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Financing of the Catholic Church in Slovakia under the Optics of the Basic Treaty between the Slovak Republic and the Holy See[1]

• **Abstract** •

The paper focuses on the issue of financing the Catholic Church in Slovakia, from the perspective of the international Basic Treaty between the Slovak Republic and the Holy See. It analyzes the basic issues related to the Basic Treaty and the principles on which it stands, as well as the provisions that affect the financing of the Catholic Church. Subsequently, it discusses the mechanism of current financing of the Catholic Church in Slovakia. The second part of the contribution tries to answer the question whether the Slovak Republic is obliged to finance the Catholic Church according to the adopted Basic Treaty.

Keywords: Basic Treaty between the Slovak Republic and the Holy See, Financing of the Catholic Church, International agreements.

Introduction

The question of financing or financial and economic security of any institution operating in the state is always one of the key issues of its functioning. It is no different in the case of the Catholic Church, which has been operating for a long

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time also in the conditions of the Slovak Republic. However, the method of financing religious organizations operating in the state (including the financing of the Catholic Church), as well as its content and scope, varies from country to country, is not unified and uniform and is determined by many factors, including historical development, legal culture, the relationship of the state to churches and religious communities (or, more precisely, the relationship of the state to the Catholic Church), and is also determined by a number of other factors. It is also the case of the Slovak Republic, where the state's relationship to churches, religious communities, religions, and societies, the political or societal will, as well as the various historical and political obligations of the state towards churches, including international law. The subject of this article is the analysis of the issues of financial security of the Catholic Church in Slovakia under the optics of the legal and especially international law regulations in force in the Slovak Republic, focusing in particular on the international law obligations of the Slovak Republic contained in the Basic Treaty between the Slovak Republic and the Holy See representing the Catholic Churches operating in the Slovak Republic.

Basic Treaty between the Slovak Republic and the Holy See and its characteristics

The Basic Treaty between the Slovak Republic and the Holy See (hereinafter referred to as the "Basic Treaty" or the "Treaty") is an example of a treaty between the State and the Churches with the nature of an international treaty. The Treaty was signed at the Vatican on 24 November 2000. The National Council of the Slovak Republic agreed to ratify the Treaty on 30 November 2000 by Resolution No. 1159 and the President of the Slovak Republic ratified it on 4 December 2000. The Treaty entered into force on the date of the exchange of instruments of ratification, i.e. 18 December 2000, on the basis of Article 24(2) thereof and was published in the Collection of Laws of the Slovak Republic as the basic form of publication in the Slovak Republic by the notification of the Ministry of Foreign Affairs of the Slovak Republic No. 326/2001 Z. z. of 23 August 2001 (No. 136).

The basic treaty is formally a standard international treaty. Procedurally, it is a political international treaty of the presidential type, which, once signed on the basis of a decision of the Government of the Slovak Republic, requires ratification by the President of the Slovak Republic with the prior consent of the National Council of the Slovak Republic. In terms of content, it is a comprehensive framework for the regulation of legal relations between the Holy See and the Slovak Republic, as well as between the Slovak Republic and the Catholic Church.

At this point, however, from a formal legal point of view, it is necessary to recall that after the amendment of the Constitutional Act No. 460/1992 Coll., the Constitution of the Slovak Republic, as amended (hereinafter referred to as the "Constitution of the Slovak Republic") by Constitutional Act No. 90/2001 Coll., two constitutional law regimes relating to the application of international treaties in the field of human rights and freedoms were created in Slovakia. The first is Article 154c of the Constitution of the Slovak Republic, which provides that "international treaties on human rights and fundamental freedoms ratified by the Slovak Republic and promulgated in the manner prescribed by law before the entry into force of this Constitutional Act shall form part of its legal order and shall take precedence over the law if they provide for a greater scope of constitutional rights and freedoms". This provision has retroactive effect and applies to those international treaties in the field of human rights and fundamental freedoms which the Slovak Republic has ratified on the basis of the content of the now repealed Article 11 of the Constitution of the Slovak Republic. The second is Article 7(5) of the Slovak Constitution, which states that "international treaties on human rights and fundamental freedoms, international treaties for the implementation of which no law is required and international treaties which directly create rights or obligations for natural persons or legal persons and which have been ratified and promulgated in the manner prescribed by law shall take precedence over laws". The aforementioned regime applies to those international treaties which are ratified and proclaimed by the Slovak Republic in the manner prescribed by law after the entry into force of Constitutional Act No. 90/2001 Coll., which will always take precedence over the laws of the Slovak Republic pursuant to Article 7(5), i.e. without conditions or limitations (Drgonec, 2004, pp. 163–164).

