

Munich Report – January 20, 2022 – Pages 1-10 – Google Translation

A. Basics

I. Mission and objective of the report

"The prevention of sexualized violence can only be considered successful [...] if it is suitable for counteracting the structural enabling conditions of sexualized violence in the area of the church." (Gräß-Schmitt, in: Wirth et al., Sexualized violence in church contexts (2022), p. 307, 309)

A very important factor in these structural enabling conditions is the (non-)reaction of church leaders to (suspected) cases of abuse that have become known to them in the sense of a general and special preventive opportunity to influence alleged or actual abusers. If the person who does not allow himself to be deterred from committing the crime by the consequences he has caused does not have to fear that he will be held accountable for his damaging actions, the (ultimate) inhibition threshold for committing the crime will be removed for him. The question of how church leaders should react to alleged or actual abusers is therefore of great importance for effective abuse prevention. However, the importance of this question is no less great with regard to the processing of (suspected) cases of abuse from the point of view of the injured party. It is not uncommon for these to have the feeling that not only is the person directly responsible for the suffering inflicted on them, but that he could do his mischief with at least the tacit tolerance of the church hierarchy, while they themselves were blamed by church dignitaries for what was done to them, for years and decades, in some cases to this day, have not even been noticed and have suffered further injuries as a result. There is therefore an urgent need for clarification and processing of the question of the personal responsibility of church leaders for the continued facilitation of sexual assaults in the Catholic Church.

In addition, the question of responsibility and those responsible, especially in hierarchically structured units, proves to be not only justified, but rather necessary in order to link structurally conferred power with the individual consciousness of personal responsibility and thus, if possible, also with moral control subdue. Part of the control must be the renunciation of isolation, combined with the integration of technically superior expertise, which in turn is independent of hierarchical structures.

The year 2010 is perceived by many as a "turning point" in the handling of cases of sexual abuse in the Catholic Church in Germany. Not least in view of the report commissioned by the Archdiocese of Munich and Freising in 2010, it is evident and a conviction firmly established in the consciousness of large parts of the public that the offenses and crimes summarized under the term "abuse in the Catholic Church" are to the detriment of those in need of special protection in our society were committed in such large numbers that it is absolutely impossible to assess them as individual cases. A renewed confirmation of this finding, not least through this investigation, is not required. Since then, numerous church institutions and facilities have had such cases

investigated by independent bodies, often lawyers, and reported to the public on the knowledge gained. The number of examinations carried out in the German-speaking area is now given as more than 20. The aspect of the personal responsibility of ecclesiastical decision-makers was of only secondary importance, if at all; this also in the public discussion. The presentation of the results of the study commissioned in 2014 to record and scientifically analyze the sexual abuse of minors by Catholic priests, deacons and male members of religious orders in the area of responsibility of the German Bishops' Conference (DBK) in the period 1946 to 2014 (so-called MHG study) at the autumn general assembly of the German Bishops' Conference in September 2018 resulted in a shift in emphasis.

Against this background, the Archdiocese of Munich and Freising commissioned the experts in February 2020 to answer the following questions as part of an investigation report to be presented to the public based on the investigation period from 1945 to 2019, in continuation and supplementation of the expert opinion submitted in 2010:

- What legal options and obligations existed in the past or currently exist for dealing with indications of (sexual) assaults by clerics, members of religious orders or other employees of the church in the Archdiocese of Munich and Freising? If necessary, the presentation is to be divided into phases, insofar as changes have occurred during the period of investigation.
- What guidelines and processes are currently in place in the Archdiocese of Munich and Freising for dealing with indications of (sexual) assault? How long have these regulations been in place, and do they ensure appropriate handling of indications of (sexual) assault? Is there evidence that they have not been complied with?
- Which and how many indications of (sexual) assaults by church employees (= priests, deacons, pastoral and community consultants, religious education teachers in the Archdiocese of Munich and Freising in the investigation period 1945 to 2010 or from the period 2010 onwards until 2019 clerics or other full-time employees) of the Archdiocese of Munich and Freising or of members of religious orders who worked in the area of the Archdiocese of Munich and Freising are available to the Archbishop's Ordinariate (EOM)? Which files/documents were evaluated for this?
- In how many cases can it be assumed that (sexual) assaults actually took place, what criteria is used to judge this and in how many cases are there possibly criminal acts?
- How did the Ordinariate react to the information provided?
- What measures have been taken since the first report was available to follow up on indications in a comprehensible and comprehensive manner and to prevent (sexual) assaults in the future (keyword: "prevention")?
- In which cases was or is the Archbishop's Ordinariate obliged to file a complaint with the prosecuting authorities? Has this been fulfilled or are there still open

cases? If the latter is the case, what period of time and/or action can be taken to avoid a criminal or canonical statute of limitations?

- Insofar as there is sexual abuse, it must also be described which church law, criminal law (forwarding to the law enforcement authorities and, if necessary, the result of the investigations there) or other consequences were drawn. If appropriate measures have not been taken, it must also be explained whether and to what extent reasons for this inaction are evident and who is responsible for it.
- Cases in which payments were made in recognition of the suffering and/or other measures were taken to support those affected should also be recorded.

