Ius Ecclesiae, 11 (1999), p. 799-820

THE ORGANISATION OF THE ROMAN-CATHOLIC CHURCH IN A FEDERAL BELGIUM: THOUGHTS FOR THE FUTURE

I. Evolution until the independence of Belgium. — II. The Constitutional Framework. — III. The application of the Constitution since 1831. An example. — IV. The end of a story? — Conclusion.

Since 1993, Belgium is undoubtedly a federal State. This federal State is constituted of Communities and Regions. However, in the ecclesiastical landscape nothing has changed. This is especially the case for the roman-catholic Church in Belgium. Therefore some hold the view that the distribution of the territory into dioceses should be adapted to the linguistic areas and to the division of the province of Brabant (1). The main changes would occur in the archdiocese of Mechlin-Brussels. However one should know that such a suggestion is not easy to realise: as a result of the constitutional guarantees for religious freedom in Belgium, the competent ecclesiastical authorities as well as the civil authorities have to progress in this matter.

(1) See e.g. SENELLE, R., «Maak van Brussel tweetalig aartsbisdom», *De Standaard*, 6-7 December 1997; KERKHOFS, J. and VANACKERE, H., «Katholisch, pluralistisch und zweigeteilt. Die Kirche in Belgien», *Herder Korrespondenz*, 1985, (226), 229. For a complete overview of this issue, see MARTENS, K., «De organisatie van de Belgische katholieke Kerk na de staatshervormingen: aanpassen aan de federale staatsstructuur?», *Tijdschrift voor Bestuurswetenschappen en Publiekrecht*, 1998, 707-717. See also VAN BLADEL, F., «Nieuwe bisdommen en publieke opinie in België», *Streven*, 1961, 174-177; KERKHOFS, J., «Naar nieuwe kerkstructuren in België», *Streven*, 1966, 319-327. As a result of this division of the province of Brabant, some technical changes were made to the law: Loi 10 mars 1999 modifiant la loi du 5 avril 1962 reconnaissant les modifications de l'archevêché de Malines et la création de l'évêché d'Anvers, la loi du 4 mars 1870 sur le temporel des cultes et le décret impérial du 30 décembre 1809 concernant les fabriques des églises, *Moniteur belge*, 23 avril 1999.

In order to get a clear insight into this issue, an historical and a constitutional overview is necessary. First of all, a brief historical overview of the ecclesiastical situation until the independence of Belgium in 1830 will be given. Then the constitutional framework concerning religious freedom will be explained as well as the application of the same constitutional prescription since independence. The main question is: how much accomodation is there for the legislative power, whether or not in consultation with the executive power in the capacity of the federal government, to influence or even to determine the internal ecclesiastical organisation?

I. *Evolution until the independence of Belgium.*

The oldest diocesan territorial organisation in the Netherlands is found in the Meroving period. It was a result of the organisation of the Roman Empire (*Belgica Secunda* with Reims and *Germania Secunda* with Köln as capitals), but also the ambitions of the Meroving Kings were reflected in this organisation. There was an episcopal see in Tournai and in Cambrai. At the end of the sixth century, the diocese of Tournai formed a personal union with the diocese of Noyon. The same was done with Cambrai and Arras. Only in the twelfth century, Cambrai and Tournai became again independent dioceses with their own bishop. All these dioceses were suffragan from the archdiocese of Reims, while the diocese of Liège belonged to the ecclesiastical province of Köln (2).

After the unification of the Netherlands by the Burgundian dukes, Philip the Good (1419-1467) wanted a new diocesan organisation in his countries, but his plan was abandoned when Charles the Bold, his son and successor, died in 1477. Emperor Charles V (1506-1555) made several attempts in order to achieve a new diocesan organisation in the Netherlands: indeed foreign prelates could intervene in religious affairs in the Low Countries. Margaret of Austria, governor of the Netherlands and aunt of the emperor, made some

---

(2) DIERICKX, M., *De oprichting der nieuwe bisdommen in de Nederlanden onder Filips II. 1559-1570*, Antwerp, Standaard Boekhandel, 1950, 24; LESTOCQUOY, J., «L'origine des évêchés de la Belgique seconde», *Revue d'histoire de l'Église de France*, 1946, 43-52; VAN MINGROOT, E., «De bouwstenen: Doornik, Utrecht en Kamerijk», in CLOET, M. (ed.), *Het bisdom Gent (1559-1991). Vier eeuwen geschiedenis*, Ghent, Werkgroep Geschiedenis van het bisdom Gent, 1991, 17-21.

plans that were never executed. Eventually, she died on 1 December 1530 and her plans disappeared with her. Between April 1551 and April 1552, some professors of the university of Leuven made a new plan. The emperor had the intention to submit it to the Council of Trent, but this Council was adjourned. Eventually, Philip II (1555-1598), the son and successor of Charles V, was successful with his attempts: pope Paul IV announced in his bull *Super universas* (12 May 1559) the erection of fourteen new dioceses and the creation of three archdioceses in the Netherlands: the archdiocese of Cambrai with St.-Omars, Tournai, Namur and Arras, the new archdiocese of Mechlin with Antwerp, Bruges, Ieper, Ghent, 's Hertogenbosch and Roermond, and finally the archdiocese of Utrecht with Deventer, Groningen, Haarlem, Leeuwarden and Middelburg. The diocese of Liège remained suffragan from the archdiocese of Köln (3). After a long discussion, the archbishop of Mechlin became the primate of the Netherlands: the title of primate was indeed only conferred upon the metropolitan see of Mechlin when this diocese was erected in 1561 by Pius IV (4). This title is not to be found in the bull *Super universas* (5) and was purely meant as an honorary title (6).

(3) DIERICKX, M., *o.c.*, 24-69; DIERICKX, M., « La réorganisation de la hiérarchie ecclésiastique des Pays-Bas par la bulle de 1559 fut élaborée pendant la seconde période du concile de Trente, en 1551-1552 », *Revue d'histoire ecclésiastique*, 1964, 489-499.

(4) DIERICKX, M., *o.c.*, 108-113; SIMON, A., « Primas Belgii », *Collectanea Mechliniensia*, 1949, 511-524.