Since the Basic Treaty was ratified and entered into force before the entry into force of Constitutional Act No. 90/2001 Coll., it is subject to the regime of Article 154c of the Constitution of the Slovak Republic. However, since the Basic Treaty in its text still foresees the adoption of so-called partial international treaties (it contains blanket provisions) to be adopted in the future, which will regulate selected issues in more detail, the above-mentioned international treaties, which have been and will be adopted after the entry into force of Constitutional Act No. 90/2001 Coll. (i.e. after 1 July 2001), are already subject to the regime of Article 7(5) of the Constitution of the Slovak Republic, with their "automatic" precedence over the laws (Čeplíková, 2011, p. 203).

At this point, from the point of view of the content of this paper, we consider it necessary to highlight the fact that from the conceptual point of view the Treaty is based on certain principles, which must be taken into account in its interpretation

and application, and which are also partly the determinant for the regulation of relations between the Slovak Republic and the Catholic Church in the financial and economic sphere. These are:

a) **individual and common good** – is an expression of the meaning of the contract, which is a commitment to mutually contribute to the individual and common good of a material and spiritual nature. Such an objective, to which each of the parties contributes by its own means, requires respect for the independence and autonomy and the creation of conditions for the action of both parties and their cooperation with each other;
b) **the role of the State and the role of the Church** – in the most general terms, both the State and the Catholic Church pursue the common goal of creating the conditions for a dignified human life in society. However, each of these parties has different means at its disposal. While the state has primarily the law at its disposal, through which it regulates the behavior of its subjects and is able to ensure the desired behavior by the use of coercion (the so-called external dimension), the Catholic Church finds the focus of its existence in the spiritual dimension, where one of its tasks is the moral formation of people's consciences (the so-called internal dimension);
c) **a citizen represented by both parties to the treaty** – the specificity of this international treaty is the fact that its contracting parties represent an identical subject – citizens of the Slovak Republic with Catholic faith. An important fact is the requirement that the rights and obligations of a citizen of the Slovak Republic should not conflict with the rights and obligations of a member of the Catholic Church;
d) **subject matter of the contract** – the subject matter of the Basic Treaty is to establish clear and non-ambiguous rules for both parties in their co-existence and cooperation, which also reflect the quality and interactivity of their relationship. The subject of the Basic Treaty is also the legal relations in the area of the Catholic Church's activities in the territory of the Slovak Republic;
e) **the nature of the treaty obligations** – unlike other international treaties, where the rights and obligations of the parties are generally quantitatively balanced, the Basic Treaty does not contain obligations of the same kind and, as a result, there is no reciprocal distribution of obligations between the parties. Rather, in the case of the Basic Treaty, it is a complementarity of the entitlements attaching to the addressees of the legal norms contained in the treaty;
f) **"pyramid system"** – the Basic Treaty is of a framework nature and contains only solutions in principle; in order to ensure the comprehensiveness of

the legal regulation, it singles out for special regulation four technically and politically demanding areas, which are to be regulated by separate treaties and whose adoption is envisaged in the future (including the issues of the financing of the Catholic Church);

g) **the principle of the creation and application of the Treaty** – when creating the text of the Basic Treaty, the State relies on the legal principles valid in the entire legal order of the Slovak Republic, the Catholic Church relies primarily on the norms of canon law and the documents of the Second Vatican Council.

