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Canonical Foundations of Church Financing and the Plurality of Financing Systems

An Overview

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This article explores the canonical foundations for the acquisition of assets by ecclesiastical legal entities, as established in the Code of Canon Law. Through an international perspective, it surveys diverse models of church financing and proposes criteria for their evaluation. Its aim is to acquaint readers with the legal underpinnings of church financing and to offer a comprehensive overview of the varied systems employed across the globe.[1] To this end, basic questions of church financing are discussed (1.), and the principles and main features of the acquisition of ecclesiastical goods are explained (2.). Subsequently, the international diversity of financing systems and criteria for their evaluation are presented (3.). A summary of the most important results concludes the article (4.).

1. Basic Questions of Church Financing

"Ah, come vorrei una Chiesa povera e per i poveri!"[2] – "How I would like a Church which is poor and for the poor!" With these words, Pope Francis addressed a fundamental challenge for the church's handling of money, wealth, and earthly goods just days after he is elected Pope: While the church's ultimate mission is to guide humanity toward salvation – never allowing material resources to become its primary aim – it nonetheless relies on earthly means to fulfill its calling. These resources are essential not only for sustaining its mission but also for practicing charity and supporting the poor in tangible, compassionate ways.

Since the church is a complex reality that coalesces from a divine and a human element (cf. LG 8,1), it is dependent on earthly means to fulfill its mission. To this end, canon law proclaims in can. 1254 § 1 CIC that it is an inherent right (*ius nativum*) of the church to

[1] The following contribution is based on a lecture given by the author on May 23, 2024 at the first *Academy of Global Church Leadership*. It has been reviewed for printing and supplemented by an annotation apparatus.
[2] *Pope Francis*, Adress on the occasion of the audience to representatives of the communications media from March 16, 2013, in: AAS 105 (2013) 379–381, here 381.

acquire, retain, administer, and alienate temporal goods.[3] The main addressees of this declaration are *ad extra* the incumbents of civil power, who have repeatedly interfered with the church's rights to its property throughout history.[4] In contemporary times, the concept of *ius nativum* serves chiefly as a symbolic expression, signifying that safeguarding the church's rights over its temporal goods is, in essence, a tangible manifestation of the fundamental right to religious freedom bestowed by civil authorities. Yet, this declaration also resonates internally, *ad intra*, addressing those Christian faithful who, inspired by a radical, even militant, ideal of poverty, challenge the legitimacy of church property.[5]

It is therefore legitimate for the church to have its own assets. However, their use is strictly earmarked. In can. 1254 § 2 CIC, four principal purposes are mentioned, namely to order divine worship, to care for the decent support of the clergy and other employees, and to exercise works of the apostolate and of charity.[6] Canon law refers in particular to a passage in the Decree *Presbyterorum ordinis* of the Second Vatican Council, which emphasizes the earmarking of church assets and names the same four purposes.[7] Although the list of these four purposes is not exhaustive, the description of the purposes is so general that it would be difficult to name other purposes that are genuine purposes of the church but cannot be assigned to one of these four categories..

The Second Vatican Council provides further guidance regarding the church's property rights: the church must not become dependent on a particular political system in managing its own assets and must not compromise its spiritual mission.[8] The church and its representatives should strive for poverty, following the example of Christ.[9] The church must

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[3] Cf. can. 1254 § 1 CIC: "To pursue its proper purposes, the Catholic Church by innate right is able to acquire, retain, administer, and alienate temporal goods independently from civil power."

[4] Cf. *John P. Beal; James A. Coriden; Thomas J. Green (ed.)*, New Commentary on the Code of Canon Law, New York – Mahwah 2000, 1453 f.; *Helmuth Pree*, Grundfragen kirchlichen Vermögensrechts, in: Stephan Haering; Wilhelm Rees; Heribert Schmitz (ed.), Handbuch des katholischen Kirchenrechts, Regensburg [3]2015, 1471–1504, 1493 f.; *idem*, Der Erwerb von Kirchenvermögen, in: *ibid.*, 1505–1531, here 1505 f.

[5] *Pree*, Grundfragen (see fn. 4), 1493 f.; *ders.*, Erwerb (see fn. 4), 1505 f.

[6] Cf. can. 1254 § 2 CIC: "The proper purposes are principally: to order divine worship, to care for the decent support of the clergy and other ministers, and to exercise works of the sacred apostolate and of charity, especially toward the needy."

[7] Cf. PO 17,3 [= *Second Vatican Council*, Decree on the ministry and life of priests *Presbyterorum Ordinis*, December 4, 1965]: "Ecclesiastical goods […] should always be employed for those purposes in the pursuit of which it is licit for the Church to possess temporal goods, namely, for the carrying out of divine worship, for the procuring of honest sustenance for the clergy, and for the exercise of the works of the holy apostolate or works of charity, especially in behalf of the needy."

[8] Cf. GS 42, GS 76 [= *Second Vatican Council*, Pastoral Constitution on the Church in the modern world *Gaudium et Spes*, December 7, 1965], DH 4, DH 13 [= *Second Vatican Council*, Declaration on Religious Freedom *Dignitatis Humanae*, December 7, 1965].