(5) In the bull *Ex Injuncto* (11 March 1561), we can read: « Perpetuo statuimus et ordinamus, quod Ecclesia ipsa Mechliniensis ante Cameracensem et Trajectensem Ecclesias praedictas prima sit, et illius pro tempore Archiepiscopus primum locum in Conciliis generalibus vel specialibus sessionibusque aliisque actibus super Cameracensem et Trajectensem archiepiscopus habeat. » The title « primas Belgii » at that moment was not limited to Belgium, but meant in fact « primaat van de Nederlanden » (primate of the Netherlands). In 1801, as a result of the concordat between the Holy See and France, the bull *Qui Christi Domini Vices* abolished the title. When mgr. de Méan becomes the new archbishop of Mechlin in 1817, this title is again used in the titulature of the Mechlin archbishops. Until 1839, « primas Belgii » is translated with « primaet der Nederlanden » (primate of the Netherlands). Then it becomes « primaet van Belgien » (primate of Belgium). The Roman authorities refused to give to this title additional jurisdiction, but they allowed that it be carried honourarily. This was confirmed on the occasion of the First Vatican Council.

(6) The Code of Canon Law of 1917 determined in canon 271 that the title of primate did not imply any particular jurisdiction, but only an honorary title and the right of pre-eminence according to canon 280: a patriarch has precedence over a primate, a primate over an archbishop and finally an archbishop over the bishops, except for what

This ecclesiastical organisation remains the same until the French period. After the victory of the French army, the Austrian Netherlands, the prince-diocese of Liège and the dukedom Bouillon were annexed by France (7). There was however an enormous difference between the French ecclesiastical situation and the situation in the Netherlands. During the Ancien Régime, there had never been a logical and systematic reorganisation of the dioceses in France. After the Revolution in 1789, an administrative reorganisation was performed. This was the basis for an ecclesiastical reorganisation by the French State, that also imposed unilaterally the procedure for the election and installation of bishops. This interference was condemned by the Holy See and only the former hierarchy was recognised by Rome. As a result of this, there were two ecclesiastical structures in France. Napoleon Bonaparte was well aware of the necessity of a direct intervention of the Holy See. Therefore a concordat would bring a reconciliation between the Holy See and France. In exchange, the Church would support the authority of the First Consul. So a concordat was an important political instru-

---

is stated in canon 347. This canon determined that a bishop in his jurisdiction had precedence over all archbishops and bishops, except over cardinals, papal legates and their own metropolitan. The title of primate exists only in the West. During the fifth and sixth century it was conferred to the bishops of some sees because of its age or the presence of an apostolic delegacy. A primate had the right to ordain metropolitans or bishops, to inspect dioceses, to receive an appeal, etc. Although the primatial sees in the Netherlands and France were suppressed in 1801, the titles were generally maintained for historical reasons. The code of canon law of 1917 considers the primatial title only as an honorary title, unless other provisions. Cf. VERMEERSCH, A. and CREUSEN, J., *Epitome Iuris Canonici*, I, Mechelen-Rome, Dessain, 1937, p. 308-309, nr. 388; CLAEYS BOÜÜAERT, F. and SIMENON, G., *Manuale Juris Canonici*, I, Ghent-Liège, Episcopal Seminaries of Ghent and Liège, 1939, p. 252, nr. 434; CLAEYS BOÜÜAERT, F., « Les patriarches et les primats », in NAZ, R. (ed.), *Traité de droit canonique*, I, Paris, Letouzey et Ané, 1948, nr. 575; NAZ, R. (ed.), *Dictionnaire de Droit Canonique*, *v° Primat* and *Primatie*, XXXVII, 214. This is still the case in the code of canon law of 1983 (canon 438). Only the primate of Esztergom (Hungary) has a certain jurisdiction. See ERDÖ, P., « Il potere giudiziario del Primate d'Ungheria », *Apollinaris*, 1980, 272-292, *Apollinaris*, 1981, 213-231; ERDÖ, P., « Neue Entwicklungen im ungarischen Partikularkirchenrecht », *Archiv für katholisches Kirchenrecht*, 1993, 451-468.

(7) LUYCKX, T. and PLATEL, M., *Politieke geschiedenis van België*, I, *Van 1789 tot 1944*, Antwerp, Kluwer, 1985, 38. On 26 June 1794, the Austrians were defeated at Fleurus. During one year, there was a regime of military occupation. On 1 October 1795, the Austrian Netherlands, the prince-diocese Liège and the dukedom Bouillon were annexed by France.

ment (8). In the concordat of 15 July 1801, pope Pius VII and Napoleon reorganised the dioceses in a profound way. The bull *Qui Christi Domini Vices*, dated 29 November 1801 and added to the concordat, reduced the number of dioceses on « Belgian » territory to five, namely Mechlin, Tournai, Namur, Liège and Ghent (9). The other dioceses are suppressed.

This situation remains unchanged during the period of the United Kingdom of the Netherlands (1815-1830). However, an attempt for a new concordat was made by king William I. This concordat of 1827 (10) planned the erection of three new dioceses: Bruges in the south and Amsterdam and 's Hertogenbosch in the north. Because of protest against these plans, especially against the plans in the north, the reform was never performed (11).

II. *The Constitutional Framework.*

The United Kingdom of the Netherlands in 1815 was the result of a decision of the Great Powers. The religious and school politics of king William I provoked a catholic opposition in the south. After 1825, a liberal opposition would ask for a parliamentary democracy, a directly elected legislative power, the principle of ministerial responsibility and the recognition of a number of freedoms. Both opposition movements were getting closer since 1827 and concluded a union in 1828. But only a small minority was thinking of independence. The Revolution in Paris on 27 July 1830, however, gave an impulse for a political revolt. So in September 1830 the Provisional Government was installed. After the preparation of the draft of the

---

(8) PRENEEL, L. « Bonaparte, le concordat et les nouveaux diocèses en Belgique », *Revue d'histoire ecclésiastique*, 1962, (871), 872-873.

(9) Loi du 18 Germinal an 10 relative à l'organisation des cultes, Articles organiques de la convention du 26 messidor an 9, Tableau de la circonscription des nouveaux archevêchés et évêchés de la France, *Pasin.* (1re série), 1801-1803, XI, 100-101.

(10) Arrêté royal du 2 octobre 1827 portant publication et promulgation de la convention passée le 18 juin 1827 entre le roi et le pape, et ratifiée par S.M. le 25 juillet 1827, *Pasin.* (2me série), 1827-1830, IX, 70-73; Arrêté royal du 2 octobre 1827 portant publication de la bulle concernant la ratification de la convention passée entre le roi et le saint-siège le 18 juin 1827, *Pasin.* (2me série), 1827-1830, IX, 73-82.