Overall, the most important principles on which the Basic Treaty is based include: the principle of the independence and autonomy of the Holy See and the Slovak Republic as two separate subjects of international law, respect for the religious freedom of the faithful and the freedom of the Catholic Church in the Slovak Republic, the principle of the independence of the Catholic Church from the State (the State may not interfere in the competence of the Church) and the autonomy of the Catholic Church (the Church manages and administers its internal affairs independently), the principle of cooperation between the Church and the State for the benefit of man and the common good and the exclusion of conflicts of conscience (Šmid, 2001, p. 73–81).

The main task of this treaty is to regulate the legal relations between the Slovak Republic and the Holy See, as well as the Catholic Church operating in Slovakia, in such a way as to guarantee the religious freedom of the Catholic faithful. According to the Basic Treaty, the Slovak Republic recognises the right of the Catholic Church in the Slovak Republic and of its members to free and independent activity, which includes in particular the right of public profession, proclamation and practice of the Catholic faith, the freedom to carry out the mission of the Catholic Church, the exercise of its competences laid down by canon law, the exercise of the right of ownership of its financial and material resources, and the management of its internal affairs. The Slovak Republic has undertaken to guarantee the inviolability of sacred places (in case of compelling reasons, the consent of the Catholic Church is required for other use of sacred places, except in the cases provided for in the Treaty) and the confidentiality of confessions, to respect certain Church holidays as days of rest, to create conditions for the Catholic education of children in schools and pre-schools, and to recognise marriages in accordance with canon law. The Catholic Church is guaranteed the exclusive right to establish and change its own legal order (i.e. canon law). The Slovak Republic thus recognises the existence of canon law as an independent legal system (but without the attribute of universal binding force) and the associated right of the Catholic Church to regulate the range

of social relations determined by it, while at the same time rejecting responsibility for the actions of the subjects of the Catholic Church in the application of canon law to its members.[1] Furthermore, the Treaty guarantees the Catholic Church the right to fill offices according to canon law and to appoint and remove bishops, to establish, administer and use for education and training primary and secondary schools, colleges and educational establishments in accordance with the conditions laid down by the legal order of the Slovak Republic. The Catholic Church has the right to act in the celebration of marriages according to canon law, with the consequence that a marriage celebrated before a clergyman of the Catholic Church has the same legal status and effects in the territory of the Slovak Republic as a marriage celebrated in a civil manner. In addition, the Catholic Church has the right to exercise pastoral care for the faithful in penal institutions, penitentiaries and other public institutions. However, the exercise of these rights must be in accordance with the conditions laid down by the legal order of the Slovak Republic.

All of the above rights of the Catholic Church have been, in principle, more or less included in various legal regulations of the Slovak Republic since 1989. The Treaty has only changed the legal force of the regulation of the above-mentioned area of social relations. The wording of the Basic Treaty is thus to a large extent a substantive reception of the already existing relevant legal regulation. For the Catholic Church in Slovakia, however, the conclusion of the Basic Treaty brought the necessary guarantees for its existence and activity, which cannot be unilaterally changed or abrogated by unilateral legal interventions of the State.

The Basic Treaty is normative, public, general and framework in nature and constitutes only the basic legal framework for cooperation between the Catholic Church and the Slovak Republic. The Treaty itself foresees that some of its provisions regulating particular issues are to be further regulated and specified in the future in four other specific sub-international treaties (lat. *pactum de contrahendo*), which will contain a more detailed and detailed regulation of the rights and obligations of the contracting parties. These are the questions of the scope and conditions of the exercise of the right of conscientious objection (Article 7), the exercise of the clerical ministry in the armed forces and armed corps (Article 14[4]), the action of the Catholic Church in the field of education and training (Article 13[9]) and, in particular, the question of the financial security of the Catholic Church (Article 20). From the point of view of the issue of the financial security of the Catholic Church, this issue has thus been singled out for a separate, more detailed treaty regulation.

[1] Resolution of the Constitutional Court of the Slovak Republic, Case No. II. ÚS 128/95.

