

**Austria – Holy See:
Concordat
with Protocol**

(extract)

QUOTATION

Concordat between the Holy See and the Republic of Austria together with Protocol

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TEXT

**CONCORDAT
BETWEEN THE HOLY SEE
AND THE REPUBLIC OF AUSTRIA
TOGETHER WITH PROTOCOL¹**

(extract)

His Holiness, Pontiff Pius XI., and the Republic of Austria, in their common desire to settle, upon common consent, the legal situation of the Catholic Church in Austria for the best of the ecclesiastical and religious in a new and durable manner, have decided to conclude a solemn agreement.

²For this purpose

His Holiness

has appointed his plenipotentiary

His Eminency, the Reverend Sir Cardinal Eugen Pacelli, his Secretary of State, and the
Federal President of the Republic of Austria

has appointed his plenipotentiaries

His Eminency, the Federal Chancellor Dr. Engelbert Dollfuß, and
the Federal Minister for Justice, Dr. Kurt Schuschnigg, at present also charged with the direction
of the Federal Ministry of Education,
who have, after having exchanged their authorizations, ascertained as due and correct, agreed
on the following provisions.

.....

Article II

The Catholic Church shall enjoy in Austria public-legal status. Its single establishments, which have, according to canonical law, legal personality, shall enjoy legal personality also for the state sphere, insofar they have already existed in Austria at the date of entry into force of the present Concordat. Establishments which are to be founded in future shall be bestowed legal personality for the

¹ The Protocol is an integral part of the Concordat and has, like this, the rank of a federal act (see also the introductory note to the Protocol, below). The relevant paragraphs are shown respectively after the concerning parts of the Concordat in indented layout.

² The indents, which do not in every case seem logical, were re-designed according to the publication in the Austrian Federal Gazette.

state sphere, in case that they become existent with the cooperation of the state power, as provided in the present Concordat.

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Article V

§ 1. The scientific education of the clergy shall take place at the Faculties of Catholic Theology, which are maintained by the State, or at the Schools of Theology, established by the competent ecclesiastical authorities.

The seminaries, convicts and similar ecclesiastical establishments for the education of priest candidates shall be, with regard to their foundation, exclusively subject to the supervision of the ecclesiastical supreme authority.

The internal organisation as well as the teaching at the Faculties of Catholic Theology, which are maintained by the State, shall in principle be regulated by the Apostolical Constitution "*Deus Scientiarum Dominus*" of 14 May 1931³, and the relevant ecclesiastical provisions. Those executive measures which at that prove to be necessary with regard to their special character of these faculties, or, respectively to their position within the university system shall be taken in each case upon consent with competent ecclesiastical authority.

Ad Article V, § 1, indent 3. The supreme state educational administration shall, after having consulted the competent diocesan bishop, ascertain from which ecclesiastical Schools of Theology the passing over to a State-owned Faculty of Catholic Theology during the study programme will be possible under the prerequisites which are provided for generally for the admission to university studies. With regard to that, the Holy See shall also care for the necessary steps in order to adapt, if possible, the curriculum of these ecclesiastical Schools of Theology in the framework of the tasks with which they have been entrusted, to the State-owned Faculties of Catholic Theology in the substantial items.

It is subject to mutual consent that the Faculty of Theology of the University of Innsbruck shall be maintained, especially with regard to the composition of its teaching staff.

§ 2. The academic degrees in the Sacred Theology which have been awarded by the Pontifical Universities in Rome shall be recognized in Austria for all ecclesiastical and state purposes⁴.

Ad Article V, § 2. The doctoral degrees in special sectors of Theology which have been awarded by Pontifical Universities shall have legal value in Austria unless not the exercise of a secular profession is concerned⁵.

§ 3. The appointment and admission of full or associate professors at the State-owned Faculties of Catholic Theology shall take place only upon consent of the competent ecclesiastical authority.

§ 4. In case that one of the teachers mentioned above should further on be indicated to the supreme state educational administration by the competent ecclesiastical authority as not any more suitable for teaching activities, he shall be dismissed from the exercise of the respective teaching activity.

In the case of such a dismissal there shall be cared as soon as possible by other means for the respective replacement in the sense of the procedure provided for in § 3.

³ At present: Apostolical Constitution „Sapientia Christiana“ of 15 April 1979 together with Executive Decrees of 29 April 1979.

⁴ This kind of recognition (“full equivalence“) has the effect of a validation according to art. 90 of the Universities Act 2002. This, however, applies only to the doctorate; a possibly preceding diploma remains to be a foreign one and is not automatically recognized equivalent because of the recognition of the doctorate.

⁵ This recognition is not a full one and does not have the effect of a validation according to art. 90 of the Universities Act 2002, but is restricted to purposes outside the exercise of secular professions, i.e. above all in the intra-ecclesiastical sphere.

Teachers in Catholic religion at other educational institutions who have been withdrawn the *missio canonica* must be removed from teaching religion.

Ad Article V, § 4. In case that a professor who has been, according to the present provision of the Concordat, dismissed from the exercise of the teaching activity does not find another appointment, he shall be retired in his capacity as a teacher in public service, and be granted that retiring pension which is due to him with regard to his recognizable service period, in any case, however, the minimum retiring pension, unless he has not forfeited his claim to a retiring pension at all according to other state provisions.

A similar regulation shall apply to the teachers in Catholic religion at the public secondary educational institutions. The provision on the care for a respective replacement shall apply to these teachers vice versa.

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Article XXIII

The present Concordat, the German and Italian text of which have the same legal force, is subject to ratification. The instruments of ratification shall be exchanged as soon as possible. The Concordat shall become effective by the day of their exchange.

In witness whereof the undersigned, duly authorized, have signed the present Concordat.

Done in two originals.

In Vatican City on 5 June 1933.

PROTOCOL

With regard to the Concordat between the Holy See and the Republic of Austria, signed on 5 June 1933 in Vatican City, the High Contracting Parties have given the following declarations, which shall count as integral parts of the Concordat.

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⁶ The relevant paragraphs are shown respectively after the concerning parts of the Concordat (see there) in indented layout.