



## Presentation

### of the Synodal Forum IV

“Life in succeeding relationships

- Living love in sexuality and partnership”

for the first Reading

at the third Synodal Assembly (3-5 February 2022)

for the implementation text

“Basic Order of Church Service”

[Voting result in the Forum: 20 Yes, 3 No]

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## Introduction

The Church’s credibility especially depends on the practice employed in the parishes, the church communities, institutions, organisations and administrations: What kind of service do they offer to the people and how do they deal with people? In the “Basic Order of Church Service in the Framework of Church Employment Relationships”, however, the question of the credibility of the Church mostly refers to loyalty obligations of the employees, where there is an overemphasis on questions of private lifestyle and a fixation on sexuality. Although identification with the goals of the church and the respective concrete institution and professional competence are mentioned in the Basic Order (Art. 3.3), they take second place to the orientation towards the doctrine of faith and morals, which is included in the basic principles (Art. 1).

The Basic Order of Church Service is discriminatory with regard to employees who live contrary to the traditional sexual morals of the Church. In fact, the Basic Order can be used as an instrument to put staff under pressure. Many highly identified and qualified employees have experienced and continue to experience the Church as merciless and unloving towards them. Similar problems are associated with the granting of the *Missio canonica* and the *Nihil Obstat*. In the case of religious education teachers and academics, too, loyalty to the Catholic Church must not be measured in terms of personal lifestyle. The right of church employers to formulate and review loyalty obligations for their employees with regard to their official conduct is beyond

question. However, with the current Basic Order, the Church as an employer stands in the way of the witness of God's love for all people.

## **Proposal**

The Synodal Assembly calls on the Bishops' Conference to change the Basic Order of Church Service in the Framework of Church Employment Relationships.

Article 4 of the Basic Order shall in future no longer allow decisions for a legally regulated or non-prohibited form of partnership to be taken as violations of obligations of loyalty and accordingly prevent employment in church service or bring about the termination of an existing employment relationship. Personal marital status shall have no relevance to employment or continued employment in the service of the Church.

In addition, account must be taken of the fact that the preservation and development of the ecclesiastical profile of a facility is primarily the task of the facility as an institution as well as its responsible body.

Art. 5.2.2.c and d of the Basic Order have to be deleted and not replaced.

In Art. 5.2.1.b, the "serious personal moral misconduct" should be added with regard to the abuse of power.

The orders concerning the *Missio Canonica* are to be amended in the same way, and the requirements for the conduct of life in the procedures for granting the *Nihil Obstat* are to be interpreted accordingly. As an issue of the universal Church, they are to be changed in a universal Church manner.

## **Reasons**

The Basic Order:

The Basic Order for Church Service has so far focused primarily on the private and official lifestyle of the employees with regard to the preservation and realisation of the specifically ecclesiastical profile. The weaknesses and inadequacies of this person-oriented approach have been known for a long time and have been discussed for some time within the Church at various church levels. There are signs of a change towards an institution-oriented approach, which places particular emphasis on the responsibility of the management and the responsible body. The aforementioned proposal fits into this reform and transformation process.

In the existing version of the Basic Order from 2015, the recognition of the "principles of Catholic doctrinal and moral teaching" is stated as an obligation of loyalty for persons in pastoral and catechetical service as well as for employees who work on the basis of an episcopal assignment (Art. 4.1).

In the subsequent list of possible violations of the obligations of loyalty (Art. 5), the Basic Order urges church employers to dismiss Catholic employees for decisions taken within their private lives, such as a civil marriage that is not recognised under church law, or a civil marriage with a same-sex partner. At the same time, the Order prevents or makes it difficult to employ people

who have taken such decisions, and it discourages many motivated, qualified and talented people from applying for church positions. The two cases described are listed as grounds for dismissal (Art. 5.2.2.c and d). The background is the ethical evaluation of such a decision in the traditional Catholic moral order as a “grave sin” (CCC, 2357).

It is true that the Basic Order opens up the possibility of refraining from dismissal “in exceptional cases” for “serious reasons” (Art. 5.3). Nevertheless, it is stated that in the case of publicly entering into a partnership after a divorce or with a partner of the same sex, it is “irrefutably presumed” that there has been a serious violation of loyalty which is correspondingly “objectively capable of causing considerable annoyance in the service community ...” and of “impairing the credibility of the Church” (Art. 5.2.c). The Basic Order therefore gives employers a certain amount of leeway. On the one hand, this means that individual employees who enter into a partnership that contradicts traditional Catholic sexual teachings will not be dismissed. On the other hand, it gives church employers a very effective instrument of power over employees.

The “considerable annoyance” argument, if it ever applied, has been reversed. The annoyance to the service community and to the professional sphere does not arise from entering into a civil marriage after another marriage has broken up, or from entering into a civil marriage with a same-sex partner, but from dismissal.

#### Church and social reality:

The way the Catholic Church deals with remarried divorcees and homosexuals is seen as discriminatory by more and more people outside and inside the Church. This is particularly visible in the way the Church deals with employees who have chosen institutionalised forms of partnership that contradict the Church's traditional sexual teachings. In view of numerous painful and humiliating experiences of current or former employees, the Church must admit to herself with regard to her labour law that she has borne and bears witness to mercilessness and intolerance and that in this respect she is failing in her “mission” (Art. 1).

Rulings by national and European courts on church labour law in Germany make it clear that society is less and less willing to grant the Church the right to violate socially established standards of non-discrimination and protection of privacy and family life by invoking her right of self-determination. The Church can forestall future court rulings by amending the Basic Order for Church Service.

Furthermore, the amendment of the Basic Order would take into account the reality that already today in many church institutions decisions are made contrary to the existing norms due to a lack of alternatives or out of ethical conviction. In addition, the current Basic Order provokes psychologically stressful situations for the employees concerned. On the one hand, because they know that their lifestyle is not officially wanted, and on the other hand, because they are permanently susceptible to blackmail and can be denounced at any time.

The moral doctrine, which is listed as a decisive criterion, is furthermore subject to massive criticism within the Church with regard to her statements on forms of life. This Synodal Assembly also evaluates remarriage, inter- and transsexuality, homosexuality and correspondingly same-

sex partnership differently than previous official texts of the Church (Basic Text B.2.2-5, B.5.1-5, B.8.5-7). Following this view, the adaptation of the Basic Order as well as of the practices in granting the Missio Canonica and the Nihil Obstat is a necessary consequence.