[9] Cf. LG 8 [= *Second Vatican Council*, Dogmatic Constitution on the Church *Lumen Gentium*, November 21, 1964], PC 13 [= *Second Vatican Council*, Decree on the adaption and renewal of religious life *Perfectae Caritatis*, October 28, 1965], PO 17, OT 9 [= *Second Vatican Council*, Decree on priestly training *Optatam Totius*, October 28, 1965], CD 28 [= *Second Vatican Council*, Decree concerning the pastoral office of bishops in the Church *Christus Dominus*, October 28, 1965].

strive for solidarity between all its parts.[10] The traditional system of benefices for financing ecclesiastical offices is to be abolished.[11]

An important fundamental decision of canon law concerns the question of who is the owner of the church's property. Unlike other theories[12], which assume a single holder of the church's assets – such as the Apostolic See or the universal church – canon law advocates the so-called institutional theory, according to which there are multiple owners of the church's assets.[13] According to can. 1255 CIC, any juridic person in the church is a potential owner of Church property in the broader sense, namely *bona temporalia*, the temporal goods of the church,[14] while, according to can. 1257 § 1 CIC, every public juridic person in the church is a potential owner of ecclesiastical goods (*bona ecclesiastica*), that is, the church's property in the narrower sense.[15]

2. Principles and Main Features of the Acquisition of Ecclesiastical Goods

In matters concerning the acquisition of temporal goods, can. 1260 CIC reaffirms the declaratory principle established in can. 1254 § 1 CIC, namely that the Church's inherent right – its *ius nativum* – encompasses the acquisition of property.[16] The reference to a *ius exegendi*, a right of the church to claim from its faithful, concretizes the basic obligation of

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[10] Cf. LG 23,3; also can. 1271 CIC: "By reason of the bond of unity and charity and according to the resources of their dioceses, bishops are to assist in procuring those means which the Apostolic See needs, according to the conditions of the times, so that it is able to offer service properly to the universal Church."

[11] Cf. PO 20; also can. 1272 CIC: "In regions where benefices properly so called still exist, it is for the conference of bishops, through appropriate norms agreed to and approved by the Apostolic See, to direct the governance of such benefices in such a way that the income and even, insofar as possible, the endowment itself of the benefices are gradually transferred to the institute mentioned in can. 1274, §1."

[12] Cf. *Hans Heimerl; Helmuth Pree*, Handbuch des Vermögensrechts der katholischen Kirche, Regensburg 1993, 61 f. and 64–66.

[13] Cf. *Heimerl; Pree*, Handbuch (see fn. 12), 65; *Winfried Schulz*, can. 1256, in: Klaus Lüdicke (ed.), Münsterischer Kommentar zum Codex Iuris Canonici, Essen 1984 [MKCIC] (25. Supplement delivery, April 1996); *Beal; Coriden; Green (ed.)*, New Commentary (see fn. 4), 1455–1459; *Pree*, Grundfragen (see fn. 4), 1494.

[14] Cf. can. 1255 CIC: "The universal Church and the Apostolic See, the particular churches, as well as any other juridic person, public or private, are subjects capable of acquiring, retaining, administering, and alienating temporal goods according to the norm of law."

[15] Cf. can. 1257 § 1 CIC: "All temporal goods which belong to the universal Church, the Apostolic See, or other public juridic persons in the Church are ecclesiastical goods and are governed by the following canons and their own statutes."
For the distinction between public and private juridic persons cf. *Winfried Aymans*, Kanonisches Recht. Lehrbuch aufgrund des Codex Iuris Canonici, vol. 1, Paderborn – München – Wien – Zürich 1991, 310–312; *Beal*; *Coriden*; *Green* (ed.), New Commentary (see fn. 4), 161 f.

[16] Cf. can. 1260 CIC: "The Church has an innate right to require from the Christian faithful those things which are necessary for the purposes proper to it."

all Christian faithful to assist the church with its needs, so that the church has what is necessary, as formulated in can. 222 § 1 CIC.[17] Accordingly, can. 1259 CIC clarifies that the church may acquire temporal goods on equal footing with any other participant in economic life – whether by virtue of principles rooted in natural law and the corresponding norms governing property acquisition, or in accordance with the provisions established by civil legal systems enacted by humans.[18] Incidentally, the reference to *ius positivum* does not only refer to positive church law (*ius mere ecclesiasticum*), but also to state legal norms. This emphasis on the connectivity of ecclesiastical property law to the legal order of the state is another characteristic, expressed in canon law in several places but particularly evident in can. 1290 CIC.[19]

As far as the further development of the *ius exegendi* is concerned, a systematic distinction can be made between donations and levies. Donations have a spontaneous, voluntary character. Levies, by contrast, are imposed by ecclesiastical authority and thus possess a coercive character. They may be further classified into taxes, fees, and offerings made on the occasion of administering sacraments and sacramentals, as well as offerings presented for the celebration of masses.[20] Taxes are understood to be levies that are not offset by a specific service.[21] Fees are compulsory charges levied in return for the use of a specific service; they have the character of remuneration.[22]

2.1. Donations

The so-called "appealed support" (in Latin: *subventiones rogatae*), mentioned in can. 1262 CIC[23] maintains an intermediate position between a donation and a levy. This form of acquisition is clearly preferred by the legislator, as evidenced by its prominent placement ahead of all other methods of acquiring temporal goods. The *subventiones rogatae* may assume highly tangible expressions – such as soliciting alms or raising funds for specific initiatives – for which detailed regulations are provided in cann. 1265 and 1266 CIC.

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[17] Cf. can. 222 § 1 CIC: "The Christian faithful are obliged to assist with the needs of the Church so that the Church has what is necessary for divine worship, for the works of the apostolate and of charity, and for the decent support of ministers."

[18] Cf. can. 1259 CIC: "The Church can acquire temporal goods by every just means of natural or positive law permitted to others."

[19] Cf. can. 1290 CIC: "The general and particular provisions which the civil law in a territory has established for contracts and their disposition are to be observed with the same effects in canon law insofar as the matters are subject to the power of governance of the Church unless the provisions are contrary to divine law or canon law provides otherwise, […]."

[20] In German, there are two special terms for these kinds of offerings, namely "Stolgebühren" and "Messstipendien", which may be translated as "Surplice fees" and "Mass stipends", but the English version of the Code of Canon Law does not use these terms.

[21] Cf. *Winfried Aymans; Ludger Müller*, Kanonisches Recht. Lehrbuch aufgrund des Codex Iuris Canonici, vol. 4, Paderborn – München – Wien – Zürich 2013, 24; *Pree*, Erwerb (see fn. 4), 1511.

[22] Cf. *Aymans; Müller*, Kanonisches Recht (see fn. 21), 26; *Pree*, Erwerb (see fn. 4), 1512.