(11) Cf. HAMAS, P.W.F.M., *Geschiedenis van de katholieke Kerk in Nederland*, I, *Van missionering tot herstel van de hièrarchie in 1853*, Bruges, Tabor, 1992, 420-422.

Constitution and the election of a National Congress, the Provisional Government became the executive power of the Congress (12).

When drafting the Constitution, the catholics as well as the liberals made some concessions. In order to obtain the freedom of religion, some efforts were made by the ecclesiastical authorities. So mgr. de Méan, archbishop of Mechlin, wrote on 13 December 1830 a personal letter to the members of Congress. In that letter he asked for a constitutional guarantee for the freedom of religion (13). The episcopate was prepared to renounce the system of a privileged established religion, but he disagreed with the limitations on the liberty of religion as they were set in the drafts of the Constitution (14). These drafts were in fact based on the constitution of the United Kingdom of the Netherlands and would make it even possible to forbid religions (15). The purpose of the letter of mgr. de Méan was to increase the constitutional protection for religious liberty. Therefore he had five requests to be inserted in the new Constitution:

1) The public practice of the catholic worship cannot be restricted or prohibited.

2) The internal organisation should be completely free, especially concerning the nomination and the installation of the ministers and concerning the correspondence with the Holy See.

---

(12) LUYCKX, T. and PLATEL, M., *Politieke geschiedenis van België*, I, *Van 1789 tot 1944*, 40-53. For an overview and background information concerning the struggle for freedom of religion under William I and the reaction in the Belgian Constitution, see: GEORGES, R., « La situation constitutionnelle de l'Église catholique en Belgique », in *Études de droit et d'histoire. Mélanges mgr. H. Wagnon*, Centrale bibliotheek K.U.L. / Faculté internationale de droit canonique, Leuven / Louvain-la-Neuve, 1976, 255-284, especially 256-262; VAN GOETHEM, H., « Het beginsel van verdraagzaamheid in de Belgische Grondwet: een historische duiding », in CENTRUM GRONDSLAGEN VAN HET RECHT UFSIA (ed.), *Recht en verdraagzaamheid in de multiculturele samenleving*, Antwerp, Maklu, 1993, 33-63, voornamelijk 36-50.

(13) Letter of de Méan, archbishop of Mechlin, to the members of the National Congress, 13 December 1830. For the text, see HUYTTENS, E., *Discussions du Congrès National de Belgique, 1830-1831*, I, Brussels, Société Typographique Belge, 1844, 525-527.

(14) VANDE LANOTTE, J., *Inleiding tot het publiek recht*, II, *Overzicht van het publiek recht*, Bruges, Die Keure, 1997, p. 330, nr. 636.

(15) VAN GOETHEM, *l.c.*, 42. Article 20 of the draft was: « La liberté des opinions en toute matière est garantie. » And article 21: « L'exercice public d'aucun culte ne peut être empêché qu'en vertu d'une loi, et seulement dans le cas où il trouble l'ordre et la tranquilité publique. »

3) The freedom of education has to be guaranteed.

4) The freedom of association must be surrounded with constitutional guarantees.

5) The salaries and pensions of the ministers of public worship are to be charged by the State.

Finally, the desires of the archbishop are found in the text of the Belgian Constitution: it is almost the same as his letter to the Congress (16). The text of the Constitution is ratified by the Congress by decree of 7 February 1831 (17). The constitutional protection of religious liberty is laid down in four articles. The first three belong to fundamental rights and liberties, while the fourth article contains the principle of payment of ministers of public worship by the State. These four articles form the basis for Belgian Church-State relations. But in the Constitution, there is no definition of religious freedom, there are only some basic principles formulated. The Court of Cassation gave in its judgement of 27 November 1834 a definition of religious freedom (18).

Since 1831, nothing has been changed to this constitutional articles. In 1993, a second paragraph was added to article 181 of the Constitution: since then, it is possible for the representatives of organisations recognised by statute, to offer moral services on the basis of a non-confessional philosophy and to receive a salary and a pension from the State (19).

---

(16) GEORGES, R., *l.c.*, 268.

(17) As set forward in the decree of 11 February 1831, the Constitution was promulgated in the *Bulletin officiel des décrets du Congrès national de Belgique et des arrêtés du Pouvoir exécutif (nr. XIV)*. After the election of the head of state, the then articles 60 and 61 were completed by decree of 20 July 1831. The completed constitution was again entirely promulgated in the *Bulletin des lois et arrêtés du Pouvoir exécutif*, as a result of the royal decree of 1 September 1831. The Dutch text has been decreed on the occasion of the constitutional reform of 10 April 1967, *Moniteur belge*, 3 May 1967.

(18) Court of Cassation 27 November 1834, *Pas.*, 1834, I, 332: « le droit pour chacun de croire et de professer sa foi religieuse sans pouvoir être interdit ni persécuté de ce chef; d'exercer son culte sans que l'autorité civile puisse, par des considérations tirées de sa nature, de son plus ou moins de vérité, de sa plus ou moins bonne organisation, le prohiber, soit en tout, soit en partie, ou y intervenir pour le régler dans le sens qu'elle jugerait le mieux en rapport avec son but, l'adoration de la divinité, la conservation, la propagation de ses doctrines et la pratique de sa morale ».

(19) Change to the Constitution 5 May 1993, *Moniteur belge*, 8 May 1993.

The Constitution was modified several times. Therefore, a co-ordinated version was promulgated on 17 February 1994 [20]. The articles concerning religious liberty are now articles 19, 20, 21 and 181. The text is as follows [21]:

> *Article 19.* Freedom of worship and its free and public practice, as well as the freedom to express one's opinions on any and all matters, are guaranteed, save the punishment of crimes committed in the exercise of these freedoms.
>
> *Article 20.* Nobody shall be forced to participate in any way in the acts of worship or the rites of any religion, or to respect its days of rest.
>
> *Article 21.* The State has no power to intervene either in the nomination or in the induction of the ministers of any religion, or to forbid them to correspond with their authorities and to publish the decisions of these authorities, in the latter case with the exception of the ordinary responsibility concerning the use of the press and publications.
>
> Civil marriage shall always precede the religious marriage ceremony, save in exceptional cases established by statute, if there be grounds for it.
>
> *Article 181.* § 1. The salaries and pensions of the ministers of public worship are charged to the State; the necessary moneys for this purpose are mentioned in the budget on a yearly basis.
>
> § 2. The salaries and pensions of the representatives of organisations recognised by statute, which offer moral services on the basis of a non-confessional philosophy, are charged to the State; the moneys necessary for this purpose are mentioned in the budget on a yearly basis.