In a press release published by the Archdiocese of Munich and Freising on February 27, 2020, it summarizes the investigation as follows:

"The Archdiocese of Munich and Freising is expanding its processing of cases of sexual abuse and physical violence. After being the first German diocese to present an independent abuse report in December 2010, a new report based on this is now being commissioned from the external law firm Westpfahl, Spilker, Wastl. The report is to be published and state whether those responsible met legal requirements and the guidelines of the German Bishops' Conference and acted appropriately in dealing with suspected cases and possible perpetrators. The order covers the period from 1945 to 2019. In addition to the abuse report from 2010, the new report is based on all new indications of sexual abuse by clerics and other full-time employees who have been the archdiocese's area of responsibility from 2010 to the end of 2019.

[...]

Last but not least, the report that has now been commissioned poses the question of how to deal appropriately with indications of sexual assault and physical violence and is intended to name responsibilities. This also includes examining whether and in which cases there was an obligation to report to the law enforcement authorities, whether a report was made or steps taken under canon law were taken. If this is not the case, however, it will be checked whether a complaint can still be made or whether a sanction can be imposed under canon law. If the necessary measures have not been taken, it must be checked what the reasons for this are and who is responsible for them. (ck/kel)"

([https://www.erzbistummuennen.de/news/bistum/Erzbistumerweitt-Aufauffertigung-des-Miss Brauchs-36278.news](https://www.erzbistummuennen.de/news/bistum/Erzbistumerweitt-Aufauffertigung-des-Miss-Brauchs-36278.news); retrieved: October 4th, 2021)

In the implementation of the investigation mandate described in this way, the cases under investigation were examined with regard to compliance of the respective treatment with the requirements of church and state law and/or the church's self-image, systemic deficits and personal responsibilities and the relevant causes. In this context, the evaluators attach great importance to the following:

- An investigation of the factual handling of cases of abuse and related responsibilities misses its goal from the outset if it is restricted to the question of legality. According to the understanding of experts, the standard for church action and, above all, that which the church applies or wants to have applied to the behavior of the believers, but also to society as a whole, was never and is not limited to the question of mere legality. If one wanted to see this differently, significant, if not central, action-guiding guidelines would remain unconsidered from the outset and the investigation would at least produce a distorted picture. The same applies to compliance investigations, which also have to take into account rules of conduct outside the legal system. In this respect, the experts present their findings and assessments, which are justified in more detail, and put them up for discussion.
- The victims of the offenses and crimes in question here are expected to name misconduct and those responsible for it, even beyond purely legal provisions. It is necessary in order to set a course for the future, but should in no way be understood as an invitation to attack or even pillory individuals in response to the knowledge gained. This would tempt those concerned to evade questions that are still required or to take refuge in empty phrases when answering them. The naming of those responsible whose actions or omissions were clearly in breach of duty and/or inappropriate in the opinion of the experts should also open up the opportunity for those who may have acted incorrectly in managerial positions to self-critically reflect on their own actions and possibly correct their own view of what happened in the past allow for correct findings. This is the only way to open up the chance, for example, to counteract the misinterpretation of brotherhood among clerics as a defensive bastion against criticism from outside. This is the only way to create space for real readiness for renewal on the basis of a self-critically identified need for renewal. Individual responsibility, which of course is always supported by the systemic involvement of the individual acting, does not live from the faultlessness of action, but from the willingness to self-critical examination, which includes the correction of one's own positions. Correctly understood fraternity does not live from isolation, but in particular from being able to rely on decision-makers to be comprehensively informed about observations and knowledge relevant to decisions. This is not a way for the subordinate to get rid of any further responsibility, but rather as a support contribution for those higher in the hierarchy.
- It is also a consequence of the research commission described in this way that, despite all the justification and necessity of data collection, it is not primarily concerned with quantification and empirical statistical recording in a kind of accountant mentality, as well as a comparative examination of the suffering of the injured and the failure of church leaders. The breaches of duty in the room are at best comparable to a very limited extent in terms of their weight and each number given is therefore only meaningful to a limited extent. It should be undisputed that the reinstatement of a cleric accused of sexual abuse, especially

if he has committed further assaults, represents a significantly more serious breach of duty than the failure to report an obviously statute-barred case to the state prosecution authorities, which is to be qualified as a “formal violation”. However, any number that does not make such differences clear provides a leveling and thus distorting picture of responsibilities and reproaches. Therefore, the present study deliberately refrains from such an approach.

- Previously known indications of (suspected) cases of abuse and their handling by church officials were reviewed by experts, although this was done in the knowledge that each number given is not able to accurately reflect the actual extent of cases of abuse. Case numbers have no significant significance for the study, which was declaredly carried out with the aim of future orientation. Therefore, despite all efforts to record and assess the known cases as completely as possible, investigative investigations, as it were, are deliberately avoided as to whether further, probably only a few additional (suspected) cases of abuse can be identified in the files. In the opinion of the experts, a noteworthy additional knowledge gain with regard to the investigation order is not to be expected on the basis of this.
- The following statements will not describe the individual cases to be presented in accordance with the order comprehensively and in detail. However, insofar as this is necessary for reasons of verification and illustration of the expert findings, the description is made anonymously and in such a way that it protects the injured party from possible re-traumatization, but also the accused – who are usually not criminally convicted in this respect. If possible, no conclusions can be drawn from the circumstances described about the specific individual case and the people involved.

On the basis of the knowledge gained while taking these specifications and premises into account and not least in the light of the increasing importance of "compliance" also in the church context, some recommendations for the elimination of existing deficits and the optimization of existing instruments form the conclusion of the investigation.