[23] Cf. can. 1262 CIC: "The faithful are to give support to the Church by responding to appeals and according to the norms issued by the conference of bishops."

It follows from can. 1265 CIC that, in principle, only public juridic persons may readily solicit alms.[24] By contrast, the faithful and private legal entities must obtain permission. An exception exists for mendicant orders, whose members, by virtue of the legal tradition of their respective order, are privileged and thus exempt from the requirement of special authorization.[25] Permission to solicit alms must be obtained both from the ordinary – typically the diocesan bishop or vicar general to whom the collector is subject – and from the ordinary of the place where the collection is to be conducted. For foreign priests, for instance, this means securing authorization from both their incardination ordinary and the local ordinary for any fundraising campaign they wish to undertake in Germany on behalf of their home diocese or parish. However, can. 1265 CIC is interpreted so that a collection requires permission only if a large number of people are specifically asked to donate without pre-selection.[26] Thus, a general appeal for donations published in a newspaper, which does not target specific individuals, or the collection of contributions from a small, carefully selected group – such as at a charity event for invited guests – does not require formal authorization.

Pursuant to can. 1266 CIC, the local ordinary may order that special collections are taken up in churches and chapels for parish, diocesan, national, or universal church projects.[27] If the church or chapel belongs to a religious community but is actually open to the faithful, then the collection must also be carried out there.

If offerings are given to superiors or administrators of any ecclesiastical juridic person, can. 1267 CIC establishes the (rebuttable) presumption that the offering is to the juridic person itself and not to the minister personally.[28] In any case, however, the donor's specific purpose must be taken into account.[29]

Other forms of voluntary gifts include pious wills (cf. cann. 1299-1302 CIC), in particular testamentary dispositions, and pious foundations (cf. cann. 1303-1310 CIC).[30] In the Code

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[24] Cf. can. 1265 CIC: "§ 1. Without prejudice to the right of religious mendicants, any private person, whether physical or juridic, is forbidden to beg for alms for any pious or ecclesiastical institute or purpose without the written permission of that person's own ordinary and of the local ordinary. § 2. The conference of bishops can establish norms for begging for alms which all must observe, including those who by their foundation are called and are mendicants."

[25] Concerning the mendicant orders cf. *Winfried Schulz*, can. 1265, in: MKCIC (see fn. 13), no. 7; also *Beal; Coriden; Green (ed.)*, New Commentary (see fn. 4), 1467 f.

[26] Cf. *Schulz*, c. 1265 (see fn. 25), no. 6, with reference to *Karl Siepen*, Vermögensrecht der klösterlichen Verbände, Paderborn 1963, 140.

[27] Cf. can. 1266 CIC: "In all churches and oratories which are, in fact, habitually open to the Christian faithful, including those which belong to religious institutes, the local ordinary can order the taking up of a special collection for specific parochial, diocesan, national, or universal projects; this collection must be diligently sent afterwards to the diocesan curia."

[28] Cf. can. 1267 § 1 CIC: "Unless the contrary is established, offerings given to superiors or administrators of any ecclesiastical juridic person, even a private one, are presumed given to the juridic person itself."

[29] Cf. can. 1267 § 3 CIC: "Offerings given by the faithful for a certain purpose can be applied only for that same purpose."

[30] For details on these topics cf. *Beal; Coriden; Green* (ed.), New Commentary (see fn. 4), 1508–1524; *Aymans; Müller*, Kanonisches Recht (see fn. 21), 37–47; *Pree*, Erwerb (see fn. 4), 1517–1529.

of Canon Law, these two types of property acquisition are regulated in a separate title of the fifth book due to their importance and the special features to be observed in their acquisition and administration. A foundation, however, is characterized by the fact that its assets form a juridic person whose income must be used for the purpose determined by the founder.[31]

2.2 Taxes

The ability of the church to levy taxes is discussed in can. 1263 CIC and can. 264 CIC. Three different subtypes of taxes are discussed in can. 1263 CIC.

The first type of tax is the so-called "*tributum*" or in English simply "tax".[32] If this tax is instituted, it applies exclusively to public juridic persons subject to the bishop; neither the Christian faithful as natural persons nor religious orders of pontifical right and their institutions are liable. The tax may be levied solely to meet the necessary expenses of the diocese. Accordingly, it must be moderate (*moderatum*) in its absolute amount – never exceeding the needs of the diocese – and proportional (*proportionatum*), reflecting the income and economic capacity of those obliged to pay.[33] This provision limits the possibility of taxation both in terms of the purposes for which the funds are used and the amount of the tax demand. As far as the procedure for the introduction of a "*tributum*" is concerned, the diocesan bishop needs the counsel both of the finance council of his diocese and of the presbyteral council.[34] The diocesan bishop may levy such a tax once or occasionally or regularly. If the tax is imposed occasionally, both councils must be consulted each time for its counsel; if the tax is collected regularly, one consultation is sufficient when the tax is first introduced.

The second type of tax is named "exaction" (*exactio*) and is an extraordinary tax.[35] This extraordinary tax may be imposed solely in the event of a grave emergency (*gravis necessitas*), at which point it may also be levied upon natural persons and private legal entities under canon law. Liability is limited to those subject to the diocesan bishop. The exaction

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Significant changes in the competence for the modification of Mass obligations and pious wills have been provided by *Pope Francis*, Motu Proprio *Competentias quasdam decernere* (February 11, 2022), in: AAS 114 (2022) 290–295, here 294 f.

[31] Cf. for this common definition, e. g., *Pree*, Erwerb (see fn. 4), 1521; *Birgit Weitemeyer*, Art. Stiftung – Staatlich, in: Heribert Hallermann et al. (ed.), Lexikon für Kirchen- und Religionsrecht, vol. 4, Paderborn 2021, 264 f., here 264.

[32] Cf. can. 1263 CIC: "After the diocesan bishop has heard the finance council and the presbyteral council, he has the right to impose a moderate tax for the needs of the diocese upon public juridic persons subject to his governance; this tax is to be proportionate to their income. […]".

