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Resolution on the Application of the Agency for Quality Assurance and Accreditation of Canonical Study Programmes in Germany (AKAST) of 3rd June 2008

(resolved at the 57th sitting of the Accreditation Council on 31.10.2008)

I.

The Foundation for the Accreditation of Study Programmes in Germany (Foundation), as per § 2 para. 1 no. 1 of the German Statute for the Establishment of a Foundation "Foundation for the Accreditation of Study Programmes in Germany" of 26-02-2005 in the version of 01-04-2008, accredits the *Agency for Quality Assurance and Accreditation of Canonical Study Programmes in Germany (AKAST)* subject to the following regulations and thus grants it the right in this respect to accredit study programmes by awarding the seal of the Foundation.

II.

The decision as per item I. above comes into effect on 31-10-2008, however without retrospective effect due to the agreement with the Foundation not having been concluded as per § 3 of the German Statute for the Establishment of a Foundation "Foundation for the Accreditation of Study Programmes in Germany" up to 31-01-2009.

III.

The accreditation and the right as per item I. above is granted for a duration of five years; the revocation as per item V. below is reserved. As per § 2 of the resolution "Decisions of the Accreditation Council: Types and Effects" of 15-12-2005 in the version of 29-02-2008, the accreditation lapses on 31-12-2013. If ENQA should decide by 31.12.2011, that according to general European standards an accreditation is permitted for a period longer than five years, then the accreditation period gets extended up to the maximum period permitted then according to general European standards, but at the most by another three years.

IV.

The Accreditation Council finds that AKAST does not fulfil some quality requirements; however these quality requirements are not significant as per § 1 para. 3 of the resolution "Decisions of the Accreditation Council: Types and effects" of 15-12-2005 in the version of 29-02-2008. The accreditation is therefore granted under the following conditions:

Condition 1

AKAST shows, according to criterion 1.1 of the Criteria for the accreditation of accreditation agencies of 15-12-2005 in the version of 08-10-2007, by 01-03-2009 that the activity of the agency follows from the publicly documented quality appreciation and that the ecclesiastical legal regulations for higher education institutions regarding this as well as the statutes of AVEPRO do not impair the compliance with the specifications of the Accreditation Council.

Condition 2

Before the beginning of the accreditation activity, but at the latest by 01.03.2009, AKAST should submit a revised guideline for the programme accreditation. According to criterion 1.3 of the Criteria for the Accreditation of Accreditation Agencies of 15-12-2005 in the version of 08-10-2007, the following must clearly and explicitly follow from the guideline:

- that the "Criteria for the Accreditation of Study Programmes" (resolution of the Accreditation Council of 17.07.2006 in the currently valid version) are applied and represent the central assessment norm in the accreditation procedure,
- that the "General regulations for the implementation of procedures for the accreditation and reaccreditation of study programmes" (decision of the Accreditation Council of 08.10.2007 in the currently valid version) are applied,
- which tasks the agency ACQUIN has to perform in the context of the administrative preparations for and implementation of the procedures – for example with regard to the preparations of the experts.

Condition 3

Before the beginning of the accreditation activity, but at the latest by 31.07.2009, AKAST should submit legally valid articles of association including a copy of the entry of AKAST in the register of associations.

Condition 4

Before the beginning of the accreditation activity, but at the latest by 31.07.2009, AKAST shows, according to criterion 2.3 of the Criteria for the Accreditation of Accreditation Agencies of 15-12-2005 in the version of 08-10-2007, that the agency has the instruments for preparing the experts in accreditation procedures, which is suitable for comprehensively ensuring the competence of the experts.

Condition 5

Before the beginning of the accreditation activity, but at the latest by 01-03-2009, AKAST presents, according to criterion 2.4 of the Criteria for the Accreditation of Accreditation Agencies of 15-12-2005 in the version of 08-10-2007, measures which are suitable to ensure the impartiality of experts in accreditation procedures.

