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*Pavel Krafl*

## **Ordination of the Clergy and Ecclesiastical Law: A Brief Overview of the Ordination Law of Czech Dioceses in the Middle Ages**

### *Ordinacija duhovnikov in cerkveno pravo: kratek pregled ordinacijskega prava čeških škofij v srednjem veku*

*Abstract:* The subject of the study is the issue of ordination law in the Prague, Olomouc, and Litomyšl dioceses in the Middle Ages. The legal rules that were published in provincial and diocesan synods and which regulated the form of ordination are presented. The oldest preserved order of ordination of the clergy is from the time of Bishop of Olomouc Henricus Zdík (1126–1150). Instructions for the ordination of the clergy are included, for example, in the pontifical of Bishop of Litomyšl Albert of Šternberk. Ordinations were recorded in ordination books, the Prague ordination books from the years 1395–1416 being a particularly valuable source. The Hussite revolution brought significant encroachment on the functioning of the church in the Prague archdiocese and in the Litomyšl diocese. The bishopric of Litomyšl was completely dissolved, while the Prague archbishopric was not occupied by an ordinary, which caused complications in the ordination of priests.

*Keywords:* ecclesiastical law, ordination law, ordination of the clergy, Middle Ages, Bohemia, Prague Ecclesiastical Province

*Povzetek:* Predmet študije je vprašanje ordinacijskega prava v praški, olomouški in litomyšlski škofiji v srednjem veku. Predstavljena so pravna pravila, ki so bila objavljena na deželnih in škofijskih sinodah in so urejala obliko ordinacije. Najstarejši ohranjeni red posvečenja duhovnikov je iz časa olomouškega škofa Henrika Zdíka (1126–1150). Navodila za posvečenje duhovnikov so na primer vključena v pontifikal litomyšlskega škofa Alberta iz Šternberka. Ordinacije so bile zapisane v ordinacijskih knjigah, posebej dragocen vir so praške ordinacijske knjige iz let 1395–1416. Husitska revolucija je močno posegla v delovanje Cerkve v praški nadškofiji in litomyšlski škofiji. Litomyšlska škofija je bila popolnoma ukinjena, medtem ko praška nadškofija ni imela ordinarija, kar je povzročilo zaplete pri posvečevanju duhovnikov.

*Ključne besede:* cerkveno pravo, ordinacijsko pravo, ordinacija duhovnikov, srednji vek, Bohemija, praška cerkvena provinca

## 1. Introduction

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Canon law played an important role in the medieval church (Plöchl 1962; Brundage 1995; Hartmann and Pennington 2008),<sup>1</sup> its remit taking in disciplines that lay on the boundaries of law and theology. One such area was the law of ordination. Ordination law involved the legal regulation of the conferring of the Sacrament of Ordination on the clergy (Plöchl 1962, 288–305; Helmholz 1996, 61–87). Our aim is to provide a brief overview of the ordination law in force in the Czech dioceses under the Prague ecclesiastical province. The Prague diocese in Bohemia and the Olomouc diocese in Moravia were united under the Prague ecclesiastical province in 1344 in connection with the elevation of the Prague bishopric to an archbishopric. At the same time, the Litomyšl diocese was established as the third diocese within the new ecclesiastical province at the turn of the 1350s. Only the administration of the Olomouc diocese, and in turn the ordination of the clergy, continued after the beginning of the Hussite revolution (1420–1434). The bodies of the Prague archbishopric moved to Žitava (Zittau), on the outskirts of Bohemia, and functioned only to a limited extent. The bishopric of Litomyšl ceased to exist in the wake of the Hussite revolution and was not restored. Even after the end of the Hussite revolution, the administration of the Prague archbishopric functioned only to a limited extent, while the Catholic Church in Bohemia was administered by the so-called Catholic consistory. The archbishopric was not occupied until 1562, meaning there was no archbishop who could ordain priests. The result of the Hussite revolution was the presence of Utraquists in the land, making up the majority of the population, with the Utraquist parishes under the administration of the Utraquist consistory. The Utraquists recognised the apostolic succession and therefore needed priests ordained by a bishop, but they did not have a bishop, so were dependent on outside bishops willing to ordain their candidates (Kadlec 1991, 59–63; 79–80; 186–187; 288–290; 300–301).