[33] For details on these topics, cf. *Winfried Schulz*, can. 1263, in: MKCIC (see fn. 13), no. 3; *Beal; Coriden; Green* (ed.), New Commentary (see fn. 4), 1463; *Nicholas P. Cafardi*, Sources of Diocesan Finance in the 1983 Code of Canon Law, in: *Joseph Fox (ed.)*, Render unto Caesar. Church Property in Roman Catholic and Anglican Canon Law, Rome 2000, 105–112, here 107 f.

[34] For details on these topics, cf. *Schulz*, c. 1263 (see fn. 33), no. 3; *Beal; Coriden; Green* (ed.), New Commentary (see fn. 4), 1464.

[35] Cf. can. 1263 CIC: "[…] He [sc.: the diocesan bishop] is permitted only to impose an extraordinary and moderate exaction upon other physical and juridic persons in case of grave necessity and under the same conditions […]."

must likewise be moderate and proportionate to income, and, as with other forms of taxation, both the finance council and the presbyteral council must be consulted prior to its imposition.

The third type of tax is that imposed on the basis of particular law or custom.[36] This last clause of can. 1263 CIC was inserted during in the final revision of the draft Code of Canon Law at the request of the German bishops and is therefore often referred to as the "German clause" *(clausula teutonica)*.[37]

A fourth type of tax is regulated in the canons concerning the formation of clerics, namely the so-called seminary tax (*seminaristicum*).[38] This is an optional tax (*tributum*). If the bishop imposes this tax, there is an exclusive earmarking for the financing of the seminary. All juridic persons under canon law – whether public or private – that have their registered office in the diocese are then liable to pay the tax. Excluded are those institutions that are already actually dedicated to the purpose of priestly formation.[39] The tax must meet three criteria, namely general (*generale*), moderate (*proportionatum*), i. e., proportional to the income of the taxed legal entities, and determined (*determinatum*), i. e., strictly earmarked and capped by the needs of the seminary. It is noteworthy that the diocesan bishop does not have to observe any right of counseling when introducing the seminary tax.

2.3 Fees and Offerings Related to the Sacraments

Fees can be charged in accordance with can. 1264 no. 1 CIC for acts of executive power granting a favor and for the execution of rescripts of the Apostolic See.[40] In addition, judicial expenses and fees can be charged in accordance with can. 1649 CIC.[41]

According to can. 1264 no. 2 CIC offerings can be demanded on the occasion of the administration of sacraments and sacramentals.[42] The term "on the occasion" makes it clear

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[36] Cf. can. 1263 CIC: "[…] without prejudice to particular laws and customs which attribute greater rights to him."

[37] Cf. *Beal; Coriden; Green (ed.)*, New Commentary (see fn. 4), 1465; *Aymans; Müller*, Kanonisches Recht (see fn. 21), 30 f.; *Stefan Mückl*, Kirchensteuer und Kirchenbeitrag, in: Haering; Rees; Schmitz (ed.), Handbuch (see fn. 4), 1532–1548, here 1532 f.

[38] Cf. can. 264 CIC: "§ 1. In addition to the offering mentioned in can. 1266, a bishop can impose a tax in the diocese to provide for the needs of the seminary. § 2. All ecclesiastical juridic persons, even private ones, which have a seat in the diocese are subject to the tax for the seminary unless they are sustained by alms alone or in fact have a college of students or teachers to promote the common good of the Church. A tax of this type must be general, in proportion to the revenues of those who are subject to it and determined according to the needs of the seminary."

[39] This includes the institutions described in cann. 234–236 CIC, cf. *Rüdiger Althaus*, can. 263, in: MKCIC (see fn. 13), no. 2.

[40] Cf. can. 1264 CIC: "Unless the law has provided otherwise, it is for a meeting of the bishops of a province: 1° to fix the fees for acts of executive power granting a favor or for the execution of rescripts of the Apostolic See, to be approved by the Apostolic See itself."

[41] Cf. can. 1649 CIC: "§ 1. The bishop who directs the tribunal is to establish norms concerning: 1° the requirement of the parties to pay or compensate judicial expenses; 2° the fees for the procurators, advocates, experts, and interpreters and the indemnity for the witnesses; 3° the grant of gratuitous legal assistance or reduction of the expenses; 4° the recovery of damages owed by a person who not only lost the trial but also entered into the litigation rashly; 5° the deposit of money or the provision furnished for the payment of expenses and recovery of damages."

[42] Cf. can. 1264 CIC: "Unless the law has provided otherwise, it is for a meeting of the bishops of a province: […] 2° to set a limit on the offerings on the occasion of the administration of sacraments and sacramentals."

that there is no exchange relationship between the spiritual service and the offering. Spiritual gifts are not for sale, i. e. – as can. 947 CIC specifically states with regard to offerings given for the celebration of masses, any appearance of tracking or trading is to be excluded entirely.[43] At the same time, there is an inviolable principle that no one in need should be deprived of access to the sacraments – or to sacramentals – on account of poverty.[44] The legislator therefore uses in Latin the term "*oblatio*" to emphasize that this type of fee, although required by the relevant regulations, is ultimately voluntary. Despite the delicate distinction between a legitimate request for offerings and the prohibition of simony, the relevant regulations were preserved during the reform of canon law following the Second Vatican Council.[45] After all, this type of gift was historically an important means of securing a priest's livelihood and may still fulfill this task in some parts of the world today. In connection with canon law of the sacrament of the Eucharist, offerings given for the celebration of masses are regulated.[46] Two principles must be observed with regard to these offerings: First, separate masses are normally to be applied for the intentions of those for whom a single offering has been given and accepted.[47] According to a decree of the *Congregation for the Clergy* from 1991, under certain conditions, several offerings can be combined in a single mass with a collective intention.[48] Secondly, with the exception of Christmas, each priest may retain only one offering per day, even if several masses are celebrated or collective intentions are fulfilled within a single mass.[49] The remaining offerings must be allocated to purposes designated by the bishop or religious superior. The specific legal regulation of fees and offerings associated with the celebration of sacraments and masses is to be established uniformly at the level of the ecclesiastical provinces, with responsibility resting with the Convention of Bishops of the province, or, in the case of mass stipends, with the provincial council as well.[50]

