15(3) [viewed 3 April 2024], pp. 222–227. Available from: <https://journals.muni.cz/cvpv/article/view/7153/6522>.

point of view of the state representatives of the Czech Republic, President Miloš Zeman brought up this topic during a meeting with the Pope in 2015.¹⁸⁷ It was he who stood by the effort to conclude the concordat in 2002. The new concordat should also be a topic for the current government, because the government of Petr Fiala promises in its program statement of 6 January 2022 that the government of the Czech Republic will develop a dialogue with the Holy See, will take steps to negotiate a new contractual arrangement of mutual relations and will on its ratification.¹⁸⁸ However, it is questionable whether this agreement will happen in this election period. Therefore, it is necessary to wait until the end of this election period to assess the fulfillment or non-fulfillment of the promise from the January 2022 program statement. From the available information, it is clear that negotiations on a new contract are ongoing, and as of spring 2023, the two sides have exchanged several draft contracts.¹⁸⁹ The Ambassador of the Czech Republic to the Holy See, Václav Kolaja, informed that since the beginning of last November, several rounds of negotiations on the draft text of the new treaty have taken place in Prague, while "*the negotiations are constructive and there is a clear will on both sides to agree on a mutually acceptable text as soon as possible.*"¹⁹⁰ More details however, the information is not, and will not be, known yet. And this is because until the negotiations are over and the contract is signed, all information is under diplomatic embargo – and even then it is not allowed to publish Internal Information about the discussion, because the individual working versions are confidential.

¹⁸⁷ Zeman u papeže otevřel otázku konkordátu i církevních restitucí. *ct24.ceskatelevize.cz* [online]. 24 April 2015 [viewed 18 March 2024]. Available from: <https://ct24.ceskatelevize.cz/domaci/1523132-zeman-u-papeze-otevrel-otazku-konkordatu-i-cirkevnych-restituci>.

¹⁸⁸ Government Programme Statement. *vlada.gov.cz* [online]. 1 March 2023 [viewed 18 March 2024]. Available from: <https://www.vlada.cz/cz/programove-prohlaseni-vlady-193547/>.

¹⁸⁹ GAVRINĚV, Vojtěch. Detaily z utajeného jednání s Vatikánem. Spor o vliv na školy i nemocnice. *seznamzpravy.cz* [online]. 27 February 2024 [viewed 3 April 2024]. Available from: <https://www.seznamzpravy.cz/clanek/domaci-politika-detaily-z-utajeneho-jednani-s-vatikanem-spor-o-vliv-na-skoly-i-nemocnice-246635>.

¹⁹⁰ Velvyslanec ČR při Svatém stolci Kolaja: Jednání o nové smlouvě jsou konstruktivní. *cirkev.cz* [online]. 12 January 2024 [viewed 3 April 2024]. Available from: https://www.cirkev.cz/velvyslanec-cr-pri-svatem-stolci-kolaja-jednani-o-nove-smlouve-jsou-konstruktivni_31762.

3. Comparison

The first and second chapters of this work served to present the development of the relationship between the Holy See and the given state. The work itself is not and cannot be a detailed historical excursion, since a separate publication would have to be written for each past year, and the author does not even have sufficient academic capacity in the history of both countries. However, in each chapter there are events and information that, according to the author, are central to this chapter. The first chapter is logically shorter, because the relations between Austria and the Holy See were much less stormy in the past than the relations between the Czech Republic and Czechoslovakia, respectively, and the Holy See. Which, from the point of view of the topic of this thesis, is actually logical, since it can explain why the situation between the Holy See and Austria is different from the situation between the Czech Republic and the Holy See, although both countries had a common history until 1918, they are in a geographically similar place, and their size and number of inhabitants is approximately the same. For better orientation in this chapter, the histories of both countries are divided into four time periods:

1. From the breakup of Austria-Hungary to II. world wars (1918-1938)
2. II. world war (1939-1945)
3. The period after II. World War II (1946–1992)
4. The period of the democratic Czech Republic (1993-up to present)

3.1 From the breakup of Austria-Hungary to II. world wars (1918-1938)

The first big difference between the two countries can be observed in the disintegration of Austria-Hungary. While the Austrian Republic quite logically continued the policy of Austria-Hungary, where the then ruling Habsburgs were strongly connected to the Catholic Church, the Czechoslovak Republic was not. The position of a "*rebellious child*" can be seen here from the newly formed state. Thanks to the connection between the Habsburgs and the Catholic Church, Czechoslovak citizens saw in the church, and thus also in religion, a symbol of Austrian oppression and domination. In 1924, the Republic of Austria began to negotiate a new concordat, on 5 June 1933, it had a consensus, and on 1 May 1934, the concordat entered into force.¹⁹¹ The Czechoslovak Republic, with its strong anti-Catholic sentiment and anti-Catholic

