

**Westpfahl Spilker Wastl
Lawyers**

Munich

Leipzig

Berlin

Central points of the appraisal report

**Sexual and other physical assaults by priests, deacons and other
pastoral workers in the field of jurisdiction of the Archdiocese of
Munich and Freising between 1945 and 2009**

Fact-finding – Evaluation – Consequences

of 02/12/2010

Information accompanying the press conference of 03/12/2010

I. Occasion and content of the ordered assessment

Prompted by the wide public discussion, in particular at the beginning of 2010, of cases of abuse within the Roman Catholic Church, the leadership of the Archdiocese of Munich and Freising decided to enlist external expert assistance in registering, analysing and evaluating relevant occurrences in the period from 1945 to 2009, the objective being to avoid any future grievances or misconduct in the area of the Archdiocese. The order was placed with the lawyers' office of Westpfahl Spilker Wastl at the end of April 2010. It was expressly requested that any **structural deficiencies** should be uncovered and analysed that contributed to relevant offences and inadequate detection, and to neglected or inadequate reactions to the events in question. The ordered assessment thus differed from the task of the Commissioner for Abuse, whose duty it is to deal with fact-finding in individual cases, with reference to the respective victims and their fate.

II. Investigation procedure

Pursuant to the assessment order, more than 13,200 documents were inspected by employees of the Bishop's Palace for indications of any relevant incidents. These included personnel dossiers, reference files from the personnel office, court documents, archived documents, files relating to employment in schools, and documents from the confidential archives of the Archbishop and the Vicar-General. Indications were found in 365 documents, and these were submitted for detailed inspection by the lawyers.

As a flanking measure to this research, which entailed a considerable effort in staffing and work on the part of the Bishop's Palace, the lawyers questioned a large number of responsible people at the Bishop's Palace, including the Principal of the Seminary, the Head of the Schools Department and a retired Vicar-General. All requests by the lawyers for interviews were taken into consideration.

III. Some essential facts and figures

According to the investigation described above, 159 **priests** were conspicuous; however, this number certainly does not account for all the relevant cases of assault. It must rather be assumed that the actual number is significantly higher. 26 priests were convicted of sexual offences. None of the still living priests of the diocese are among those convicted. From the point of view of the experts, the inspected documents and the conducted interviews give reason to assume that there is proof of sexual offences carried out by 17 further priests. There are two convictions for other physical abuse. These do not involve any still living priest of the diocese. In the view of the experts, other physical abuse by priests can be regarded as proven in 36 cases. The documents contain indications of six further criminal convictions, for which the charges could not be ascertained.

A total of 15 **deacons** (and a further laicised deacon) were conspicuous. Of these only the later laicised deacon was convicted of sexual abuse. In the view of the experts, physical abuse is proven in one case. In three cases, the documents yield indications of sexual abuse, but do not permit a final judgement.

Among those employed as **Parish/Pastoral Assistants, counselling assistants and youth workers**, six persons were conspicuous. In only one case can physical abuse be regarded as proven.

A total of 96 **teachers of Religious Instruction in the service of the Church** were conspicuous, one of them having been convicted of a sexual offence. In the view of the experts, a further case of sexual abuse is proven. There are no cases of conviction for other physical abuse, although the experts regard this as proven in 24 cases .

IV. The procedure - points to emphasise

The Leadership of the Archbishop's Palace ensured that the experts were given access to all sources relative to the period under appraisal that serve the purpose of the desired findings. The support given by the contacts of the experts, including the Leadership of the Archbishop's Palace, was unreserved and resolute, leaving no room for doubt as to the unconditional will to clarify matters.

Wherever the experts encountered limits to the clarification of individual events in the past, these were imposed, not by any restriction on what was made available, but rather by the regrettable state of what was available. And this, by the way, is one of the reasons why the already mentioned, considerable number of undetected cases must be assumed. All the more so because, according to the findings of the experts, destruction of documents took place in considerable measure, and wide-ranging collections of documents were stored outside the Palace in private dwellings, and thus made susceptible to manipulation. In addition, the documents were not secured against unauthorised access even on the Palace premises. For these reasons, there were in many cases obvious gaps in the documentation. It was repeatedly impossible to reconstruct events. Vital documentation, affecting for example former activities of the person under investigation or the reasons for a change of diocese in the case of incardinated priests, was missing in most cases. There was no reliable, central registration of the documentation, so that, again and again in the course of investigation, documents or parts thereof appeared surprisingly at the most varied places. The experts took pains to compensate at least in part for the emerging deficiencies by so-called negative declarations, in which those responsible in the affected areas of the Palace affirmed the non-existence of further documents.

With regard to the misconduct in question, namely the sexual offences, it must be emphasised that euphemistic, trivialising language was used, which, from the point of view of the experts, often gave no more than an inkling of the complete extent of the offence and its effect on the victim. One exception to this is the documentation of the Abuse Commissioner, which portrays the events unvarnished, and does not veil the reproachable events out of a false sense of shame. Not even a trace of comparable flaws in documentation were to be found here.