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[43] Cf. can. 947 CIC: "Any appearance of tracking or trading is to be excluded entirely from the offering for Masses."
[44] Cf. can. 848 CIC: "The minister is to seek nothing for the administration of the sacraments beyond the offerings defined by competent authority, always taking care that the needy are not deprived of the assistance of the sacraments because of poverty."
[45] Cf. *Winfried Schulz*, can. 1264, in: MKCIC (see fn. 13), no. 5; *Beal; Coriden; Green* (ed.), New Commentary (see fn. 4), 1466.
[46] Cf. cann. 945–958 CIC for details.
[47] Cf. can. 948 CIC: "Separate Masses are to be applied for the intentions of those for whom a single offering, although small, has been given and accepted."
[48] *Congregation for the Clergy*, Decree *Mos igitur* (February 22, 1991), in: AAS 83 (1991) 443–446. Accordingly, the aggregation of intentions with express and voluntary prior consent of donors is exceptionally permissible if only one grant is retained and the others are transferred pursuant to can. 951 CIC.
[49] Cf. can. 951 CIC: "§ 1. A priest who celebrates several Masses on the same day can apply each to the intention for which the offering was given, but subject to the rule that, except on Christmas, he is to keep the offering for only one Mass and transfer the others to the purposes prescribed by the ordinary, while allowing for some recompense by reason of an extrinsic title. § 2. A priest who concelebrates a second Mass on the same day cannot accept an offering for it under any title."
[50] Cf. can. 1264 no. 2 CIC, as cited above, fn. 42; can. 952 CIC: "§1. It is for the provincial council or a meeting of the bishops of the province to define by decree for the entire province the offering to be given for the celebration and application of Mass […]."

2.4 Other Methods of the Acquisition of Ecclesiastical Goods

Another method of acquiring property is acquisitive prescription, which is regulated in cann. 1268-1269 CIC and cann. 197-199 CIC.[51] A characteristic is the reference to the regulations in the respective national civil law,[52] which are modified in particular to the effect that prescription under canon law is only possible in the case of possession in good faith during the entire prescription period.[53]

3. The Diversity of Financing Systems and Criteria for Evaluation

3.1 The International Diversity of Financing Systems

The church has evolved across diverse nations, shaped by distinct historical, political, and economic circumstances. As a result, it employs a range of methods to acquire assets through mixed financing. Thus, when examining systems of church financing, it becomes evident that – despite the multiplicity of instruments utilized in different countries – there is often a discernible preference for a particular approach. The following overview concentrates chiefly on European contexts.

In some countries, the Church is financed directly by the state from the state budget. Examples include Belgium, Norway, and Luxembourg until 2015.[54] Other examples are

[51] Cf. can. 1268 CIC: "The Church recognizes prescription as a means of acquiring temporal goods and freeing oneself from them, according to the norm of cann. 197–199"; can. 1269 CIC: "If sacred objects are privately owned, private persons can acquire them through prescription, but it is not permitted to employ them for profane uses unless they have lost their dedication or blessing; if they belong to a public ecclesiastical juridic person, however, only another public ecclesiastical juridic person can acquire them."
For further details cf. *Beal; Coriden; Green* (ed.), New Commentary (see fn. 4), 230–233 and 1470 f.

[52] Cf. can. 197 CIC: "The Church receives prescription as it is in the civil legislation of the nation in question, without prejudice to the exceptions which are established in the canons of this Code […]."

[53] Cf. can. 198 CIC: "No prescription is valid unless it is based in good faith not only at the beginning but through the entire course of time required for prescription […]."

[54] For Belgium cf. *Heiner Marré*, Die Kirchenfinanzierung in Kirche und Staat der Gegenwart, Essen [4]2006, 21; *Hartmut Böttcher*, Typen der Kirchenfinanzierung in Europa, in: Zeitschrift für evangelisches Kirchenrecht 52 (2007) 400–424, here 403; *Walter Weinberger*, Süd- und Westeuropäische Länder, in: Wilhelm Rees (ed.), Katholische Kirche im neuen Europa. Religionsunterricht, Finanzierung und Ehe in kirchlichem und staatlichem Recht – mit einem Ausblick auf zwei afrikanische Länder, Wien et al. 2007, 254–344, here 256 and 259 f.; *Jan de Maeyer*, Kirchenfinanzierung seit Napoleon in Belgien – zwischen direkter staatlicher Finanzierung und Subventionspolitik. Ein historischer und aktueller Überblick, in: Rudolf K. Höfer (ed.), Kirchenfinanzierung in Europa. Modelle und Trends, Innsbruck – Wien 2014, 9–29; *Rik Torfs*, Staatliche Religionsförderung in Belgien – Niederlande – Luxemburg, in: Matthias Pulte; Ansgar Hense (ed.), Grund und Grenzen staatlicher Religionsförderung unter besonderer Berücksichtigung des Verhältnisses von Staat und Katholischer Kirche in Deutschland, Paderborn 2014, 259–277, here 260–262; *Stephan Haering*, Modelle der Kirchenfinanzierung im Überblick, in: Arnd Uhle (ed.), Kirchenfinanzen in der Diskussion. Aktuelle Fragen der Kirchenfinanzierung und der kirchlichen Vermögensverwaltung, Berlin 2015, 11–42, here 31 f.; *Rik Torfs; Jogchum Vrielink*, State and Church in Belgium, in: Gerhard Robbers (ed.), State and Church in the European Union, Baden-Baden [3]2005, 11–49, here 36–37.
For Norway cf. *Böttcher, Typen*, 404 and 417; *Yvonne Maria Werner*, Kirche, Staat und Kirchenfinanzierung in den nordischen Ländern, in: Höfer (ed.), Kirchenfinanzierung, 69–86; *Haering*, Modelle, 30 f.