¹⁹¹ Moreover, thanks to the Secret Amendments, the 1917 Code of Canon Law was also adopted.

politicians, such as Prime Minister Karel Kramář,¹⁹² dealt with a type of separation of state and church, where one of the intended options was a separation according to the French model. These strained relations could not logically lead to the agreement of a concordat treaty. While in the Republic of Austria, negotiations on a concordat treaty began in 1924, in Czechoslovakia, negotiations began only on a temporary treaty solving the issues necessary for a quick agreement, the so-called *Modus vivendi*.¹⁹³ *Modus vivendi* entered into force in 1928, i.e. earlier than the Austrian Concordat, but it continued to be implemented until 1937. Already in the first time period, thanks to the establishment of the Republic of Austria on the relations of Austria-Hungary and the Holy See, a concordat treaty can be found in Austria. On the contrary, Czechoslovakia, thanks to its anti-Catholic behavior, also stemming from the confusion between the church and the Austrian rule, negotiated only a temporary agreement during this time period. However, the Czechoslovak representatives took this as a win, because they understood it as proof of sovereignty.

3.2 II. world war (1939-1945)

While in the first time period of this chapter one can see completely different approaches of individual countries to the Church, and therefore also to the Holy See, in the second described period of this chapter a certain rapprochement occurs again. However, it did not happen based on the will of the political representatives of both countries, but because of the rise of Nazism and the domination of Nazi Germany over both countries. In both countries there was repression against the church. This was manifested, for example, in the banning of Catholic newspapers and magazines, the confiscation of church property, the liquidation of Catholic organizations, or the sending of priests and religious to concentration camps. In the Protectorate of Bohemia and Moravia, the nuncio was also expelled in 1939 and then the nunciature was closed. Although relations with the Holy See were very tense, there was no de facto denunciation of the Austrian Concordat, and Austria thus had a valid Concordat even after the Second World War. This recognition took place in 1955 and several amendments were negotiated, as the author of the work describes in chapter 1.4 of this thesis. In period II. even the *Modus vivendi* was not terminated during World War II, but from the point of view of the

¹⁹² ŠMÍD, Marek. *Apoštolský nuncius v Praze...*, p. 442.

¹⁹³ The occupation of episcopal sees, boundaries, dioceses, Church property and the Church's impact in education.

work, the fact that the Protectorate of Bohemia and Moravia, after 1945 the Czechoslovak Republic, still did not have a valid concordat treaty is significant. The author of the thesis does not consider it possible even in this time period, due to the Nazi domination and the resulting strained diplomatic relations with the Holy See.

3.3 The period after II. World War II (1945–1992)

The third time period covered in this chapter focuses on the period after World War II world war. In it, the direction of the two countries is again significantly different. The signing of the Czechoslovak government-in-exile agreement on cooperation with the USSR in 1943 had a great influence on this. World War II included it in the so-called Eastern Bloc under the strong influence of the USSR, in Austria the USSR had only partial influence in the occupation zone.¹⁹⁴ The influence of the USSR was so strong that the Czechoslovak Republic did not participate in the Marshall Plan in July 1947. And only because of Stalin's intervention. The change from the point of view of the concordat for Austria was the reduction of the legal force of the concordat from constitutional to the legal force of law and a partial agreement on the adjustment of the requirements related to the school regulations from 1962.¹⁹⁵ In contrast, in Czechoslovakia it is a very stormy period. While Austria gained its independence in 1955, Czechoslovakia 35 years later, in 1990.¹⁹⁶ From the end of World War II world war until 1990, the influence of Communism and the USSR manifested itself in relations with the Church, and therefore with the Holy See. For the communist regime, the Catholic Church was a political and ideological enemy that needed to be destroyed, or at least controlled. And for this, the repression against the church was even greater than under Nazi rule. Republic-wide repressive actions were announced against the church as an enemy of the state.¹⁹⁷ State supervision operated over the life of the church, church property was confiscated, diplomatic relations with the Holy See were very bad. Political trials were conducted against Christians, be they priests, religious or laymen, blackmail, intimidation, torture and executions took place. The prestige of the Prague nunciature was reduced to that of an internunciator. The only bright moment between 1945

¹⁹⁴ When the Soviets began confiscating and taking away property and industrial equipment, the US intervened.

¹⁹⁵ Agreement between the Holy See and the Republic of Austria on the regulation of matters relating to school regulations. Available from: <http://spcp.prf.cuni.cz/dokument/rak2.htm>

¹⁹⁶ *De iure*, Czechoslovakia was officially an independent state, but *de facto* it was not. The *de iure* and *de facto* independence did not come about until 1990.