## 2. The Ordination of the Clergy

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The ordination of the clergy is regulated normatively in the general law of the church. A number of distinctions in the first part of “*Decretum Gratiani*” contain provisions on the ordination of the clergy (Friedberg 1959a). The Fourth Lateran Council in 1215 adopted the decree “*De instructione ordinandorum*”, which required bishops to sufficiently instruct clerics to be ordained as priests in the services and sacraments of the church. Were bishops to ordain ignorant and uneducated persons to the priesthood, they would be punished, together with such unjustly

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<sup>1</sup> For the history of canon law in Czech dioceses, see Krafl 2022.

ordained persons (Baron and Pietras 2004, 266; X 1.14.14; Friedberg 1959b, col. 130–131). Pope Gregory IX's code, "Liber extra", includes the titles "De temporibus ordinationum et qualitate ordinandorum" (X 1.11; Friedberg 1959b, col. 118–124) and "De aetate et qualitate et ordine praeficiendorum" (X 1.14; Friedberg 1959b, col. 125–131). Boniface VIII's "Liber sextus" also contains titles of the same name (VI 1.9–10; Friedberg 1959b, col. 975).

The first ordinance concerning the ordination of the clergy appeared under Bishop of Olomouc Henricus Zdík (1126–1150), who elaborated the ritual of ordaining the priesthood. The persons to be ordained gathered in the church. After the Introit, Kyrie eleison, and the first common prayer of all those being ordained, all in the choir sang a litany and asked for God's help and the support of all saints. One of those being ordained performed a reading (*lectio*), and the bishop called the *ostiarrii* and ordained them. The bishop then sat on his throne and one of the ordained *ostiarrii* performed a second reading. Before the third reading, the bishop ordained the lectors, before the fourth reading the exorcists, before the fifth reading the acolytes, and before the sixth reading the subdeacons. After the sixth reading, he ordained the deacons. The subsequent reading of the Gospel was always given by a representative of the group of clerics who had been newly ordained to the given level of ordination. Once the deacons had been ordained and their representative had given a reading, the candidates of the priesthood were summoned and, standing, sang the sequence "Veni sanctae spiritus". They were then ordained by the bishop. According to the ancient tradition of the Olomouc church, newly ordained priests assisted the bishop at a subsequent mass. Each of them received from the bishop his own cup of wine, which he held in his hands. The new priests blessed their cups. Before the transformation, all poured the contents of their cup into the cup of the bishop, who carried out the transformation of bread and wine, the consecration, and, at the end of the Mass, they took from the bishop's hands the Body of the Lord and into their cup the Blood of the Lord and took Holy Communion. The transformation (consecration), therefore, was not carried out by the newly-ordained priests who were assisting, but only by the bishop (Friedrich 1904, 168–169, no. 163).

The chronicler Cosmas informs us that in March 1093 [1094?] the ordination of priests in Bohemia was carried out by the false Bishop Rotpert, who claimed to have run the church and bishopric in Cavaillon in Gascony for many years. After it was discovered that he was a fraud, they sent a scout to the country. Didier, Bishop of Cavaillon in Provence (not Gascony), sent a written statement that no Bishop Rotpert had ever worked in the episcopate. He is also said to have informed the antipope Clement III. (1084–1100). Clement III decided that ordained priests should not be re-ordained, but only be present at the next ordination and receive the blessing from the bishop by the laying on of hands (Bretholz 1923, 158–159).