Condition 6

According to criterion 4 of the Criteria for the Accreditation of Accreditation Agencies of 15-12-2005 in the version of 08-10-2007, AKAST states bindingly by 01-04-2010 how and in which time frame the start-up financing will be converted to a financing by means generated exclusively by AKAST itself. AKAST ensures that the start-up financing of the agency would have expired within an adequate time period.

Condition 7

According to criterion 5 of the Criteria for the Accreditation of Accreditation Agencies of 15-12-2005 in the version of 08-10-2007, AKAST shows the establishment of a formalised quality management system by 31-07-2009.

The Accreditation Council makes the following recommendations:

1. AKAST takes the circumstance into account that by far not all graduates of a full theological course of studies enter the service of the church as priests and take this fact into account by ensuring adequate professional experience in the accreditation commission and the expert groups.
2. AKAST publishes the specifications, decisions and guidelines – such as the guidelines of the agency – underlying the accreditation decision on the web site of the agency.

V.

If AKAST does not prove having fulfilled these conditions within the respective time limit or if the conditions prove not to have been fulfilled after expiry of the respective time limit, the Foundation can revoke the accreditation as per § 5 para. 4 of the resolution "Decisions of the Accreditation Council: Types and Effects" of 15-12-2005 in the version of 29-02-2008.

VI. Reasoning

General:

On the basis of the expert report, the reasons given in the application of the *Agency for Quality Assurance and Accreditation of Canonical Study Programmes in Germany* (AKAST) including annexures, the response of AKAST to the expert report and the hearing of the agency at the 57th sitting of the Accreditation Council, the Accreditation Council arrived at the opinion that the "Criteria for the Accreditation of Accreditation Agencies" of 15.12.2005 in the version of 08.10.2007 are essentially satisfied.

In comparison with the agencies accredited by the Accreditation Council till now, AKAST occupies a special position in this respect, as the accreditation activity of this agency focuses not only on a comparatively strongly state regulated area of education in higher education institutions, but also on a very small segment altogether of the study programmes to be accredited. Due to the common responsibility of Church and State for the theological faculties and training centres in Germany and because of the importance of specifications of the Church primarily for such study programmes which provide qualification for the parish office, priesthood or the profession of the pastoral assistant, AKAST is bound to a large extent to specifications, which are established outside the accreditation system and therefore do not fall within the area of responsibility of the Accreditation Council. With this background it has to be taken into account that the

fulfilment of the relevant criteria with regard to the activity of the agency across types and subjects of higher education institutions, the dependence of bodies and of persons acting for the agency on directives and a long-term resource base bring difficulties with it from time to time, which primarily have systemic causes and for which the agency therefore can not be held responsible.

As per § 2 para. 2 No.1 of the Accreditation-Foundation-Act, the Accreditation Council has to ensure a fair competition between the agencies. Since the Accreditation Council may not, in its decisions, act contrary to its legal mandate, the Accreditation Council must ensure that the accreditation activity of AKAST does not lead to a restriction of the market access for other accreditation agencies and thus to a distortion of the competition among the agencies. The "Corner stones for the structure of studies in study programmes with Roman Catholic or Protestant theology/religion" (resolution of the KMK – Standing Conference of the Ministers of Education and Cultural Affairs of the Länder – of 13.12.2007) specify as per items 3 and 8, that theological study programmes, which provide qualification for the parish office, priesthood or the profession of the pastoral assistant, will be accredited exclusively by the accreditation agency of the Holy See. The restriction of free competition caused by this, which is based primarily on the common responsibility of Church and State for the theological faculties and training centres in Germany, therefore does not lie within the area of responsibility of the Accreditation Council.