¹⁹⁷ E.g. Action K, Action Ř, and also was planned Action B.

and 1989 was the period of the so-called "Prague Spring" in 1968. Here, the Holy See remained too passive from the author's point of view. Before the invasion of the Warsaw Pact troops in the same year, too short a period of time passed for a concordat treaty to be negotiated, but the author of the work here agrees with historians, especially Jaroslav Šebek, that the given period could have brought an improvement in diplomatic relations and a better position for the church in the country. After the invasion of the Warsaw troops, the self-confidence of the communist regime was strengthened, i.e. in the 1970s there was no longer a possibility to negotiate a concordat treaty, and even though diplomatic relations improved in the 1980s, especially thanks to the election of Pope John Paul II, it was still not a sufficient improvement for negotiation of concordat agreement. The author of the thesis also includes the Czech and Slovak Federal Republics¹⁹⁸ in this time period within the chapter, as it was a period of renewal of relations with the Holy See.¹⁹⁹ Even in this period, the author of the thesis does not see the possibility of negotiating a concordat agreement, and that is why he classifies this period in this paragraph. This third period is characterized by the impossibility of negotiating a concordat treaty for Czechoslovakia, and the agreement of both parties in 1990 that they would not follow the *Modus vivendi* based on the principle of *pacta sunt servanda rebus sic stantibus*.²⁰⁰ In the case of Austria, on the other hand, it was a period when the valid concordat was extended by other concordat agreements, namely a property agreement extended by 7 amendments, 2 agreements on school matters and 3 agreements in the area of church administration. In the Czech Republic, the field of education was included only in an unratified treaty from 2002.

3.4 The period of the democratic Czech Republic (1993 up to the present)

In the fourth splited period, i.e. from the creation of the Czech Republic²⁰¹ to the present, the Czech Republic is already independent, sovereign from the point of view of international law, with a democratic constitution. And it maintains standard diplomatic relations with the Holy See. According to the author of the thesis, these are excellent prerequisites for the agreement and codification of the concordat treaty between the Czech Republic and the Holy See. That

¹⁹⁸ 1990 – 1992.

¹⁹⁹ The return of the nuncio to Prague, the necessity of filling vacant episcopal chairs and other urgent matters.

²⁰⁰ TRETERA, Jiří Rajmund, HORÁK, Zábaj. *Konfesní právo*. Praha: Leges, 2015, p. 368. Tretera, Jiří Rajmund a Zábaj, Horák. *Konfesní právo*. Praha: Leges, 2015. 416 s. ISBN 978-80-7502-118-2, s. 368.

²⁰¹ 1.1.1993.

these are not only the theoretical assumptions of the author of the paper is proven by the effort under the government of Miloš Zeman (ČSSD) to negotiate the wording of the concordat agreement. It was agreed and signed in 2002, but in 2003 its ratification was rejected by the Chamber of Deputies, also thanks to the votes of the ČSSD deputies. Even though the commitment to negotiate a concordat agreement is mentioned in the program statement of the current government from 6 January,²⁰² it is not possible to find the current state of negotiations from publicly accessible sources. At the same time, it is precisely this period after 1993 that has the prerequisites for negotiating a concordat agreement, and from the author's point of view, it is in a way an international shame for the Czech Republic that, more than 30 years after the revolution, it has not and is currently unable to negotiate one.

²⁰² Government Programme Statement. *vlada.gov.cz* [online]. 1 March 2023 [viewed 18 March 2024]. Available from: <https://www.vlada.cz/cz/programove-prohlaseni-vlady-193547/>.

Conclusion

At the beginning of the thesis, it was stated that although Austria and the Czech Republic had a common history until 1918, the current situation in the area of the concordat is different. Austria has had a comprehensive concordat since 1934, which has been supplemented over the years with subsequent sub-treaties. In contrast, the Czech Republic had a legal relationship with the Holy See until 1990 through the *Modus vivendi* between the Holy See and the Czechoslovak Republic from 1928. At the same time, the *Modus vivendi* is not and was not a full-fledged international treaty, only a temporary treaty until a full-fledged concordat treaty is agreed upon. The hypothesis of the current situation was that it is caused by the long-term influence of the communist regime on the territory of the Czech Republic, which prevented the establishment of a concordat agreement on *Modus vivendi*. After writing this thesis, the author believes that the communist regime had a significant influence on the absence of a concordat treaty, but this is only a partial part of the reason. More generally, it can be concluded that the reason was the domestic political situation in general, and the communist regime is one of these domestic political situations.