To date, only two sub-treaties have been adopted which further regulate the provisions of the Basic Treaty, namely in the area of the exercise of spiritual ministry in the armed forces and armed forces (the Treaty between the Slovak Republic and the Holy See on the Spiritual Ministry to Catholic Faithful in the Armed Forces and Armed Forces of the Slovak Republic) and in the area of education and training (the Treaty between the Slovak Republic and the Holy See on Catholic Education and Training). A separate sub-treaty on the financing of the Catholic Church has not been adopted to date, so the contractual obligation arising from the Basic Treaty has not yet been fulfilled. The professional discussion on this issue is still determined by the state administration's declared need to adopt a "general law" on the financing of churches and religious societies before adopting the so-called partial financing contracts, which would address this issue across the board for all registered churches and religious societies, and not only for the Catholic Church. This model seems to be supported by some of those registered churches and religious societies operating in Slovakia that have a smaller membership base.

On the other hand, as many authors state, the contractual anchoring of the issue of financing of churches and religious societies could be more specific, could correspond to the specifics of individual entities and also to the needs of the state towards specific religious entities, and would give individual churches and religious societies greater legal certainty compared to the law, which can be unilaterally changed or abolished by the state (Moravčíková, 2019).

Current legal regulation of the financing of the Catholic Church in Slovakia

The issue of financial security of churches and religious societies in Slovakia (including the Catholic Church) is currently addressed 'only' at the statutory level, namely by Act No. 370/2019 Coll. on the Financial Support of the Activities of Churches and Religious Societies (hereinafter referred to as "Act No. 370/2019 Coll." or simply as "the Act"). In this case, it is a relatively new piece of legislation, adopted 20 years after the adoption of the Basic Treaty.

The Ministry of Culture of the Slovak Republic (hereinafter referred to as "the Ministry") already stated in the process of preparation of this new law that Act No. 218/1949 Coll. contained obsolete norms, i.e. obligations of the state which had not been applied for a long time (the reimbursement of worship costs, church administration and extraordinary material costs). Their payment would significantly increase the burden on the state budget. As a result, the state has for a long time provided churches and religious societies with money only for the salaries of

clergy, while paying levies and a contribution for the operation of the headquarters of churches and religious societies. The churches were (and still are) the employers of their clergy, but the obligation to provide funds for their salaries lay with the state, while according to the amended Act No. 218/1949 Coll. and its implementing government regulation (most recently No. 299/2007 Coll. on the regulation of personal benefits provided to clergy of churches and religious societies), the Basic Salary Scale for Clergy, included as an appendix to this regulation, was followed (Němec, 2023).

It is important to note at this point that the new law did not change the default form of the funding model for churches (including the Catholic Church). The state continues to provide registered churches and religious communities with financial support from the state budget, which has three components: a contribution, a special-purpose subsidy from the funds of the Ministry and the Office of the Government of the Slovak Republic, as well as tax and fee relief. However, the law changes one important aspect of the above concept. From 1949 until the adoption of the new Act of 2019, the areas for which the state provided funds from the state budget were precisely determined by the state in Act No. 218/1949 Coll. on the Economic Security of Churches and Religious Societies. The new Act merely states that the allowance is intended to support the financing of the activities of churches, enumerating in general terms those areas which, by the nature of the activities and focus of the churches, include within this framework, according to Article 6, paragraph 1 of the Act, worship activities, educational activities, cultural activities, charitable activities, the costs of the church related to the performance of its activities in the capacity of an employer, and the operating costs of the church. As aptly stated by M. Němec, in accordance with Article 24(3) of the Constitution of the Slovak Republic, the new law strengthens and respects the internal autonomy of churches and religious societies in the area of management, as in § 6(2) of the cited article the new law provides for the autonomy of churches and religious societies in the area of management. In Article 6(6) of the Act, the activities for which the state contribution may not be used are enumerated only in a negative way. In principle, these are commercial or business and political activities (Němec, 2023).