A century later, a confusing situation arose in which the bishop neglected to lay his hands on the ordained during ordination. This happened on 18 December 1193, on Holy Saturday, when Bishop of Olomouc Kaim (1186–1194) ordained

priests and other clerics in Prague without the laying on of hands. Pope Celestine III allegedly sent a verbal message to Olomouc (which is unsubstantiated by any evidence), according to which new priests and other clerics were not to be ordained again, only the additional laying on of hands was to be carried out. This was performed by Bishop Engelbrecht, the successor of Kaim in the Olomouc episcopal see (1194–1199). Three and a half years later, the matter was dealt with by papal legate Cardinal Peter. He was to punish the ordainer, downgrade the ordained, and order new ordination. Cardinal Peter was reportedly almost killed by rural priests when he demanded a vow of chastity of the ordained (celibacy), so the ordination was interrupted (Emler 1874, 510–512).

Provisions concerning ordination are incorporated into the provincial statutes of the archbishops of Mainz, which were in force in the Prague and Olomouc dioceses until 1349 (Krafl 2003a, 555–556; 570–574). The provincial statutes of Archbishop of Mainz Werner of Eppenstein of 1261 contain Article XXXII. “De qualitate ordinandorum” and Article L. “De promovendis ad ordines sacros”. In the first of these articles, the archbishop forbids the ordination of illegitimately born persons, as well as vagrant and unknown clerics. In the second article, the archbishop orders that no cleric may be admitted to ordination without passing a test. The test was to take place on Wednesday and on subsequent days, the ordination itself on Saturday. A cleric could not be admitted to the test unless he had previously confessed to a suitable priest (Schannat and Hartzheim, 1760, 604; 613–614). The provincial statutes of Archbishop of Mainz Peter of Aspelt of 1310 incorporate the provision “De temporibus ordinum et qualitate ordinandorum” (1761, 178).

The provincial statutes of the Prague archbishops (Krafl 2003a, 556–561; 574–580; 2003b, 289–300) regulated the ordination of the clergy only very generally. The codification of Arnošt of Pardubice from 1349 contains a provision entitled “De etate et qualitate ad sacros ordines et curata beneficia promovendorum”. According to this, prelates were to examine whether the candidate for ordination was of strong morals, whether he satisfied the age limit and had the required knowledge, and whether he had been born of a legitimate bed. Arnošt of Pardubice recalled that a person of illegitimate origin could only receive dispensation for the purpose of obtaining ordination from the Pope himself. Furthermore, it was to have been ascertained whether the candidate for ordination had among his ancestors on the paternal side to the fourth degree of lineage someone who had murdered or injured a cleric. It was also important whether he had an ecclesiastical beneficium or sufficient property. If the applicant came from an outside diocese, he had to prove himself by way of recommendation or a dimissorial letter from his superior. As soon as the prelates among the candidates discovered a criminal or defective person, they were to expel him from the diocese. The bishops were to declare as excommunicated persons who sought to obtain ordination in an underhand way (Polc and Hledíková 2002, 122, no. 13/8).

It was stipulated at the Prague synod held after 16 June 1368 that a person who did not procure his own travel breviary should not take the test before ordination.

No one could leave his breviary to such a person, under penalty of excommunication (200, no. 22/3). Another ordinance concerning ordination was promulgated at the Prague synod on 17 June 1392. According to this, a candidate for ordination as subdeacon had to provide a letter proving his integrity. The letter was to contain the testimony of the respective parish priest and was to be written up by the rural dean (258, no. 43/2/3). The synodal statutes of commendator of the Olomouc bishopric Václav Králík of Buřenice of 1413 recall the need to comply with the above-mentioned ordinance from the codification of Arnošt of Pardubice (Krafl 2014, 336, no. A.VI/18).

As already indicated in Arnošt's statutes of 1349, if a cleric wanted to receive ordination in a diocese other than his own, he needed what was known as a *dimissorial letter* from his bishop. In the event of non-compliance with this obligation, he had to ask forgiveness from the papal penitentiary (Hledíková 1994, 77). If a cleric decided to receive ordination at the Roman Curia and was not provided with a dimissorial letter from his bishop, he could be given licence to receive ordination from any bishop or licence for ordination directly at the Roman Curia. Among the petitions at the papal penitentiary, we find a number of requests for forgiveness for receiving ordination without the knowledge of the ordinary and for permission for ordination by any bishop (Pořízka 1999, 245–246; 262; 2002, 32; Hledíková 2014, 18).