Freedom of religion and its free and public practice.

Article 19 states that there is freedom of religion and its practice is to be both free and public. This is a very large right that allows the

---

(20) Co-ordinated Constitution 17 February 1994, *Moniteur belge*, 17 February 1994 (second edition). In order to avoid confusion, we use the new numeration of the Constitution.

(21) An English translation of the Belgian Constitution is found in CRAENEN, J.G. and CRAENEN, G., *Constitution of the Kingdom of Belgium*, Leuven, Acco, 1994, 40 p.

free organisation of religious activities, not only in churches and places of public worship, but also in the open air (e.g. funerals, processions) [22]. For certain crimes against the freedom of religion, the penal code contains sanctions [23]. The freedom of religion and its free and public practice constitute no absolute right. Three limitations are possible.

According to article 26 of the Constitution, open-air meetings remain fully subject to police laws [24]. This means that the freedom of religion can be limited in case its free exercise endangers the public order. So processions in the open air can be forbidden [25] and the ringing of bells can be regulated [26]. But a municipal regulation that forbids permanently and in a general way the presence of a dead body during the ecclesiastical funeral, is illegal because it is in contradiction with the constitutionally guaranteed religious liberty [27].

A second limitation is the consequence of article 19: the freedom of religion is limited by the punishment of the crimes while using freedom of religion. An example is article 268 of the Penal Code: the ministers of public worship are punished when during the exercise of their function, they attack in words, during a public meeting, the government, a law, a royal decree or another act of the public authority. In jurisprudence, this article is interpreted in a restrictive way: the strict interpretation of penal law does not allow the application of this article to the reading of pastoral letters [28]. In certain doctrine one can find a plea for the abolition of this article [29],

---

(22) VANDE LANOTTE, J., *o.c.*, p. 332, nr. 641.

(23) Articles 142-146 of the Penal Code.

(24) Article 26 of the co-ordinated Constitution:

« The Belgians have the right to assemble peacefully and unarmed, provided they conform to the laws that may regulate the exercise of this right, without however subjecting it to prior authorization.

This article does not apply to assemblies in open air, which remain fully subject to the police laws. »

(25) Court of Cassation 23 January 1879, *Pas.*, 1879, I, 75; Court of Appeal Liège 4 August 1877, *Pas.*, 1877, II, 337.

(26) Court of Cassation 3 February 1879, *Pas.*, 1879, I, 106.

(27) Court of Cassation 15 February 1932, *Pas.*, 1932, I, 65.

(28) PERIN, F., *Cours de Droit Constitutionnel*, I, *Les libertés publiques*, Liège, Presses Universitaires de Liège, 1985, 132-133.

(29) VANDE LANOTTE, J., *o.c.*, p. 333, nr. 642.

while other doctrine holds that this article is simply unconstitutional: it violates namely the principle of equality (30).

A third and last limitation is found in article 21, second paragraph of the Constitution: civil marriage has to precede the religious marriage. This limitation is seen as a concession of the catholics in exchange for constitutional guarantees for the liberty of religion (31). Article 267 of the Penal Code contains a sanction for the minister of public worship who violates this stipulation, but an exception is made in case one of the persons who wish a religious marriage is in a life-threatening situation and every delay would have made the celebration impossible.

Freedom not to participate in the rites of any religion.

Article 20 of the Constitution is the opposite of article 19: nobody shall be forced to participate in any way in the acts of worship or the rites of any religion, or to respect its days of rest.

A first problem was the oath. Article 192 of the Constitution determines that no oath may be imposed except by virtue of the law, which determines also the wording. Several times, the Court of Cassation judged that the words 'so help me God' in the wording of the oath did not constitute an infraction on the Constitution, since they do not imply the participation to a religious rite (32). However, in 1974 this prescription was taken out of the article of the Code of Civil Procedure (33), but the addition does not make the oath irregular (34).

Another problem during a long time was the question whether military or others could be forced by virtue of their office to participate in religious activities, e.g. a *Te Deum*. In this case the Court of

(30) TORFS, R., «De Belgische Grondwet over Kerk en Staat, geloof en maatschappij», in TORFS, R. (ed.), *Beheer en beleid van katholieke instellingen*, Leuven, Peeters, 1990, 46-47.

(31) VAN GOETHEM, H., *l.c.*, 46.

(32) Court of Cassation 28 May 1867, *Pas.*, 1867, I, 275, concl. M. LECLERCQ; Court of Cassation 26 March 1906, *Pas.*, 1906, I, 176.

(33) Law 27 May 1974 concerning the change of the formula of the oath and of the solemn statements in judicial and administrative affairs, *Moniteur belge*, 6 July 1974, err., *Moniteur belge*, 12 July 1974.

(34) Court of Cassation 24 January 1985, *R.W.*, 1985-86, 1293.

Cassation also judged that such is not in contradiction with article 20 because — and in so far as — the parties involved are not forced to participate in actions of public worship [35]. Certain doctrine finds this solution of the Court of Cassation rather artificial and even discriminatory, just as the meaning that the military escort of the Blessed Sacrament without further honours would not violate the same article [36].

A third and last problem that is traditionally quoted, is the problem of Sunday as the obligatory day of rest. When this was introduced in 1905, this was the occasion for an intense debate in Parliament, but eventually it was said that Sunday as an obligatory day of rest was not opposed to constitutional protection of religion: the Sunday rest is based upon a general habit and does not form a religious obligation [37].

The internal freedom of organisation.

The internal freedom of organisation is guaranteed by article 21, first paragraph: the ecclesiastical authority is free to choose its own internal structure. This freedom has three concrete aspects. Firstly, the State has no right to intervene in the nomination or in the induction of ministers of any religion. So the Church is completely free to nominate and induct its ministers. This constitutional guarantee is first of all meant for the nomination of bishops, but it is also a protection for other nominations. The constitutional prescription does not however prohibit that for an episcopal nomination the advice of the government is asked for [38], as long as the power to decide remains with the ecclesiastical authorities [39].

---

(35) Court of Cassation 24 September 1870, *Pas.*, 1871, I, 38, concl. M. CLOQUETTE; Court of Cassation 18 June 1923, *Pas.*, 1923, I, 375.

(36) BORGINON, A. and DE POOTER, P., « Religieuze vrijheden in een multiculturele samenleving », in CENTRUM GRONDSLAGEN VAN HET RECHT UFSIA (ed.), *Recht en verdraagzaamheid in de multiculturele samenleving*, Antwerp, Maklu, 1993, 71.