V. The events under investigation – points to emphasise

Instead of following its own mission and abiding by its moral precepts by stemming itself against attitudes that assign victims – and in particular victims of sexual offences – a joint responsibility, and place sexual topics under taboo, the Church has used this long-standing, prevalent social context to promote non-detection of misconduct. To the same extent, it has not stood up for the rights of the children en-

trusted to it, and thus shares the responsibility for the fact that the victimised children, through the attitude adopted towards them, have often been exposed to the stress of childhood isolation in addition to that of the offence itself.

The findings that have been made permit statements about conspicuously frequent, offender-related **personality traits and offender structures**. In many cases, the experts encountered a psychologically and physically weak personality, in the vast majority of cases at the advanced age of between 45 and 65 years. Also conspicuous are deficits in maturity, evidenced by the fact that assistance in day-to-day tasks was applied for to the Bishop's Palace, and also granted by the latter. Finally, an addiction problem in the form of alcohol abuse can be ascertained in the case of a conspicuously high proportion of the persons in question, the addictive substance being used in part as a means to carry out the offence, in preparation for the offence, or to deal with the psychological problems following the offence. For completeness' sake it must be added that the vast majority of relevant incidents took place in rural areas.

The **reactions of the Bishop's Palace to the accusations of abuse**, namely the massive criticism by experts that arose in this context, are centred upon the ignoring of the victims, their bodily and in particular emotional injuries and the associated, sometimes permanent consequences of the offence before introduction of the Guidelines of the German Conference of Bishops in 2002. The serious lack of detection in the past, which is the expression of a completely underdeveloped interest in the facts of the cases, is the result of this disinterest in the fate of the victims and the reluctance to face the conflicts involved. From the point of view of the experts, the contempt for the victims becomes apparent in its most crass form in the cases in which priest who was known to have committed a sexual offence against a child was employed in another position without the background information being revealed; this was not only permitted, but ordered, and thus further victims were consciously reckoned with. This unjustifiable treatment of the victims was accompanied by inadequate preventive care of the respective offenders. Every effort was made, on their behalf and also on behalf of the Church, to avoid public perception of the offence and – as they thought – a scandal. This anti-detection priority is in agreement with the lack of any internal Church sanctions in the vast majority of cases.

These points are all the more serious because far-reaching sanctions, even such as threaten economic existence, are put in place against lay people, even for slight offences.

The ubiquitous, though more or less resolute, preparedness to leave even serious offences undetected and unatoned is rooted in what the experts are convinced is a misinterpretation of how the clergy see themselves; one that, sworn to a brotherly community, seeks for a justification of intolerable hushing-up in a defence of their own class that is reckless of the results. As if this self-perception were not enough of a serious impediment to detection, the experts' attention was drawn by a further area that is liable to cause massive impediments to detection because of isolation. This is the topic of clerics with homosexual tendencies, who, with a view to the Church's teaching on homosexuality and priesthood, are unfortunately subject to a particular potential for blackmail.

VI. Conclusions and recommendations for remedying existing grievances and avoiding future grievances

In the view of the experts, the findings permit future-oriented conclusions that are calculated to remedy existing grievances and avoid future wrong developments.

The efforts of the German Conference of Bishops, in their Guidelines, to face the challenge of preventing future sexual abuse, in particular of children and young people, are beyond question. However, the role of the Abuse Commissioner and his staff of advisors in its present form does not meet the requirements. What is recommended is a comprehensive concept that not only entrusts the Abuse Commissioner with the mere receipt and forwarding of information, but also gives him the competence to take decisions on the further handling of the matter, including the involvement of State authorities. In addition, it is urgent that the Abuse Commissioner be given duties in the area of prevention, in particular with regard to information about possible causes and indications of a case of abuse. In the view of the experts, this enhancement of the position of the Abuse Commissioner will necessitate a far-reaching release from other duties. A public annual report by the Abuse Commissioner about his work is expedient.

The obligation in the Guidelines of the German Conference of Bishops, in most cases compulsory, to report to the State prosecution authorities is, in principle, welcomed as a sign of an awakened preparedness for unconditional openness and detection. It must, however, be considered to what extent the justified interests of victims, as the victim-protection associations in particular warn us, could possibly be better accounted for through a judgemental solution included in the decision-making competence of the Abuse Commissioner.

Of course, in view of the serious defects encountered, a significant improvement in the documentation will have to be organised, in order to ensure complete registration of the incidents documented, and the preservation and retrievability of the created documents. An appropriately secured electronic documentation system would appear to be a suitable alternative. One essential element of a documentation system oriented on the minimum requirements of such a system is that clear rights and responsibilities are assigned for it; and, by the way, this applies to the overall administration. This of course means an appropriately firm personnel management that does not shrink from taking consequences. The last point applies without regard to the affected person and his or her status.

The problem complex of sexual offences cannot be reduced to the question of paedophilia, so the training of priests should be inspected critically by expert, unbiased persons to ascertain the extent to which the personality traits sketched above find a breeding ground there. It is of particular importance in this context to have expert-based training for priests (and lay people, too, by the way) in dealing with children and adolescents.

The experts see a special need for assistance in the case of foreign and incardinated priests.