

Presentation

of Synodal Forum I

"Power and separation of powers in the Church

- Joint participation and involvement in the mission"

for the First Reading

at the Second Synodal Assembly (30 September - 2 October 2021)

for the action text

**"Involvement of the faithful in the appointment of the diocesan bishop"
(draft file)**

The Synodal Assembly is requested to resolve as follows:

The office of the diocesan bishop is the most important office in the local church. His core tasks include involving the local church in the overall Church. The local church and the overall Church must therefore collaborate in appointing bishops. According to the directions of the Second Vatican Council, the people of God as a whole should appear as the acting subject. It therefore seems indispensable to involve the people of God of the diocesan local church in the appointment of bishops more closely than before.

The status quo

As in many countries, the appointment of bishops in Germany is part of the "mixed affairs" of the Church and the State, so that not only the internal Church law contained in CIC/1983 is to be observed here, but also the corresponding regulations contained in the Concordats. If there are contradictions between the two legal systems, the principle applies that Concordat law takes precedence over Church law. In accordance with Can. 3 CIC, the canons of the Code may "neither abrogate nor derogate from" the Concordat. It is unequivocally emphasised there that they "therefore continue in force exactly as at present, notwithstanding contrary pre-scripts of this Code".

The Church's law speaks in can 377 §1 CIC of two equal possibilities for the appointment of bishops: "The Supreme Pontiff freely appoints bishops or confirms those legitimately elected.". However, the second option is not discussed below, but only the Papal right of appointment, for which the bishops and Bishops' Conferences draw up lists of candidates according to complicated procedures. These are however not binding on the Pope.

According to the Concordats in the area of the German Bishops' Conference, the cathedral chapter and the bishops draw up lists of candidates for the Apostolic See, from which the Pope freely selects a bishop according to the Bavarian Concordat, and according to the Prussian and Baden Concordats draws up a list of three, from which in turn the respective cathedral chapter elects a bishop in a free and secret ballot. It should be noted here that, at the time of the conclusion of the Concordats, only the cathedral chapter existed as an advisory body to the bishop. Other advisory bodies have now been established, and these will be involved in appointing bishops in future, in the spirit of the Concordats.

The need for reform

According to Church law, the respective diocesan people of God only have very limited participation, insofar as the Nuncio can also "seek individually and in secret the opinion of others from both the secular and non-secular clergy and from laity outstanding in wisdom" (can 377 §3). According to Concordat law, no rights of participation are provided for the faithful. Ecclesiologically, however, it would make sense to involve the entire people of God in the diocese - thus also priests outside the cathedral chapter, deacons, and above all the unordained faithful among the people of God - in the bishop's appointment.

Participation of the diocesan people of God

Under the Church's current law and Concordats, the following forms of participation are open to the diocesan people of God: a right of co-decision in the preparation of the list of candidates, and a right to be heard prior to the selection being made from the list of candidates. These two rights can be realised through a voluntary undertaking on the part of the respective cathedral chapter. To this end, the respective cathedral chapter issues a binding regulation stating that the following procedure is to be followed where a bishop is to be appointed: The Synodal Council of the diocese¹ elects a body that has as many members as the cathedral chapter, and supports the chapter in exercising its rights in the process of appointing a bishop. The same confidentiality rules apply to the members of this gender-balanced body as to the members of the cathedral chapter. Together with the chapter, this body determines the list of suitable candidates, which the cathedral chapter sends to the Apostolic See. In those dioceses where the Prussian or Baden Concordats apply, the cathedral chapter furthermore undertakes to consult the participation body elected by the Synodal Council of the diocese before making its selection from the list of three from the Apostolic See. The body is entitled to make a selection recommendation to the cathedral chapter by a majority vote. A model regulation is drawn up for synodal participation in the appointment of bishops outlined here.

¹ Cf. on this the action text of Forum 1 "Joint consultation and decision-making".

In addition, the Synodal Assembly also sees a need for further changes: a body representing the people of God in the diocese, and exercising the right to vote in coordination with the Apostolic See, seems to make sense. The extent to which this is possible within the framework of the current Concordats needs to be clarified more precisely.