

Poszczególne rozdziały książki układają się w zwartą całość. Pewne trudności może budzić praktyka odsyłania do innych części pracy. Taki zabieg można jednakże wyjaśnić chęcią uniknięcia powtórzeń. Niewątpliwie omawiana pozycja książkowa stanowi ważny wkład do nauki prawa. Niektóre mniej istotne kwestie potraktowano pobieżnie, stąd objętość książki jest odpowiednia. Wykorzystaną bibliografię należy uznać za kompletną. Autor właściwie dobrał literaturę w języku polskim i w językach obcych. O wysokiej wartości tej publikacji świadczy charakteryzująca Autora doskonała znajomość poglądów innych przedstawicieli doktryny oraz umiejętność przyjmowania własnych, dobrze uzasadnionych opinii, dzięki temu praca zyskuje świeżość i oryginalność.

*Magdalena Materniak*

**Stanislav Přibyl, *Tschechisches Staatskirchenrecht nach 1989 (Czech Ecclesiastical Law after 1989)*, Brno 2010, ss. 168.**

Publication „*Tschechisches Staatskirchenrecht nach 1989*” (*Czech Ecclesiastical Law after 1989*) by Stanislav Přibyl is an output from a research project called „Churches in Czech lands and the question of nationalism – historical issues, their overcoming and perspectives of multinational and multicultural European community”. It describes legal status valid in the Czech Republic as on 31.12.2009.

Though the author has not numbered individual parts of his work, he divided it into seven chapters.

The first chapter „*Die Periode unmittelbar nach der politischen Wende 1989*” (*The Period Immediately after the Political Reversal in 1989*) describes changes that took place in the ecclesiastical law directly after taking over the power from the communist regime in November 1989. In those days (still in the year 1989) that meant removal from the Czech law of all criminal norms that were aimed against churches and their adherents (namely against the clergy). In the following year religious education, banned for 40 years, was allowed. In the same year a Restitution Law was passed which dealt with restitution of property of churches – particularly that of religious communities. (If we neglect Amendment to this Act of

1991 devoted to the restitution of Jewish communities, this law was the first, and as yet also the last law of its kind.) This year also brought reestablishment of diplomatic links with the Holy See.

The second chapter „Verfassungsrechtliche Garantien der Religionsfreiheit in der Tschechischen Republik” (Constitutional Guarantee of Religious Freedom in the Czech Republic) deals with constitutional guarantee of the freedom of thought, conscience and religious faith (including the refusal of military service and corporative freedom of religion) embodied in the constitutional order of the former Czechoslovakia, i.e. in the Charter of Rights and Freedoms. The author points out that in connection with disintegration of the Czechoslovak Federation the Slovak constitution – notwithstanding confessional neutrality of the new Slovak state – refers in its Preamble to the tradition of Cyril and Method. (Whoever would assume that something similar was to be found in the constitution of the Czech Republic – in view of the state constructive tradition of Saint Wenceslas – would be wrong.) The end of the chapter is devoted to legal limitation of religious freedom in accordance with the above Charter.

In the third chapter „Das erste Kirchengesetz nach der Wiederherstellung der Demokratie” (The first Ecclesiastical Law after Restoration of Democracy) the author concentrates on the first after-reversal (still federal) ecclesiastic law No 308/1991 Sb. which – in spite of having been formulated under a time pressure – served well its purpose. Having only slightly been novelized, it is still in force in Slovakia, while in the Czech Republic it was replaced, from rather problematic political reasons, with a new law, of undoubtedly inferior quality.

The author starts by explaining the nature of this legal standard and continues by going into its sections, such as:

- a list of rights resulting from the religious freedom, guaranteed by law,
- status and autonomous appointment of clergymen by the church authorities,
- admission of churches and religious societies into so called „public activity domain”,
- creating of a new church or a religious society as a legal entity in accordance with the Czechoslovak legal system (it compares the former way of acknowledging new churches under the communist regime, and registration according to this law). The question of high census, by which both national Councils condition registration, is also discussed.

A special section deals with churches of Augsburg confession on the Czech territory. The chapter is closed by mentioning the further history of this ecclesiastical law.

The following, fourth, chapter „Das aktuelle Kirchengesetz N. 3/2002 Sb.” (The Contemporary Ecclesiastic Law No. 3/2002 Sb.) is engaged with the law, currently valid in the Czech Republic, the breakneck title of which: „The law on freedom of the religious faith, on churches and religious societies and on changes in some laws – the law on churches and religious communities” – speaks for itself about its quality.

On one hand this law considerably reduced the (valid at that time) personal census and made it thereby easier for the new churches and religious societies to register, on the other hand it maintained the same strict requirements that are difficult to meet for the newly registered church subjects in order to obtain so called special rights. An extremely high census which had in original law been aimed against aggressive and dangerous sects, was partially replaced by a number of conditions that a registration applicant has to meet to prove that his existence and functioning comply with democratic legal system. The next section informs us how the newly adjusted registration rules are reflected by new church subjects. A new possibility is also mentioned that is provided by the law, namely registration of associations of churches or religious communities. For the time being this option has only been used twice, namely: by the Military Religious Service and by the Ecumenical Council of Churches (both in 2005).