countries where a particular majority church also holds the status of a state church, such as the Orthodox Church in Greece or the Anglican Church in the United Kingdom.[55]

A special case of state funding of the church exists in countries where citizens may dedicate a small portion of their income tax to specific cultural or religious purposes, which the state then passes on to the beneficiary institution or religious community. Such a system has been in place for several decades, particularly in Italy,[56] but also in Spain, Hungary, and Iceland.[57] The freedom of choice regarding dedication means that, on the one hand, the Christian faithful may make a dedication for non-church purposes, while on the other hand, people who do not belong to the Catholic Church can also support the Catholic Church in this way. This special form of state church financing thus breaks the principle of the membership link between the debtor and the creditor in the financial contribution.[58]

For Luxembourg cf. *Marré*, Kirchenfinanzierung, 21; *Böttcher*, Typen, 403; *Weinberger*, Süd- und Westeuropäische Länder, 293 f.; *Mathias Schiltz*, Kirche und Staat in Luxemburg: Jüngere und jüngste Entwicklungen im gegenseitigen Verhältnis, in: Wilhelm Rees; María Roca; Balázs Schanda (ed.), Neuere Entwicklungen im Religionsrecht europäischer Staaten, Berlin 2013, 587–616, here 592, 609 and 612; *Haering*, Modelle, 31; *Gerhard Robbers*, State and Church in Luxembourg, in: Robbers (ed.), European Union, 353–361, here 359 f.

[55] For Greece cf. *Marré*, Kirchenfinanzierung (see fn. 54), 22 f.; *Böttcher*, Typen (see fn. 54), 403 f.; *Walter Weinberger*, Osteuropäische Länder und zukünftige Beitrittsländer, in: Rees (ed.), Europa (see fn. 54), 374–487, here 394 f.; *Haering*, Modelle (see fn. 54), 29; *Lina Papadopoulou*, State and Church in Greece, in: Robbers (ed.), European Union (see fn. 54), 171–194, here 187–188.

For the state churches in England and Scotland cf. *Böttcher*, Typen, 401; *Markus Vinzent*, Staatliche Religionsförderung in England und Wales am Beispiel der Church of England, in: Pulte; Hense (ed.), Religionsförderung (see fn. 54), 279–298. For the church financing in Great Britain in general cf. below, fn. 60.

[56] Cf. *Silvio Ferrari*, State and Church in Italy, in: Robbers (ed.), European Union (see fn. 54), 209–230, here 221–224; *Marré*, Kirchenfinanzierung (see fn. 54), 36–38; *Böttcher*, Typen (see fn. 54), 418–420; *Christoph Stragenegg; Walter Weinberger*, Republik Italien, in: Rees (ed.), Europa (see fn. 54), 153–210, here 180–182; *Mauro Rivella*, Financiación de la Iglesia. El modelo italiano, in: Ius Canonicum 48 (2008) 13–23; *Michael Mitterhofer*, 8x1000 – ottopermille. Das System der Kirchenfinanzierung in Italien, in: Höfer (ed.), Kirchenfinanzierung (see fn. 54), 121–147; *Haering*, Modelle (see fn. 54), 27; *Markus Graulich*, Das otto per mille – der italienische Weg der Kirchenfinanzierung als Chance auch für Deutschland?, in: Karlies Abmeier (ed.), Geld, Gott und Glaubwürdigkeit, Paderborn 2016, 165–177.

[57] For Spain cf. *Marré*, Kirchenfinanzierung (see fn. 54), 34–36; *Weinberger*, Süd- und Westeuropäische Länder (see fn. 54), 331–334; *Böttcher*, Typen (see fn. 54), 418–420; *Fernando Giménez Barriocanal*, Financiación eclesial: situación actual y perspectivas de futuro, in: Ius Canonicum 48 (2008) 25–68; *Antonio Vázquez del Rey Villanueva*, El sistema tributario y la financiación de la iglesia en España, in: Ius Canonicum 48 (2008) 69–87; *Haering*, Modelle (see fn. 54), 26 f.; *Iván C. Ibán*, State and Church in Spain, in: Robbers (ed.), European Union (see fn. 54), 195–212, here 207.

For Hungary cf. *Marré*, Kirchenfinanzierung (see fn. 54), 40 f.; *Böttcher*, Typen (see fn. 54), 418–421; *Weinberger*, Osteuropäische Länder (see fn. 55), 472–474; *Annamária Schlosser*, Staatliche Kirchenfinanzierung in Ungarn – Probleme und Entwicklung seit der Wende, in: Höfer (ed.), Kirchenfinanzierung (see fn. 54), 149–163; *Balász Schanda*, Staatliche Religionsförderung in Ungarn, in: Pulte; Hense (ed.), Religionsförderung (see fn. 54), 239–245; *idem*, State and Church in Hungary, in: Robbers (ed.), European Union (see fn. 54), 363–387, here 379–384; *Haering*, Modelle (see fn. 54), 28.

For Iceland cf. *Böttcher*, Typen (see fn. 54), 411 and 417 f.

[58] With a critical undertone *Haering*, Modelle (see fn. 54), 40 f. Further critical questions on this concept poses *Arnd Uhle*, Kirchenfinanzierung in Europa: Erscheinungsformen, Eignung, Zukunftsperspektiven, in: Rees; Roca; Schanda (ed.), Religionsrecht (see fn. 54), 743–788, here 777–779; *idem*, Kirchenfinanzierung in der Diskussion. Anmerkungen zu den Finanzierungsformen der Gegenwart, in: Müller; Rees; Krutzler (ed.), Vermögen (see fn. 61), 89–130, here 119–121; *idem*, Instrumente der Kirchenfinanzierung. Eine vergleichende Analyse, in: Abmeier (ed.), Geld (see fn. 56), 193–217, here 204–207.