(37) TORFS, R., « De Belgische Grondwet over Kerk en Staat, geloof en maatschappij », *l.c.*, 49; CUYPERS, D., KEMPEN, M. and MEEUSEN, C., « Culturele minderheden in het sociaal recht », in CENTRUM GRONDSLAGEN VAN HET RECHT UFSIA (ed.), *Recht en verdraagzaamheid in de multiculturele samenleving*, Antwerp, Maklu, 1993, 254; VANDE LANOTTE, J., *o.c.*, p. 334, nr. 645.

(38) Out of courtesy, it is common that the Belgian government is informed about an episcopal nomination just before the official announcement. Cf. COSTALUNGA,

A second aspect is the possibility for ministers to correspond with their authorities. The State cannot forbid this. Finally, the decisions of these authorities can be published freely, with the exception of the ordinary responsibility concerning the use of the press and publications.

This threefold guarantee is a direct reaction against the concordatarian system after 1801. Bishops were then nominated by the First Consul and appointed canonically by the Pope. The parish priest was chosen by the bishop out of a list approved by the government. Clerics had to take the oath of fidelity. Communications of the Holy See could only be published and executed after the approval of the government. Decisions of the ecclesiastical authorities could be challenged before the civil authorities by way of an appeal for abuse of power ([40]).

The consequence of this article is that ministers of public worship are not public servants: indeed the State cannot intervene in their nomination or induction. This is not only the case for army chaplains, but also for chaplains in penitentiary institutions.

M., « La Congregazione per I Vescovi », in *La Curia Romana nella Cost. Ap. Pastor Bonus*, Città del Vaticano, Libreria Editrice Vaticana, 1990, 295.

However less obvious and now even inappropriate, it is not forbidden that the King supports his own candidate. It is known that Leopold II had a candidate for the diocese of Tournai in place of the mentally ill mgr. Dumont. This was also the case when a bishop of Liège had to be appointed in 1879 and when his auxiliary bishop with right of succession was chosen. However, it was wishful thinking on the part of the King. Also his nephew and successor, Albert I, had his own candidate in 1926 when a successor for the deceased cardinal Mercier was sought. The candidate of the King was msgr. Ladeuze, rector of the university of Leuven. Eventually, the vicar-general, msgr. Van Roey, became the new archbishop. See: STENGERS, J., *De koningen der Belgen. Van Leopold I tot Albert II*, Leuven, Davidsfonds, 1997, 200-207.

(39) The Second Vatican Council explicitly wishes that civil authorities should no longer be granted rights or privileges to elect, nominate, present or designate candidates for episcopal office. Cf. decree on the pastoral office of bishops in the church, *Christus Dominus*, nr. 20. This is confirmed in the code of canon law of 1983, canon 377, §1: « The Supreme Pontiff freely appoints Bishops or confirms those lawfully elected. » and § 5: « For the future, no rights or privileges of election, appointment, presentation or designation of Bishops are conceded to civil authorities. »

(40) GIRON, A., *Dictionnaire de droit administratif et de droit public, v° Liberté de conscience*, nr. 74; ORBAN, O., *Le droit constitutionnel de la Belgique*, III, Liège, Dessain, 1906, p. 590-593, nr. 232; MAST, A. and DUJARDIN, J., *Overzicht van het Belgisch Grondwettelijk Recht*, Ghent, Story-Scientia, 1985, p. 552, nr. 483.

The payment.

A certain number of religions have been officially recognised by or by virtue of a law. This recognition has a double consequence. First of all, the salaries and the pensions of the ministers of public worship are charged by the State under the terms determined by the Ministry of Justice. That is the application of article 181, § 1 of the Constitution. On the other hand the recognition has as the consequence that legal personality is attributed to the ecclesiastical administration responsible for the temporal needs of the Church. For the catholic Church, this is the church fabric, while the other recognised religions have another administration. Non-recognised religions can obtain legal personality by adopting the form of an association without lucrative purpose. At this moment, there are six recognised religions in Belgium: the roman-catholic, the protestant, the anglican, the jewish, the islamic and the orthodox religion (41). The salary is fixed by law. Recently, also lay people can be remunerated by the State as ministers of public worship for the catholic church. This is the result of an agreement between the Belgian bishops and the government (42). In 1993, a constitutional reform was made and since that time also lay counsellors can be paid by the State (43).

III. *The application of the Constitution since 1831. An example.*

In 1830, Belgium had five dioceses: Mechlin, Ghent, Liège, Tournai and Namur. Except for the diocese of Tournai, every other

---

(41) The roman-catholic and the protestant religion were recognised by law of 8 April 1802. The anglican and the jewish religion were recognised by law of 4 March 1870, *Moniteur belge*, 9 March 1870. The islamic religion was recognised by law of 19 July 1974, *Moniteur belge*, 23 August 1974. Finally, the orthodox religion was recognised by law of 17 April 1985, *Moniteur belge*, 11 May 1985.

(42) See for more details: TORFS, R., with the co-operation of MARTENS, K. (ed.), *Parochie-assistenten. Leken als bedienaar van de eredienst?*, in TORFS, R. (ed.), *Scripta canonica*, I, Leuven, Peeters, 1998, X + 142 p.; TORFS, R., «Les assistants paroissiaux rémunérés par l'État en Belgique», *Quaderni di diritto e politica ecclesiastica*, 1998, 255-268.

(43) For a commentary, see: BRICMAN, C., «L'article 181, par. 2 de la Constitution: l'irrésistible puissance des symboles», *Rev. b. dr. const.*, 1995, 21-31; VEROUGSTRAETE, W., «De vrijzinnigheid: een nieuwe kerk, een levensbeschouwelijke strekking of een ongebonden aanbod?», in X., *Liber Amicorum Paul De Vroede*, II, Diegem, Kluwer Rechtswetenschappen België, 1994, 1513-1524.

diocese was composed of two civil provinces. In the concordat between William I and the Holy See (1827), the erection of the diocese of Bruges was foreseen. This plan was because of the circumstances never executed. But in 1834, the restored diocese of Bruges, the territory of which belonged previously to the diocese of Ghent, was an established fact (44). It was seen as the deferred execution of the concordat of 1827. Other formalities were not necessary.