At this point it can be stated that this system emphasizes the separate and independent management of churches according to their own budgets, which is fully in line with the diction of the relevant provisions of the Constitution of the Slovak Republic, including the requirements of Article 5(2) of Act No. 308/1991 Coll. on Freedom of Religious Belief and on the Status of Churches and Religious Societies, as amended (hereinafter referred to as "Act No. 308/1991 Coll."), according to which churches manage their affairs independently of the state authorities. The

explanatory memorandum to the draft law further states that the independent status of churches also includes their right to manage their own budgets, which they approve independently.

Act No. 370/2019 Coll. changes the criterion for the amount of the contribution granted to a given church. The previous legislation was based on the number of clergy, but after 1989 the number of clergy (in pastoral care, clergy training institutes and church administration headquarters) was determined by the individual churches themselves, which could have been a potential burden on the state budget. However, the system of salary tables (personal emoluments) for clergy was again an expression of a rigid approach to the material provision of the clergy. According to the new legislation, the criterion for the amount of the allowance granted by the state is the religious denomination, as ascertained from the latest census of population, houses and dwellings by the Statistical Office of the Slovak Republic, or the number of members of churches, as ascertained from the application for registration of a church pursuant to Article 11 of Act No. 308/1991 Coll. (Němec, 2023).

Discussion – is the state obliged to fund the Catholic Church under the adopted Basic Treaty?

The fact that the method of financing the Catholic Church has been established in the legislation of the Slovak Republic for a long time without the conclusion of a special agreement on the financial security of the Catholic Church does not mean that this issue has not been resonating in society. The revival of the debate on the appropriateness of the recent funding model can also be seen in states that have long been considered "Catholic" and whose relations with the Catholic Church have been rather positive and stable for a long time. An example is Poland, where Prime Minister Tusk's new government grouping is announcing efforts to make changes to funding by phasing out the Church Fund and replacing it with a tax-assessment system. In the Slovak political discourse, the topic of changes in the setting of state funding of churches is mainly raised by parties from the liberal spectrum. Part of the election programme of the strongest opposition party, Progressive Slovakia, was the introduction of a method of financing the "basic running" of churches and religious societies by switching from a flat-rate state contribution to a specific tax regime through which churches would be financed exclusively by members and sympathisers. Despite the fact that the current government grouping has currently prepared a change in church financing in the form of a change in the method of calculating the amount of the state contribu-

tion, so that the final amount of the contribution will increase compared to the past years, it is necessary to reflect from a legal point of view on the possibilities and limits of the state in its possible efforts to unilaterally change the current financing model, or to completely "cut off" the churches from the direct financial transfers from the state budget.

In this context, an interesting study by Turčan and Mrva (2021) has been published, in which the authors analyse in detail the possible options for ending the current model of state financing of churches in the Slovak Republic. As a radical model they present a complete end of financing from the state budget, as a less radical one they consider the model of switching to an earmarking tax, as proposed by several, currently opposition political parties. They conclude that, despite the failure to adopt a special financial contract as envisaged in the Basic Treaty with churches and religious societies, unilateral termination of the financing of churches without consensus would be contrary to the obligations arising from the Basic Treaty and the Treaty with Registered Churches and Religious Societies. As regards the Catholic Church, they base their conclusion on the object and purpose of the Basic Treaty, as expressed in Article 20(1) thereof, the importance of which they see precisely in the assumption of at least some financial support for the Church by the State. They also rely on the wording of Articles 13, 17 and 21 of the Basic Treaty. Although these articles explicitly refer to the financing of church education, church hospitals and similar facilities, and the maintenance of church cultural monuments from the state budget, they conclude that the purpose of Article 20(1) of the Basic Treaty is to create a special regime for the state financing of the church as such, and thus also of its religious activities, given that the financing of these areas is already guaranteed by the legislation in force even without special treaties. On this basis, the authors also analyse the possibilities of legal defence for churches in the event that the state unilaterally and without due discussion completely disconnects them from the state budget. They argue about the public law nature of the agreements on the financing of churches and religious societies (which have not yet been concluded) and, despite their public law basis, stress that the financing of churches is not necessarily directed towards the performance of public administration tasks or the realisation of the needs of public administration entities. Assuming that it were accepted that the contracts are public law contracts, the churches' defence could be to bring an action under the special rule on liability for damage caused in the exercise of public authority. However, since the authors conclude that the financial support of the churches is of a private law nature, which they analogise to the relationship between a municipality and non-profit organisations established by it and linked to the municipality by means of subsidies, it would be necessary