In France, the United States of America, and the Netherlands, the Church relies on voluntary donations, including testamentary dispositions.[59]

The Orthodox Church in Cyprus, the Anglican Church in Great Britain and the Catholic Church in Portugal can finance themselves through the management of their own assets, i. e., through income from renting and leasing.[60]

Another way to finance the church is to impose taxes. Particularly in Germany, the church tax, which is levied in close cooperation between the church and the state, is considered the most important instrument for church financing.[61] The cooperation between church and state results from the fact that the *church tax* is a surcharge on income tax levied by the state tax authorities together with the latter. In Austria, the churches levy the so-called church contribution, which is, however, determined without the involvement of the state tax authorities and is not collected directly by the state, but may have to be claimed in court.[62] Church financing in many Swiss cantons is similar to that in Germany, with the

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[59] For France cf. *Marré*, Kirchenfinanzierung (see fn. 54), 25 f.; *Böttcher*, Typen (see fn. 54), 404–407; *Maria Edeltraude Leb*, Französische Republik, in: Rees (ed.), Europa (see fn. 54), 211–253, here 234–238; *Jean-Pierre Moisset*, Die Finanzierung der religiösen Tätigkeiten in Frankreich von 1802 bis heute, in: Höfer (ed.), Kirchenfinanzierung (see fn. 54), 183–208; *Francis Messner*, Die Finanzierung religiöser Gemeinden in Frankreich, in: Pulte; Hense, 165–183; *idem*, State and Church in France, in: Robbers (ed.), European Union (see fn. 54), 213–237, here 229–231; *Haering*, Modelle (see fn. 54), 32 f.
For the United States of America cf. *Heiner Marré*, Kirchenfinanzierung international. In EU-Ländern und USA, in: Renovatio. Zeitschrift für das interdisziplinäre Gespräch 52 (1996) 113–118, here 115; *idem*, Kirchenfinanzierung (see fn. 54), 23 f.; *Georg Fischer*, Finanzierung der kirchlichen Sendung. Das kanonische Recht und die Kirchenfinanzierungssysteme in der Bundesrepublik Deutschland und den USA, Paderborn et al. 2005, 310–339; *Haering*, Modelle (see fn. 54), 33.
For the Netherlands cf. *Böttcher*, Typen (see fn. 54), 407 f.; *Sophie C. van Bijsterveld*, State and Church in the Netherlands, in: Robbers (ed.), European Union (see fn. 54), 409–434, here 427 f.

[60] For Cyprus cf. *Weinberger*, Osteuropäische Länder (see fn. 55), 483; *Haering*, Modelle (see fn. 54), 34; *Achilles C. Emilianides*, State and Church in Cyprus, in: Robbers (ed.), European Union (see fn. 54), 281–296, here 291 f..
For Great Britain cf. *Marré*, Kirchenfinanzierung (see fn. 54), 27; *Böttcher*, Typen (see fn. 54), 401 f.; *Weinberger*, Süd- und Westeuropäische Länder (see fn. 54), 273 f.; *Haering*, Modelle (see fn. 54), 34 f. A different presentation is provided by *David M. Thompson*, Die Kirchenfinanzierung im Vereinigten Königreich, in: Höfer (ed.), Kirchenfinanzierung (see fn. 54), 165–181; *Vinzent*, Religionsförderung (see fn. 55), 295–298; *David McClean*, State and Church in the United Kingdom, in: Robbers (ed.), European Union (see fn. 54), 657–675, here 671 f.
For Portugal cf. *Böttcher*, Typen (see fn. 54), 402 f.; *Weinberger*, Süd- und Westeuropäische Länder (see fn. 54), 317 f.; *Haering*, Modelle (see fn. 54), 35; *Vitalino Canas*, State and Church in Portugal in: Robbers (ed.), European Union (see fn. 54), 483–509, here 503 f.

[61] Cf. *Paul Leibinger*, Bundesrepublik Deutschland, in: Rees (ed.), Europa (see fn. 54), 90–152, here 132–136; *Aymans, Müller*, Kanonisches Recht (see fn. 21), 30–36; *Mückl*, Kirchensteuer (see fn. 37), 1534–1542; *Stephan Haering*, Entstehung und Entwicklung der Kirchensteuer und des Kirchenbeitrags, in: Ludger Müller; Wilhelm Rees; Martin Krutzler (ed.), Vermögen der Kirche – Vermögende Kirche? Beiträge zur Kirchenfinanzierung und kirchlichen Vermögensverwaltung, Paderborn 2015, 71–88, here 72–79; *Gerhard Robbers*, States and Church in Germany, in: idem (ed.), European Union (see fn. 54), 109–124, here 120 f.; *Felix Hammer*, Die Kirchensteuer und das Besteuerungsrecht anderer Religionsgemeinschaften, in: Dietrich Pirson et al. (ed.), Handbuch des Staatskirchenrechts der Bundesrepublik Deutschland, vol. 3, Berlin ^{3}2020, 2947–3016.

[62] Cf. *Peter Leisching*, Die finanziellen Beziehungen von Kirche und Staat in Österreich aus rechtlicher Sicht, in: Claus Rinderer (ed.), Finanzwissenschaftliche Aspekte von Religionsgemeinschaften, Baden-Baden 1989, 73–100; *Johannes-Peter Schiestl*, Republik Österreich, in: Rees (ed.), Europa (see fn. 54), 49–89, here 67–76; *Aymans; Müller*, Kanonisches Recht (see fn. 21), 36; *Mückl*, Kirchensteuer (see fn. 37), 1544–1546; *Haering*, Entstehung (see

major difference that the creditors of the church tax are not the individual dioceses, but the church communities established under state law, parallel to the parishes.[63] In Denmark and Finland, too, the Protestant majority church has the option of taxing its members, while minorities such as the Catholic Church there also rely primarily on donations.[64]

3.2 Criteria for an Evaluation of the Various Church Financing Systems

A few years ago, German lawyer and constitutional law expert Arnd Uhle published an essay outlining five criteria for evaluating different church financing systems. I regard his contribution as an excellent initial framework for a reasoned analysis of the various financing systems.[65] Accordingly to these criteria, church financing systems should
– be unobjectionable under constitutional law;
– preserve the independence of the church;
– guarantee the long-term, predictable, and sufficient provision of financial resources;
– enjoy broad social acceptance; and
– burden all persons involved in financing the church equally.