Pontificals (*Liber pontificalis*) were an important source for the course of ordination. Of the surviving domestic pontifical books, the pontifical of Albrecht of Šternberk contains a description of the liturgy of ordination. The manuscript dates back to 1376 and is now stored in the library at Strahov Monastery (D G I 19). It was created when Albrecht of Šternberk was Bishop of Litomyšl for the second time (1371–1380) and contains ordinances for the consecration of objects and the ordination of persons, as well as Bishop Albrecht's ordinances on the fundamental conditions for giving ordination in the diocese of Litomyšl. After the orders of conferral of tonsure and inferior and higher orders, comes the order of episcopal ordination. The manuscript also contains texts for the blessing of abbesses, abbots, and virgins, the blessing and coronation of the King and Queen, and prayers upon elevation to archbishop (Schmugge 1970, 56–65; Doležalová 2010, 36–38, 40).

According to the ordinance issued by Bishop Albrecht, a higher ordination could be conferred only after examination. It set the minimum age for candidates to become subdeacons at 15 or 18 years of age, deacons at 20 years of age, and priests at 25 years of age. The ordination candidate could not have any physical or mental handicap. The integrity of the ordination candidate was examined: whether he showed any of the negative qualities of greed, quarrelsomeness, or vice, or whether he had a bad reputation. The candidate for ordination could not be a bigamist and had to be of legitimate origin. As stated above, if he came from an outside diocese, he had to declare himself with the consent of his bishop. He could not be an apostate, he could not have been punished by excommunication, he could not have committed simony or other legally punishable conduct.

The candidate's knowledge was subsequently to have been tested: the ability to read, to form simple Latin sentences, to sing. A candidate for higher ordination had to prove possession of a prebend. The pontifical of Albrecht of Šternberk contains a liturgy of eight degrees of ordination. The form of priestly ordination according to Albrecht's pontifical is similar to the "Pontificale ordinis liber" by Guillaume Durand (Schmugge 1970; Doležalová 2008, 592; 2010, 42; 43; 47).

A pontifical was created sometime after 1433 for the needs of the titular bishop of Nicopolis and the ordaining bishop of Olomouc, Vilém Kolínský. This is stored in the Moravian Library in Brno, No. A 56 (Dokoupil 1957, 60–61). In addition, a pontifical was created in Bohemia around 1400, now stored in the Jagiellonian Library. This has not yet been analysed in detail (Brodský 2004, 20; 86, no. 23). A manuscript in the National Library in Prague from the beginning of the 14th century contains the pontifical of French author Renaud of Bar. This, however, is a modern import, owned in the last quarter of the 16th century by Metz Bishop Cardinal Charles of Lorraine (National Library Prague, XXIII C 120).

A fragment of the ordination books of the Prague archdiocese from 1355 has been preserved in the formulary of Archbishop Arnošt of Pardubice. A prebend or the name of the monastery from which he came is attributed to each ordained person (Tadra 1880, 351–355). A separate series of ordination lists from the Prague archdiocese ("Liber ordinationum cleri") remains from the years 1395–1416. Entries are listed by date of ordination, by diocese, by archdeaconry, and by degree of ordination (Podlaha 1922). In the case of the fragment from 1355, there is a list of people who had probably already passed the exam. The lists of people in the "Prague Liber ordinationum" were created as transcripts of other lists, probably those that served the vicar general when examining candidates. The lists of ordination candidates are not complete (Doležalová 2010, 50–51).