for the churches to sue for damages under the general provisions of the Civil Code on compensation for damages. The amount of damages should be determined "on the basis of the *status quo ante*" (Turčan, Mrva 2021, p. 82).

The conclusions expressed in the summarized paper in question, which is undoubtedly a very important contribution to the debate on the relationship between the Basic Treaty and the state policy of church financing, are rather polemical, which is, however, emphasized by the authors themselves. At this point, it is therefore appropriate to put forward an argumentation different from the conclusions presented in the above-mentioned article, specifically in relation to the Catholic Church.

The content of the Basic Treaty does not directly imply an obligation of the state to finance the church from the state budget. Even implicitly inferring this obligation from the purpose of the treaty, as Turčan and Mrva (2021) do, is problematic, since the aforementioned Articles 13, 17 and 21 of the Basic Treaty, referring to a future international treaty on financial security pursuant to Article 20(1), contain an obligation of the state to regulate the scope of financing in relation to church education, hospitals and cultural monuments by a special agreement. Such wording unquestionably presupposes that to some extent these particular areas of the Church's activities will be financed by the State. The meaning or purpose of the State's commitment to conclude another special financial agreement with the Holy See under Article 20(1) of the Basic Treaty is therefore to guarantee the extent of the funding, not the funding as such, exclusively in relation to the above-mentioned areas of activity of the Churches. The contractual wording used does not, therefore, lead to the conclusion presented by Turčan and Mrva that Article 20(1) of the Basic Treaty is a special contract intended to guarantee state financing of the churches as such. This conclusion is not supported by the argument that if the treaties with the Holy See were to result in an obligation on the part of the State to finance exclusively the areas mentioned above from the State budget, this would not require modification by the Basic Treaty and the special treaty, since the financing of these areas is already guaranteed by the legislation in force. The Basic Treaty in Articles 13, 17, 21 implicitly speaks of the obligation of the State to finance the areas of the Church's activity mentioned there; the special treaty on financial provision is to determine the extent of this financing guaranteed by the State. Thus, the Basic Treaty directly protects the Catholic Church from the situation where the State would completely refrain from financing the listed areas. The specific financial contract should also provide a guarantee of a certain agreed level of funding. An interpretation according to which the generally worded Article 20(1) of the Basic Treaty, which is also referred to in Articles 13, 17 and 21 above, and which contains the State's commitment to the future

conclusion of a special contract for the financial security of the Catholic Church, implicitly binds the State to the financing of the Church as such (even beyond the activities listed in Articles 13, 17 and 21), appears to be unduly expansive. Based on the content of the Basic Treaty, the State is explicitly obliged to negotiate with the Catholic Church the elements of a contract on the provision of financing for the Catholic Church, but without concluding such a contract, it is obliged to provide for the financing of the Church's activities from the state budget only to the extent of the activities listed in Articles 13, 17 and 21. The manner and extent of the financing by the State is itself, in the absence of a specific contract, in principle a matter of the State's own discretion.