After the German defeat in the First World War (1914-1918), the territory of Eupen and Malmédy was annexed by Belgium (45). Immediately, the Holy See decided to withdraw this territory from the archdiocese of Köln. It was temporarily governed by the apostolic nuncio in Brussels. But the Belgian government was looking for a more permanent solution and was therefore putting pressure on the Holy See (46). In 1921, the diocese of Eupen-Malmédy was canonically erected and formed a personal union with the diocese of Liège (47). This decision of the ecclesiastical authority was recognised by the budget law of 27 June 1922, where article 2-II states that the territories of Eupen and Malmédy, what concerns the catholic religion, are linked to the diocese of Liège and that the bishop of Liège will conduct the title of bishop of Liège and Eupen-Malmédy (48). On 15 April 1925, pope Pius XI suppressed the diocese Eupen-Malmédy and he added the three deaneries (Eupen, Malmédy and Sankt-Vith) to the diocese of Liège (49). Remarkably, nowhere was this decision published.

This situation would not change until the death of cardinal Van Roey on 6 August 1961. As archbishop of Mechlin he was opposed

---

(44) D'YDEWALLE, S., «Frans René Boussen (1834-1848)», in CLOET, M. (ed.), *Het bisdom Brugge (1559-1984)*, Bruges, Westvlaams Verbond van Kringen voor Heemkunde, 1984, (347-356) 348; LAMBERTS, E., «Jan Frans Van de Velde (1829-1838)», in CLOET, M. (ed.), *Het bisdom Gent (1559-1991). Vier eeuwen geschiedenis*, (303-311), 309.

(45) ALEN, A., *Treatise on Belgian Constitutional Law*, Deventer, Kluwer, 1992, p. 19, nr. 27.

(46) JOUSTEN, A., «Regard sur l'Église catholique», *La revue générale*, 1995, number 10, 48.

(47) Apostolic Constitution *Ecclesiae Universae* dated 30 July 1921, *A.A.S.*, 1921, 467-469.

(48) Law 27 June 1922 concerning the budget of the Ministry of Justice for the working year 1922, *Moniteur belge*, 1 July 1922.

(49) JOUSTEN, A., *l.c.*, 48.

to a splitting of the archdiocese. He had even asked the Prime Minister to intervene in order to keep the archdiocese intact out of respect for the historical prestige of the episcopal see of Mechlin (50). After his death, mgr. Suenens was appointed apostolic administrator with the task to prepare a division of the archdiocese (51). The 8th of December 1961, the administrative districts Antwerp and Turnhout and the 'cantons' Lier and Heist-op-den-Berg (belonging to the administrative district Mechlin) were canonically split by the apostolic constitution *Christi Ecclesia* from the archdiocese Mechlin and became the diocese of Antwerp. For the ecclesiastical delimitation of the new diocese, civil law terminology was used. The archdiocese was from then on the archdiocese Mechlin-Brussels. In Brussels, the church of Saint-Michael and Saint-Goedele became the co-cathedral of the archdiocese (52).

For this important change in the Belgian ecclesiastical landscape, it was necessary to obtain the benefits according to civil law. The Government thought it would be enough to present a Government bill to the Parliament with an article stating that the exchange of letters between the Holy See and the Belgian Government concerning the new diocese Antwerp and the reformed archdiocese was approved. Indeed, this is the procedure for the approval of international agreements. However, the Council of State did not agree with this way of acting: in its prior mandatory advice (which is obligatory in case of a draft Government bill containing general binding rules) an important juridic advice was given concerning Church-State relations in Belgium. The Council of State said this was the first time, since Belgian independence, that a new diocese was erected; the erection of the diocese of Bruges being only the execution of the decision taken in the concordat of 1827. The Council agreed with H. Wagnon saying that the concordatarian system was abolished by the Belgian Constitution and in this sense that article 21 made an end to all stipulations from the 1801 and 1827 concordats concerning convention bounds, but did not exclude the possibility of new concordatarian relations between Church and State concerning certain mixed affairs by proclaiming a mutual independence. The so-

(50) SUENENS, L.J., *Souvenirs et espérances*, Paris, Fayard, 1991, 46.

(51) *Ibid.*, 49.

(52) Apostolic Constitution *Christi Ecclesia* dated 8 December 1961, *A.A.S.*, 1962, 765-766.

called *articles organiques* lost their concordatarian character but remained to exist as State laws as far as they were reconcilable with Belgian concordatarian principles. Article 21 of the Constitution guaranteed the freedom of internal organisation, but according to the Council, this article had to be seen in relation to other constitutional provisions and other laws that obligated the government to a certain help for recognised religions. The most important help is found in article 181 of the Constitution. The combination of these two articles led to the conclusion that the Church has always the right to nominate new bishops and to create new dioceses without the permission of civil authorities. However, these decisions will only have civil effect if the State gives constitutional and legal consequences to this decision by its own decision. Therefore, a certain consultation between the two parties involved is the best way in order to achieve the optimum results. Since there is no draft Government bill to approve an international convention, an ordinary draft Government bill is necessary in order to give legal consequences to the decisions which the Holy See was free to take in the ecclesiastical field. Three reasons are present in the eyes of the Council. First of all, the civil recognition of new dioceses is not ruled by any regulation. Since the residue of the state sovereignty belongs to the legislator, he has therefore the competence to do so. Secondly, the limits of the then actual dioceses were recognised by French legislation or by Dutch Royal Decree, both proclaiming to have the residue of the states sovereignty. Finally, the number of vicars-general has always been determined by law because of the implications for the State budget, so the same has to happen for the new diocese of Antwerp. The Government did follow the Council of State in his advice. The draft was consequently approved by the House of Representatives and the Senate and the law of 5 April 1962, came into force on 6 April 1962 ([53]).