There were numerous requests for dispensation on account of illegitimate origin, *de defectu natalis*, at the papal penitentiary. The most famous cases include dispensation for Jan Volek, a Přemyslid of illegitimate origin, in 1319. Only rarely does dispensation arise from the receiving of ordination at a lesser age than that prescribed, *de defectu aetatis*. The document refers to the 20-year-old Oneš, son of the knight Hrabiš of Švábenice, from 1333 (Hledíková 2003, 185–193, especially 188; 192).

The absence of an archbishop in Prague during the Hussite era made the ordination of the clergy in Bohemia highly problematic. Initially, the Council of Basel contributed to the resolution of the matter by sending Philibert of Montjeu, Bishop of Coutances in Normandy, to Bohemia. Bishop Philibert subsequently ordained Catholics and Utraquists for two years, until he died in 1439, conferring a total of 471 ordinations, of which only 53 were priestly, the rest inferior (Zilynská 1992, 56–94).<sup>2</sup> Augustine Luciano of Mirandola, titular bishop of Santorini (1482–1493), and Philippe de Nova Villa, titular bishop of Sidon (1504–1507), came to Bohemia to ordain at the invitation of the Utraquist consistory (Macek 2001, 118–138).

<sup>2</sup> For Philibert's ordination of Prague candidates, see Zilynská 1991, 361–380, list of ordained persons relating to Prague on pp. 381–386. For edition, see Štědrý 1904, 92–98; 139–143.

Sometime around the period 1435–1460, individual clerics were ordained in Žitava (Zittau) by the Bishop of Grado, Jan Erner, on behalf of Catholic administrators. Otherwise, a total of thirty-one diocesan bishops or auxiliary bishops participated in the ordination of Bohemian clerics outside the Curia (Hledíková 2014, 9; 74–77). Clerics who had been ordained in Bohemia by a bishop on the authorization of the Prague administrators under one kind are captured in official books of administrators into which ordination lists are copied. The lists are broken down by degree of ordination, giving the names of the ordained persons and the place from which they came, and, where appropriate, details of the dimissorial and of the title. The official books also contain copies of documents evidencing the receiving of ordination (*litterae formatae*) (Hledíková 2014, 57–59).<sup>3</sup> For example, official book No. VI 11 contains lists of ordained acolytes, subdeacons, deacons, and priests ordained on 15 September 1498 (Macháčková 1985, 242; edition 283–284).

The ordinations that took place at the Roman Curia were carried out by the Apostolic Chamber and recorded in ordination lists called “*Libri formatarum*”. The books were kept by the office of the pontifical chamber and contain ordinations from the years 1425–1524. The preserved lists are copies of an original template. The lists contain the name of the ordained, the diocese from which he came, the prebend he held, or the monastic order of which he was a member (Pořízka 1999, 246–247).<sup>4</sup>

Candidates were put to the test three days before their ordination at the Apostolic Chamber. There they provided information about their titles and prebends. They were subsequently included in the list of persons for ordination. Clerics who were registered and approved for ordination were received in the chamber by the ordainers appointed by chamberlains on the authority of the Pope. The ordainer was a bishop living permanently or for a long time at the Roman Curia; these were ordinaries from the Italian and Dalmatian dioceses and other dioceses of the Eastern Mediterranean. With his signature, the ordainer confirmed the prepared lists and their copies in registers. Ordination was attended by a notary, who verified the identity of the candidates. If the ordained requested a document of ordination (*litterae formatae*), this was drawn up by a public notary, and later signed by the ordainer. It contained the name of the Pope, the chamberlain, and the current ordainer; details of the ordained person; and the place, date, and degree of ordination. In addition to the ordination lists, “*Libri formatarum*” also contained copies of these documents. The number of ordained persons from the lands of the Bohemian Crown ranged between one and three per year, and from four to six in some years at the end of the 15th century and the beginning of the 16th century. In one year, nine ordained persons are documented (Hledíková 2014, 14–17; 19; 21).<sup>5</sup>

<sup>3</sup> Edition of copies of *litterae formatae* and *litterae dimissoriales*, pp. 78–126. Editions of some *litterae formatae* published by bishops of Wrocław prepared Juceczka 2021, 61–63, no. 12–14; 16.