Based on the above, the conclusion on the possibilities of defence of the Church in case the State unilaterally completely abolishes any funding of the Church from the State budget (i.e. also under Articles 13, 17 and 21) can be considered polemical. Here, only the instruments of international law and diplomacy would seem to come into play, but not compensation for damages, whether in terms of damage caused by misconduct in public office or damage in terms of private law. As regards the possibility of compensation for damages on the basis of private law rules, the problem is that the specific legal obligation of the State to finance, to an agreed extent, church schools, hospitals and similar establishments and church cultural monuments is of a public-law nature. The Basic Treaty, to the extent under examination, concerns a public interest and is a legal act of public international law. The State does not act here as a private law subject but as a public authority, just as the Holy See is a public law subject of international law. The content of the Basic Treaty quite clearly concerns religious freedom as well as other rights and obligations in the sphere of social life. The content of the Treaty concerns the regulation of legal relations which are important for the functioning of public life and public institutions (conscientious objection, respect for the confidentiality of confessions, the establishment of days of rest, marriage, education, health care, cultural monuments, service in the armed forces and police, mutual diplomatic representation). The obligation of the state to guarantee (to some extent financially) the position of the church in the above-mentioned areas of social life and public interest regulated by public law already implies that the state is acting here as a subject of public authority, not as a private law subject. The public law nature of the Basic Treaty itself then also has an impact on the public law nature of the Church's financing. The Church does not receive a state contribution for its activities on the basis of special, periodically concluded subsidy contracts of a private law nature or on the basis of grants for which it applies. In the current setting, it is a direct transfer from the state budget, the terms of which are not negotiated in a special

contract but are laid down directly in a public law regulation. The conditions of financing or the determination of the amount of the contribution are therefore not negotiated contractually "based on the law", but are laid down directly by law, i.e. the entitlement to receive them arises directly from the text of the law. From the point of view of the nature of these transfers, therefore, they are not analogous to subsidies granted to other private law entities, but rather an obligation of the State to ensure certain public law rights and obligations, which include religious freedom and the public law status of churches. It is also inappropriate to consider a private law action for damages in view of other problematic aspects, such as proving the occurrence and amount of the damage. If the damage is demonstrable loss of property or non-property, then the plaintiff church would have to prove in the proceedings that it had a legal right to the amount sued for. However, since there is currently no international treaty guaranteeing a church a specific amount of contribution for a certain period in advance, it is a matter for the legislature alone to determine the amount of the contribution for subsequent periods, simply by amending domestic legislation. The argument that, if the State had not abolished the allowance altogether, the Church would have received an allowance of approximately the same amount as in previous years, which would consequently have represented the amount of the damage claimed, would be difficult to prove in the light of all the conclusions reached so far. It is by no means impossible that, in a year in which no allowance was granted at all, the alternative to not granting an allowance would have been to grant the allowance at the original amount. In view of the questionable possibility of legal protection for the Church through a private law action for damages, it would be possible, in view of the public law nature of the financial relations between the State and the Church, to consider compensation for damages under Act No 514/2003 Coll. on Liability for Damage Caused in the Exercise of Public Authority. However, the analysis of the complete cessation of the financing of churches with regard to its legal basis would have to be the result of the legislative activity of the State through the National Council of the Slovak Republic as the legislative body. However, according to Section 6(4) of Act No. 514/2003 Coll., which makes it possible to claim compensation for damage caused by an unlawful decision or procedure, an unlawful decision is not considered to be the result of a procedure of the National Council of the Slovak Republic in the exercise of its competence under Article 86(a) and (d) of the Constitution of the Slovak Republic, i.e. in its legislative and ratification activities. Thus, this provision directly excludes the possibility of claiming compensation for damages by the Church in accordance with the procedure under Act and No. 514/2003 Coll. as compensation for damages caused by the improper exercise of public authority.

Conclusion

In the light of the above, the fact that the Slovak Republic and the Holy See have not yet concluded a specific international treaty on the provision of financing for the Catholic Church appears to be a rather risky situation, especially from the Church's point of view. The financing of the Church 'as such', including its activities outside the framework of Articles 13, 17 and 21 of the Basic Treaty, is in principle entirely in the hands of the legislator. Despite the deep social consensus on the need to maintain some form of state funding for churches, whether by contribution or by appropriation, the church does not, as things stand, have an adequate range of sufficiently effective legal means to defend itself in the event that the state were to cut it off from public funding altogether. It would seem that the only way to address such a case would be through the unspecified diplomatic route to which the parties have committed themselves in Article 23 of the Basic Treaty.

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