A last major change to the Belgian roman-catholic territorial division into dioceses, occured when a part of the diocese Liège was

([53]) Law of 5 April 1962 concerning the recognition of the changes to the archdiocese Mechlin and the erection of the diocese Antwerp, *Moniteur belge*, 6 April 1962. For the draft, see: Projet de loi reconnaissant les modifications de l'archevêché de Malines et la création de l'évêché d'Anvers, *Documents parlementaires* Chambre, 1961-62, n° 296/1. The advice of the Council of State is found in this document on p. 2-5. The these of H. Wagnon is found in WAGNON, H., *Concordats et droit international*, Gembloux, Duculot, 1935, XXVIII + 445 p., in particular on 375 and 381-382.

erected as the diocese of Hasselt with the apostolic constitution *Qui christianorum coetui* dated 31 May 1967. The new diocese was formed by the province of Limburg (54). This change obtained civil legal consequences by law of 12 June 1967 (55). But the parliamentary history of this law is more complicated, not because of altered Church-State politics, but only for typical internal Belgian affairs: the opposition between the Dutch-speaking and the French-speaking community (56). Some years before, in 1962-1963, the language boundary was fixed (57). However, for certain parties this solution was not satisfying. The *Fourons* municipalities were at that moment detached from the Province of Liège and attached to the Province of Limburg. Although they have special linguistic 'facilities', they came under the Dutch linguistic regime. But this solution caused many troubles between the two communities. On the occasion of the erection of the new diocese of Hasselt, the language boundary as well as the statute concerning the *Fourons* municipalities was discussed again. The ecclesiastical territorial organisation is based upon civil law. As a consequence of this, the *Fourons* municipalities would belong to the diocese of Hasselt. After the parliamentary debates, the conclusion remained however the same: the internal organisation of religions was free and only the competent ecclesiastical authorities could take decisions in this matter. The civil authorities can not modify the decision, they can only approve or disapprove it and, consequently, give or refuse the civil legal consequences. Some years later, the problem of the *Fourons* municipalities was again an actual political topic when a new structure was discussed. On 24 December 1970, the Constitution was changed and a clause was added saying that a special-majority law can withdraw certain territories, whose limits it fixes, from the division into provinces, make them depend

---

(54) Apostolic Constitution *Qui christianorum coetui* dated 31 May 1967, *A.A.S.*, 1967, 1109-1110.

(55) Law of 12 June 1967 concerning the recognition of the change of the territorial circumscription of the diocese of Liège and the archdiocese Mechlin as well as the erection of the diocese of Hasselt, *Moniteur belge*, 15 June 1967.

(56) See in extenso MARTENS, K., *l.c.*, 714-716.

(57) Law of 8 November 1962 in order to modify the province, district and communal boundaries and to modify the law of 28 June 1932 concerning the use of languages in administrative affairs and the law of 14 July 1932 concerning the use of languages in primary and secondary education, *Moniteur belge*, 22 November 1962.

directly on the Federal executive power, and make them subject to a statute of their own (58). There was however never a majority in Parliament to apply this article for the *Fourons* municipalities. In 1971 however, plans were made that would have also ecclesiastical consequences. The minister of Justice, at that time A. Vranckx, wrote in a letter to mgr. van Zuylen, then bishop of Liège, that a legal structure for the *Fourons* municipalities was worked out so that in future, they could come under the direct authority of the Ministry of Internal Affairs. He is well aware of the problem of the canonical statute and would like to see that this territory would be attached to the archdiocese or would become a vicariate (59). Mgr. van Zuylen sent this letter for an advice to mgr. W. Onclin, professor at the Faculty of Canon Law of the University of Leuven and vice-secretary of the Papal Commission for the Revision of the Code of Canon Law. Van Zuylen would like the erection of a vicariate, depending on the archdiocese, but the nominations would be a result of a common consultation between Hasselt and Liège (60). W. Onclin had three possible solutions. The territory could be erected as a territorial prelature. That would mean that it would obtain a quasi-diocesan status. A second possibility is that the territory would become a permanent apostolic administration, governed by an administrator in name of the pope. Finally the territory can also be erected in a permanent provincial administration. This would be new and would mean that the territory is governed by an administrator in name of the Belgian ecclesiastical province (61). Since a special statute was not approved, the ecclesiastical solutions were not found to be necessary.

In the same year 1967, some minor frontier readjustments were made to the different dioceses as a consequence of the Belgian language legislation. The most important one was the detachment of the administrative district Mouscron from the diocese Bruges and

---

(58) This is article 5, paragraph three of the Constitution. See also ALEN, A., *o.c.*, p. 164, nr. 328.

(59) LEUVEN, **Faculty of CANON LAW**, *Archives msgr. Willy Onclin*, XVII, 24: Letter of A. Vranckx to G. van Zuylen, Brussels, 1 July 1971, French, 1 p.

(60) LEUVEN, **Faculty of CANON LAW**, *Archives msgr. Willy Onclin*, XVII, 24: Letter of G. van Zuylen to W. Onclin, Liège, 20 July 1971, French, 1 p.

(61) LEUVEN, **Faculty of CANON LAW**, *Archives msgr. Willy Onclin*, XVII, 24: Note of W. Onclin - *De territorio s.d. « Voerstreek-Les Fourons »*, Latin, 3 p.

its attachment to the diocese Tournai (62). All these changes were given civil legal consequences by law of 26 June 1967 (63). As a consequence, the boundaries of the dioceses are the same as the boundaries of the civil provinces, except for the archdiocese and the diocese Namur: the archdiocese contains a part of the province of Antwerp, the area of Brussels-Capital, the province of Walloon Brabant and the province of Flemish Brabant, while the diocese of Namur consists of the province of Namur and the province of Luxembourg.

IV. *The end of a story?*

The reform of 1967 was the last one in the ecclesiastical landscape. Is this also the final one? In 1830, Belgium was conceived as a unitary decentralised state. The government had its see in Brussels and was controlled by a Parliament (with a House of Representatives and a Senate). In every province, a representative of the government had to maintain law and order: the governor of the province. The Constitution provided that the use of the languages spoken in Belgium is optional. Only the law can rule on this matter and then only for acts of public authorities and for legal matters. In practice, French became the official language and Dutch, the language of the majority of the population, was neglected. The reason to choose French as the official language was three-folded: (1) in order to establish a stable State, only one language was necessary; (2) the French language was seen as cultural superior and it was the language of politics; (3) French was chosen out of an anti-Dutch reflex as a reaction against the government of king William I (64). It was

(62) Sacra Congregatio Consistorialis, Decretum de mutatione finium dioecesium Brugensis-Tornacensis, 8 April 1967, *A.A.S.*, 1967, 808-809. This change came canonically into force on 29 June 1967. For the execution of the decree of the Congregation of the Consistory, see the decision of mgr. S. Oddi, Apostolic Nuncio in Brussels, 15 June 1967, *Ministrando*, 27 June 1967, 165.

(63) Law of 26 June 1967 concerning the recognition of the changes of the territorial circumscriptions of the archdiocese Mechlin-Brussels and the dioceses Bruges, Ghent and Tournai, *Moniteur belge*, 25 July 1967.