<sup>4</sup> Analysis of sources from the Czech lands, Pořízka 1999, 247–261, list of the ordained from 1431–1439, pp. 258–261; Pořízka 2002, 32–55; Hledíková 2007, 69–78; 2014, 13–14.

<sup>5</sup> Edition of entries and copies of *formatas* pp. 31–55.

### 3. Summary and Conclusion

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One important moment in the activity and work of the medieval church was the emergence of a distinctive legal system that regulated and governed the functioning of the church. Canon law itself arose by its separation from theology and by its very nature moved along the boundary between law and theology. It is enough to recall the mixed nature of the fundamental collection of canon law, “*Decretum Gratiani*”, which contains texts of a purely juridical nature, papal decretals, the provisions of councils and local synods, as well as texts of a theological nature, which became legal rules only secondarily. Some spheres of canon law regulate matters of interest to both theology and canon law. These include the sacraments, in particular baptism, marriage, and the ordination of the clergy, for which a number of legal rules emerged. In the case of the ordination of the clergy, ordination law was profiled as a sub-discipline of canon law.

The ordination law of the High and Late Middle Ages drew on the provisions of “*Decretum Gratiani*” and on the pontifical code of *Liber extra*. The first rule regulating the ordination of the clergy from the Czech lands was the charter issued by Bishop of Olomouc Henricus Zdík. This prescribed the procedure for the ordination of clerics in the cathedral church in Olomouc. The issue of ordination appears in the provincial statutes of the Mainz ecclesiastical province from 1261 and 1310, which were binding on the territory of the Prague and Olomouc dioceses until 1349. That year, an exclusive codification was issued for the new ecclesiastical province of Prague, containing the article “*De etate et qualitate ad sacros ordines et curata beneficia promovendorum*”. The topic of ordination occasionally appears in the provisions of later synods of the Prague archdiocese and the Olomouc diocese.

A cleric had to meet certain requirements before ordination, demonstrate knowledge, be of legitimate origin, be of appropriate age, and have a title, i.e., a prebend or other income. The bishops used aids in the form of a pontifical (*Liber pontificalis*). A description of the liturgy of ordination has been preserved in some of these, such a case being the pontifical of the Bishop of Litomyšl Albrecht of Šternberk. Entries of ordinations were recorded in ordination lists, although there are relatively few medieval ordination lists still remaining in Europe, making the lists of ordained persons from the Prague archdiocese (*Liber ordinationum cleri*) all the more valuable. An ordained cleric received proof of ordination in the form of a deed.

Normally, a cleric sought further ordination in his own native diocese. However, ordination could also be performed elsewhere. In this case, the candidate had to obtain a *dimissorial letter* from his bishop. He could be ordained by a bishop of another diocese or by a bishop exercising this function in the Holy See. He was also able to receive dispensation from the Holy See if he did not secure a dimissorial letter, in which case the office of the Apostolic Penitentiary was competent. The Apostolic Penitentiary granted dispensation on request even in cases of the illegitimate origin and insufficient age of the candidate for ordination.

During the 14<sup>th</sup> and 15<sup>th</sup> centuries, it was common for an auxiliary bishop to



appear in individual bishoprics to take charge of ordination – in particular, the ordination of the clergy (ordaining bishops). Auxiliary bishops were ordained to the defunct bishoprics of Nicopolis, Ezerus (Nezero), Megara, Khersonesus, Volodymyr-Volynskiy, Sarepta (Sarafand), Dionisias and Cesarea (Podlaha 1922, III–IV; Baletka 1999, 59, note 20). A complicated situation arose in Bohemia after the Hussite revolution, when the Prague archbishopric was not occupied by an ordinary. The absence of a bishop particularly affected the Utraquists. Candidates were ordained by bishops from elsewhere and for certain periods by an outside bishop who worked in Bohemia to this end.

## Abreviation

X – *Liber extra*.

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