As per § 2 of the articles of association and in cooperation with the Holy See and "Agenzia della Santa Sede by la Valutazione e la Promozione della Qualità delle Facoltà Ecclesiastiche (AVEPRO)" in Germany, AKAST undertakes the task of accreditation of the full theological study programmes in accordance with the "Corner stones for the structure of studies in study programmes with Roman Catholic or Protestant theology/religion" of the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder of 13th December 2007 item 8. Since, according to the information of the agency itself, the activity of AKAST is also to cover the accreditation of philosophical study programmes and those relating to church music as per articles 51, 56 and 60 as well as Appendix II of the Ordinances of the apostolic constitution "Sapientia Christiana", the fields of activity of AKAST are not clearly defined. A clear definition of the fields of activity is urgently necessary against the background of the special regulations of the above-mentioned "Corner stones" and the responsibilities for the accreditation of study programmes of Roman Catholic theology or religion specified there. A corresponding defining of the fields of activity will be carried out in the agreement to be concluded between the agency and the Accreditation Council as per § 3 of the Accreditation-Foundation-Act.

In its answer to the expert report presented on 24.10.2008, AKAST responds to the assessment of the expert group (item 4 of the assessment report). The Accreditation Council welcomes the constructive reaction of the agency to the review made by the expert group as well as the modifications planned by AKAST with reference to the assessment by the expert group. The response of AKAST contains, apart from some explanations and declarations of intent, also clarifications which had to be appreciated at the decision-making by the Accreditation Council. Changes in comparison with the recommendations of the conditions documented in the expert report resulted with regard to the conditions 6 (binding list of members of the accreditation commission) and 7 (independence of the bodies from directives).

Thus AKAST has pointed out that a temporary list of the members of the accreditation commission was already mentioned in the reasoning of the application. In its response AKAST has now presented a list of the members of the accreditation commission selected on 16th September 2008, so that the condition 6 recommended by the expert group can be regarded as irrelevant.

With regard to the condition 7 recommended by the expert group, which contains among other things the proof of the independence of the bodies from directives, AKAST declares in its response that the agency deals with a field, which – regardless of the independence of higher education institutions and autonomy of sciences – by its nature also is subject to the authority of the Church. "From this structural consequences arise with regard to the legal form and the composition of the committees. These neither affect", so the agency, "the autonomy and independence of the bodies and committees from directives in individual cases, nor the independence and impartiality of the members of the accreditation commission and the expert groups." Considering these explanations quoted from the response of AKAST, which expressly confirm the independence of the bodies from directives in individual cases, the Accreditation Council has modified the condition 7 recommended by the expert group. The condition is now restricted to the proof to be furnished by the agency of measures, which are suitable to ensure the impartiality of experts in accreditation procedures.

Regarding condition 1:

According to criterion 1.1 of the "Criteria for the Accreditation of Accreditation Agencies" of 15-12-2005 in the version of 08-10-2008, an agency must have a publicly documented quality appreciation, from which it derives the basis of its activity. AKAST's perception of quality does not emerge clearly from the application documents and remains vague in

parts. This vagueness refers primarily to the question, with which means and instruments the agency would like to accomplish the objectives formulated in the mission statement. Thus the agency does not explain how the basis of its work in particular can be derived from the quality concept on which the agency is based.

Apart from that, neither the mission statement nor the application documents explicitly mention the quality appreciation as it is documented in the ecclesiastical legal regulations for higher education institutions and the statutes of AVEPRO. It is therefore not obvious whether the compliance with the specifications of the Accreditation Council could possibly be impaired by the above-mentioned specifications and statutes.

Regarding condition 2:

According to criterion 1.3 of the "Criteria for the Accreditation of Accreditation Agencies" of 15-12-2005 in the version of 08-10-2008 an agency must show that it has internal procedures, regulations and expertise, which ensure the application of the "Criteria for the Accreditation of Study Programmes" and the "General Rules for the Implementation of procedures for Accreditation and Reaccreditation of Study Programmes". The guideline of AKAST however reproduces the relevant resolutions of the Accreditation Council only incompletely and contains under the heading "Basis of the Accreditation Procedure" merely the note that the guideline *follows* the "European Standards and Guidelines", the "Criteria for the Accreditation of Study Programmes" and the "General Regulations for the Implementation of Procedures for Accreditation and Reaccreditation of Study Programmes" of the Accreditation Council. Unlike the criteria of the Accreditation Council the guideline of AKAST includes, however, merely a questionnaire, which by far does not contain all criteria of the Accreditation Council.