(64) CLEMENT, J., D'HONDT, H., VAN CROMBRUGGHE, H. and VANDERVEEREN, C., *Het Sint-Michielsakkoord en zijn achtergronden*, Antwerp, Maklu, 1993, 9-10; VOS, L. and GERARD, E., *Politieke en sociale geschiedenis van de 19de en 20ste eeuw*, Leuven, Acco, 1993, 82.

only after 1870, thanks to a more pro-Flemish composition of the House of Representatives and under the influence of some famous cases that two language laws were approved: the law concerning the use of Dutch in criminal courts in Flanders and the law on the use of Dutch in administrative matters. A third law regulated the use of Dutch in official secondary education ([65]). The « Equal Treatment Law » gave equal rights to Dutch as to French as both the governing languages: laws are published in Dutch and French in the 'Moniteur belge' ([66]). This evolution would finally lead to the demarcation of the language boundary ([67]). In the constitutional reform of 1970, the four language areas (Dutch-language area, French-language area, German-language area and the bilingual area of Brussels-Capital) were inserted in the Constitution, the basis was laid for the Communities and the Regions were founded. The constitutional reforms of 1980, 1988 and 1993 made the federal state more complete. So in 1993, it was decided that the province of Brabant would from 1 January 1995 be demerged into the province of Flemish-Brabant, the province of Walloon-Brabant and the bilingual area of Brussels-Capital ([68]).

The actual ecclesiastical division into dioceses is at first sight not adapted to the state reform. This is in particular the case for the archdiocese, that is composed of a part of the province of Antwerp, the province of Flemish-Brabant, the province of Walloon-Brabant and the bilingual area of Brussels-Capital. The language boundary passes through the diocese that is bilingual. A possible adaptation of the ecclesiastical situation would best be based upon the Regions in combination with the provinces as is the case now, since these are all territorial defined, just like a diocese. Some people are convinced that the archdiocese could best be divided in an archdiocese Mechlin

---

([65]) Law of 17 August 1873, *Moniteur belge*, 26 August 1873; Law of 22 May 1878, *Moniteur belge*, 29 May 1878; Law of 15 June 1883, *Moniteur belge*, 17 June 1883.

([66]) Law of 18 April 1898, *Moniteur belge*, 15 May 1898.

([67]) Law of 8 November 1962 in order to modify the province, district and communal boundaries and to modify the law of 28 June 1932 concerning the use of languages in administrative affairs and the law of 14 July 1932 concerning the use of languages in primary and secondary education, *Moniteur belge*, 22 November 1962.

([68]) ALEN, A. and ERGEC, R., *Federal Belgium after the Fourth State Reform of 1993. Texts & Documents*, Brussels, Ministry of Foreign Affairs, External Trade and Development Cooperation, 1994, 64 p.; FALTER, R., *Tweedracht maakt Macht. Wegwijs in het federale België*, Tielt, Lannoo, 1994, 14-19.

(province of Flemish-Brabant and partly the province of Antwerp) and a new (arch)diocese Brussels (the bilingual area of Brussels-Capital). The province of Walloon-Brabant can become a new diocese or it can be attached to an existing Walloon diocese. As a consequence, two ecclesiastical provinces would arise: a Flemish one and a Walloon one. The (arch)diocese Brussels could be immediately subjected to the Holy See. However, this solution would give too much importance to the situation of Brussels and would imply political choices. Maybe a *sui generis* solution for Brussels would be more appropriate.

The main question is if such a reform would be realistic. Are the constitutional rules taken into account? The vision of the ecclesiastical authorities is decisive. The late cardinal Suenens, former archbishop of Mechlin-Brussels, wrote that at the moment of his nomination, he decided to perform a decentralisation and to divide the archdiocese into three territorial sectors: Flemish-Brabant, Walloon-Brabant and Brussels. That was in 1962. According to cardinal Suenens, he took a decision previously to the same political decision (sc. more than thirty years, because only in 1993 the province of Brabant disappeared) ([69]). His successor to the archiepiscopal see, cardinal Danneels, shares this opinion: only pastoral reasons, to be adjudicated upon by the ecclesiastical authorities, can lead to the division of the archdiocese. At this moment, this is not the case. Besides, a division would have financial consequences for the Belgian State ([70]). The cardinal does not mention another hidden reason: the division of 1962 and the erection of the diocese of Antwerp reduced the territory of this prestigious see, erected in 1559, by approximately one third. A new division would reduce the same territory to that of an ordinary diocese. However, the rule is very simple: as long as the ecclesiastical authorities do not take a decision, the civil authorities can do nothing because of the constitutional guaranteed freedom.

Conclusion.

This historical overview and the Belgian constitutional framework give us a clear insight into the possibilities concerning the

---

([69]) SUENENS, L.J., *o.c.*, 49-50.
([70]) Interview with cardinal Danneels, *Le Soir*, 16 February 1995.

power of the civil authorities in reforming the ecclesiastical organisation. The difficulties and the abuses of the past lead to a significant religious liberty and a serious constitutional protection in Belgium. The starting point here is the entire liberty of the Church for its internal organisation: civil authorities can in no way intervene in this issue.

The consequences of the constitutional dispositions in regard to the acting of the civil authorities has been interpreted in a different way in different situations. When the diocese of Bruges was erected, nothing had to happen because this was the execution of a decision that was taken under a former regime. After the annexation of Eupen and Malmédy, a budget law was judged sufficient. It was only when the diocese Antwerp was erected and the archdiocese modified that the Council of State — created in 1946 — said it was necessary to approve a law in order to attribute the civil legal consequences to a purely ecclesiastical decision. This is still the «modus operandi».

The constitutional guarantee has still the same content: the internal organisation of religions is free. In this regard, it is the competence of the ecclesiastical authorities — and only of these authorities — to determine the specific internal organisation. In the case of the roman-catholic Church, only the Holy See, in consultation with the Belgian episcopate, and in particular with the archbishop and the bishops concerned, can decide about the erection, modification or suppression of dioceses. A possible reorganisation, based upon the Belgian state reform, can at the very most be suggested by the civil authorities, who are only competent to accord civil legal consequences to an ecclesiastical decision. The first and ultimate decision is a decision of the Holy See. In a democratic state, this is an essential way of acting, the only way in accordance with the constitution and the necessary way to maintain religious liberties. A change in this procedure would imply the end of religious liberty and maybe, in the end, the end of the democratic state. Therefore, as long as neither cardinal Danneels, his successors to the see of Mechlin, nor the Holy See are convinced of the need for a reorganisation of the Belgian dioceses, then nothing can or will happen.

KURT MARTENS