Rest of the chapter is devoted to so called two-step registration of churches and religious communities and to „special rights” in the ecclesiastic law. According to the author their concept is doubtful: What a legislator considers to be a „special right” is conceived by an ordinary churchgoer as an obvious component of exercising his/her right of religious freedom.

Then the author analyses some of the constituent components of the „special rights”:

- the church right to conclude religious marriages (As a matter of fact, it concerns the right of the engaged couple),
- the right to respect confessional (or similar) secrets by clergymen (for newly registered subjects this right is only granted under almost unrealizable conditions),
- the right to teach religion at state (now public) schools, though this right follows from the Charter itself.

Rest of the chapter is devoted to the issue of religious education.

The fifth chapter „Die Beseitigung problematischer Bestimmungen des Gesetzes N. 3/2002 Sb.” (Removal of the Problematic Provisions of the Act No 3/2002 Sb.) deals with controversial provisions brought into the Czech legislation by the problematic law on churches and religious communities of 2002. In the first place the author mentions the discriminative norm which in case of legal entities founded by churches covertly replaces their filing by a government body with registration, i.e. replaces the legal act of a declarative nature with an act of a constitutive character. Particularly these, as well as some other provisions were later removed by the judgment of the Constitutional Court of Justice as discriminative and contradictory to the Czech constitutional order. The law was later amended, but it meant rather *reformatio in peius* (The amendment was not aimed at achieving an optimum, or at least a better law, but at satisfying the contemporary state dirigisme).

The sixth chapter „Die Frage der Kirchenfinanzierung und der Vermögensrestitution” (The Question of Church Funding and Property Restitution) begins with a short historical summary after which the author opens the burning question of returning the church property, illegally confiscated in the past. The author associates this question with another sensitive issue, namely with funding of churches and other religious communities from the state budget. It is strange, that this funding is still based on a norm which comes from the time of the strongest communist dictatorship, namely the law „On economic provision of churches and religious communities by the state” dated October 1949. It is obvious that at the present time, after twenty years of vesting money corruption and larceny of national resources when the state finds itself on verge of economic catastrophe the issue of financing churches is for the predominantly atheistic Czech society extremely odious. Therefore, in spite of certain (may be sincere) attempts the national legislature has not still succeeded to solve it. Damning of the communist crimes – including those committed on churches – has remained at the verbal level, which is, by the way, typical of all our society.

The last, seventh chapter „Perspektiven der Staatskirchenrechtlichen Entwicklung in der Tschechischen Republik” (The Perspectives of the ecclesiastical-law-development in the Czech Republic) is by no means a legal futurology, but a seriously treated outlook, particularly concerning the international settlement of relations between the Czech Republic and the Holy see. While the Slovak Republic countersigned the Treaty with the Holy See, (characterized by the author as broadminded) already in the

year 2001, the Czech Republic was reluctant to the same. At least in the time when the parliament refused to give its consent to countersigning this document most of the MPs seemed not to understand its importance.

This chapter, which substitutes the conclusion also contains some other controversial issues in the field of confessional law.

The author has dealt with the subject of his work in a complex way and he used all basic literature (obviously mainly Czech) associated with the matter in question. The German language will make it possible also to foreign specialists on ecclesiastical and church law to get acquainted with the given subject better than from mere reviews written in other languages. (Unfortunately the saying *Bohemica non leguntur* – what is written in Czech is (abroad) not read is still valid.)

I believe I can congratulate the author especially because this publication of his also fulfilled its role of being his successfully defended thesis at the Faculty of Law, Trnava University in Trnava, Slovakia.

*Ignác Antonín Hrdina*

**Jarosław Kłaczko, *Kościół Ewangelicko-Augsburski w Polsce w latach 1945-1975*, Toruń 2010, ss. 514.**

Z uznaniem należy odnotować fakt powstawania coraz to nowych prac naukowych traktujących o historii mniejszościowych Kościołów chrześcijańskich w Polsce<sup>1</sup>, które poszerzają naszą wiedzę na temat złożonej i zróżnicowanej religijności Polaków na przestrzeni dziejów chrześcijaństwa w naszym kraju. W ten nurt z pewnością wpisuje się kolejna<sup>2</sup> i obszer-

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<sup>1</sup> Warto przywołać tu chociażby takie prace monograficzne, jak np.: A. Górecki, *Mariawici i mariawityzm – narodziny i pierwsze lata istnienia*, Warszawa 2011; S. Rybak, *Mariawityzm. Dzieje i współczesność*, Warszawa 2011; H.R. Tomaszewski, *Baptyści w Polsce w latach 1918-1958*, Warszawa 2008; H.R. Tomaszewski, *Zjednoczony Kościół Ewangeliczny 1947-1987*, Warszawa 2009; A. Seweryn, *Prawdę i pokój miłujcie. Dzieje Pierwszego Zboru Baptystycznego w Warszawie (1871-2011)* (2011).

<sup>2</sup> Dotychczasowe prace Jarosława Kłaczko poświęcone Kościołowi Ewangelicko-Augsburskiemu to: *Historia parafii ewangelicko-augsburskiej w Radomiu* (2005), *Ewangelicy w Radomiu i regionie XVI-XX wiek* (red.) (2007), *Spółeczność ewangelicka*