The "General Regulations for the Implementation of Procedures for Accreditation and Reaccreditation of Study Programmes" also are contained only incompletely in the guideline of the agency. No mention is made in the guideline that the agency must publish the decision and the names of the experts following the procedure and, in case of negative decisions, instead of the publication a corresponding communication to the Accreditation Council must be sent.

According to criterion 7 of the "Criteria for the Accreditation of Accreditation Agencies" AKAST must ensure the transparency of the procedures and decisions. However, it is not clear from the guideline of the mentioned agency which tasks are to be carried out by ACQUIN in the context of the administrative preparations and implementation of the procedures – for example with regard to the preparations of the experts.

Regarding condition 3:

The articles of association of AKAST, according to its § 11, comes into effect only after being passed in the general meeting as well as after approval by the German Bishops' Conference and with the entry in the register of associations. At the time of the meeting of the experts the entry in the register of associations was still pending.

Regarding condition 4:

According to criterion 2.3 of the "Criteria for the Accreditation of Accreditation Agencies" of 15-12-2005 in the version of 08-10-2008, the competence of the persons involved in the procedures must be ensured by suitable selection procedures and preparation. The implementation of information and training events shall, according to AKAST, have "a certain priority" in the overall framework of the work of the agency. The extent, frequency and character of the information and training events planned by AKAST remain, however, unclear. The presentation of a guideline alone does not suffice to prepare experts comprehensively for their activity.

Regarding condition 5:

Since AKAST is not only a registered association according to civil law but also an association of *ecclesiastical* law as per cc 116, 301 § 3 and 312 Codex Iuris Canonici (CIC), which was set up by the Bishops' Conference in agreement with the Holy See, a special situation results with regard to the independence of the bodies from directives in individual cases and the independence of persons acting for the agency (see according to criterion 2.4 of the "Criteria for the Accreditation of Accreditation Agencies" of 15-12-2005 in the version of 08-10-2008). In this connection the influence of the German Bishops' Conference has to be emphasised: As per §§ 3, 5 and 7 of the draft articles of association, it has a power of veto with regard to the appointment and exclusion of members, the selection of the chairman of the accreditation commission, the personnel composition of the accreditation commission, the accreditation decision in the individual accreditation procedure as well as possible amendments of the articles of association. In its response AKAST states that the accreditation decision is taken by the independent accreditation commission of AKAST alone, which is bound neither to the directives of the German conference of bishops (DBK) nor to possible specifications of the agency of the Holy See (AVEPRO); moreover, according to the response of the agency, the representative of the

German Bishops' Conference is not subject to directives. Furthermore it is not obvious how AKAST will ensure the impartiality of experts in the individual accreditation procedures.

Regarding condition 6:

AKAST is financed to the extent of 100% by the Catholic University Eichstätt-Ingolstadt or the associated foundation. Even if a start-up financing against the background of the re-establishment of the agency corresponds absolutely to the usual practice, a long-term provision of personnel and material implies - at least over the medium term - a financing by internal resources generated by the agency.

Regarding condition 7:

According to criterion 5 of the "Criteria for the Accreditation of Accreditation Agencies" of 15-12-2005 in the version of 08-10-2008, the agency must have a *formalised* internal quality management and use it continuously. The explanations regarding the quality management formulated by AKAST given in the application reasoning are not suitable to prove the existence of a *formalised* internal quality management system. AKAST does not explain how the degree of the target achievement is checked regularly and how the elements of the quality assurance and improvement are established in its set of rules and its activities. Documents, which can substantiate the measures of the agency – described as "Elements of the Quality Assurance" by AKAST, are missing.