In an effort to answer this hypothesis, the author mapped important historical moments of both states from the breakup of Austria-Hungary to the present day. Only after the comparison of the two countries in the third chapter is it possible to confirm or refute the hypothesis presented at the end of the thesis. After the analysis, the author of the work concludes that the presented hypothesis was only partially confirmed. For clarity, the author has divided the period between 1918 and the present day into four time periods: From the collapse of Austria-Hungary to World War II. World War II (1918-1938), II. World War (1939-1945), the period after II. World War II (1945–1992) and the period of the democratic Czech Republic (1993–present). In the period after the Second World War, i.e. in the period of great influence of the USSR and the communist regime, there was clearly no possibility of negotiating a concordat, also under the domination of Nazi Germany, i.e. in the second time period. However, according to the author's opinion, the Czechoslovak Republic could already have a concordat treaty. And indeed in the first defined period, i.e. between 1918 and 1938. This is the period when Austria negotiated its comprehensive concordat with the Holy See. The Czechoslovak Republic negotiated the *Modus vivendi* in the given period, but rather understood it as a confirmation of its sovereignty. If there was no anti-Catholic mood in

Czechoslovakia, when the Catholic Church was mistakenly considered a symbol of Habsburg rule under Austria-Hungary, this would have been an opportune time to negotiate a concordat treaty. After all, as a new state, Czechoslovakia established international relations and signed international treaties.

In the fourth, last examined time period, according to the division in this work, i.e. from 1993, according to the author of the work, from the point of view of concordat and international law, it is sad due to the absence of an international agreement between the Czech Republic and the Holy See. At the same time, the concordat agreement is not a new topic. The Czech Republic could have had the concordat in 2003, had it not been for the laziness and politicking of political representatives in the Chamber of Deputies. However, the text of this contract is currently being superseded by further developments in some points. The promise of negotiating a concordat agreement can also be found in the government's statement from 2022, but it is currently not clear from the available information whether an agreement will be reached by the end of the election period of the Chamber of Deputies, i.e. by 2025. However, the available information indicates that negotiations are currently taking place from the spring of 2023 and both parties, i.e. the Czech Republic and the Holy See, are acting constructively and there is a clear will to agree on a mutually acceptable text as soon as possible.

According to the author, the Czech Republic, or the previous state departments of the Czech Republic, had the possibility of negotiations immediately after the collapse of Austria-Hungary, or after the fall of the communist regime in 1989. That is, after the creation of the Czech Republic after 1993, because after bad diplomatic relations until 1989, logically, the first must be a certain transitional period serving to re-establish good diplomatic relations and end all activities suppressing freedom of religion. However, since the Czech Republic still does not have a concordat treaty, it cannot be blamed only on the communist regime ruling here, but also on the laziness and unwillingness of current politicians to rectify the situation. At the same time, the Czech Republic would, in the opinion of the author, deserve a concordat agreement, since the necessary prerequisites for the conclusion of this agreement already exist.

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Název práce v českém jazyce

Komparace konkordátních smluv Československa, resp. České republiky a Rakouska od roku 1918 do současnosti

Resume

The submitted bachelor thesis focuses on concordat law, i.e. the area of international treaties concluded between the Holy See and another state. The content of these treaties is the relationship between the Catholic Church and the state in question, specifically dealing with the rights, duties and freedom of religion in the state in question. While Austria has a concordat with the Holy See, the Czech Republic does not. The author of the thesis thus examines the reason for the absence of a treaty between the Czech Republic and the Holy See since 1918, i.e. since the dissolution of Austria-Hungary, until which time the Czech Republic and Austria had a common history. It also deals with the question of the influence of the communist regime in Czechoslovakia on the negotiations on the concordat treaty and it also deals with the question whether it is possible to expect the conclusion of this treaty between the Czech Republic and the Holy See in the near future.

Resumé

Předkládaná bakalářská práce se zaměřuje na konkordátní právo, tedy oblast mezinárodních smluv uzavřených mezi Svatým stolcem a jiným státem. Obsahem těchto smluv je vztah mezi katolickou církví a daným státem, konkrétně se zabývá právy, povinnostmi a svobodou vyznání v daném státě. Zatímco Rakousko má se Svatým stolcem uzavřenou konkordátní smlouvu, Česká republika nikoliv. Autor práce se tak zabývá důvodem neexistence smlouvy mezi Českou republikou a Svatým stolcem od roku 1918, tedy od rozpadu Rakouska-Uherska, do kdy měla Česká republika i Rakousko společnou historii. Zabývá se i otázkou vlivu komunistického režimu v Československu na vyjednávání o konkordátní smlouvě a zabývá se i otázkou zda lze v blízké době očekávat uzavření této smlouvy mezi Českou republikou a Svatým stolcem.

Keywords: Church law, concordat law, public international law, concordat, Holy See, Austria, Czechoslovakia, Czech Republic.

Klíčová slova: Církevní právo, konkordátní právo, mezinárodní právo veřejné, konkordát, Svatý stolec, Rakousko, Československo, Česká republika.