Against this backdrop, it can be stated that church financing by the state stands in opposition to the principle of ecclesiastical independence. Financing through voluntary donations, meanwhile, is less conducive to ensuring the long-term predictability of income. The German church tax system, for its part, guarantees that all Christian faithful who are able contribute equally to the support of church activities; yet, it faces growing disfavor in segments of society, chiefly due to the close cooperation between state and church in the collection of the tax.[66]

Although individuals may naturally regard the system most familiar to them as the best, the five criteria outlined above provide valuable benchmarks for critically evaluating the various models of church financing. These criteria enable an assessment of whether each system is equally solidary, effective, and fair, while affording the church a measure of independence from individual actors and from fluctuations in the prevailing actual and legal circumstances. At the same time, this analytical approach can help us to recognize that an

fn. 61), 79–87; *Richard Potz*, State and Church in Germany, in: Robbers (ed.), European Union (see fn. 54), 435–459, here 453–455.

[63] Cf. *Marré*, Kirchenfinanzierung (see fn. 54), 31; *Aymans; Müller*, Kanonisches Recht (see fn. 21), 36 f.; *Mückl*, Kirchensteuer (see fn. 37), 1542–1544; *Claudius Luterbacher-Maineri*, Finanzierung der katholischen Kirche in der Schweiz, in: Müller; Rees; Krutzler (ed.), Vermögen (see fn. 61), 131–142; *Haering*, Modelle (see fn. 54), 22 f.

[64] For Denmark cf. *Böttcher*, Typen (see fn. 54), 411 and 416 f.; *Walter Weinberger*, Nordeuropäische Länder, in: Rees (ed.), Europa (see fn. 54), 345–373, here 349; *Haering*, Modelle (see fn. 54), 30; *Niels Valdemar Vinding*, State and Church in Denmark in: Robbers (ed.), European Union (see fn. 54), 87–108, here 101.
For Finland cf. *Böttcher*, Typen (see fn. 54), 411 and 417; *Weinberger*, Nordeuropäische Länder, 368 f.; *Matti Kotiranta*, State and Church in Finland, in: Robbers (ed.), European Union (see fn. 54), 613–639, here 629 f., with the notice, that in Finland the Orthodox Church is also entitled to tax its members.

[65] On the following, cf. *Uhle*, Kirchenfinanzierung in Europa (see fn. 58), 769–770; *idem*, Kirchenfinanzierung in der Diskussion (see fn. 58), 113; *idem*, Instrumente (see fn. 58), 195–197.

[66] Church tax (with special features in Bavaria) is collected or, if necessary, enforced by the state tax authorities together with income tax. The state retains a flat-rate reimbursement for his costs. Cf. in short *Hammer*, Kirchensteuer (see fn. 61), 2973 f. and 3007.

ideal system of church financing is not feasible, but that we must always be prepared to find the best possible compromise.

4. Summary

The results of our overview of the canonical foundations of church financing and the diversity of financing systems can be summarized as follows:

The church claims for itself as *ius nativum* to acquire assets for the ecclesiastical purposes of worship, the maintenance of church employees, the apostolate, and charity. This is a proclamatory statement addressed equally to the state and to advocates of radical poverty within the church. The church has the right to demand financial support from the faithful (*ius exegendi*).

The canonical legislator favors the so-called *subventiones rogatae* (cf. can. 1262 CIC) as a way of acquiring church property. In addition, the Code of Canon Law contains further provisions for the collection of donations (cf. cann. 1265–1266 CIC). A special kind of donations are those made in last wills and pious foundations (cf. cann. 1299–1310 CIC).

Canon law allows the diocesan bishop to tax the public juridic persons of his diocese with a *tributum* (cf. can. 1262 CIC). Further taxation (*exactio*) of natural persons or private legal entities is only provided for in emergencies (cf. ibidem). For certain ecclesiastical acts, fees as well as offerings in occasion of celebrating sacraments and masses can also be levied (cf. can. 1264 CIC).

A survey of church financing models reveals a rich diversity shaped by historical developments and distinct national circumstances. In some countries, the church is wholly or partially supported by state funding; in others, fundraising serves as the principal means of financial support. Elsewhere, the church sustains itself through the levying of church taxes or by generating income from the rental and leasing of its assets.

Each system presents its own advantages and drawbacks, strengths and limitations. Ideally, a financing model should provide the church with sufficient resources in a predictable and enduring manner, independent of state influence, broadly accepted by society, and structured so that all Christian faithful contribute equitably according to their economic capacity.

Der Beitrag stellt die Rechtsgrundlagen im *Codex Iuris Canonici* für den Vermögenserwerb kirchlicher Rechtsträger dar, beleuchtet in einer internationalen Umschau verschiedene Modelle der Kirchenfinanzierung und benennt mögliche Kriterien für deren Evaluierung. Ziel des Artikels ist es, die Leserin bzw. den Leser in die kanonischen Grundlagen der Kirchenfinanzierung einzuführen und einen Überblick über die Vielfalt der weltweiten Kirchenfinanzierungssysteme zu geben. Zu diesem Zweck werden grundlegende Fragen der Kirchenfinanzierung erörtert (1.), und die Prinzipien sowie die Hauptmerkmale des Erwerbs kirchlicher Güter werden erläutert (2.). Anschließend werden die internationale Vielfalt der Finanzierungssysteme und die Kriterien für deren Bewertung vorgestellt (3.). Eine Zusammenfassung der wichtigsten Ergebnisse schließt den Artikel ab (4.).